



**ACME TOWNSHIP PLANNING COMMISSION MEETING**  
**ACME TOWNSHIP HALL**  
**6042 Acme Road, Williamsburg MI 49690**  
**May 11, 2015 7:00 p.m.**  
**MINUTES**

**CALL TO ORDER WITH PLEDGE OF ALLEGIANCE:** 7:07pm

**ROLL CALL:**

**Members Present:** D. Rosa, J. DeMarsh, M. Timmins, B. Ballentine, S. Feringa, K. Wentzloff, T. Forgette

**Members Excused:** None

**Staff Present:** N. Lennox, Zoning Administrator; J. Jocks, Township Counsel

**A. LIMITED PUBLIC COMMENT:** Opened at 7:08pm

J. Heffner, 4050 Bayberry Lane – Notified commission members of an upcoming free presentation by Doug Tallamy, “Saving the Environment, One Backyard at a Time” on May 18<sup>th</sup> the HERTHA building in Elk Rapids. Dr. Tallamy is a renowned naturalist and bird habitat expert.

Brian Foster, M-37 Mesick. Inquired commission on opening of a Great Lakes Living Hands here in Acme and to bring the best possible product in a good space. This is a donation based service and is interested in going through any steps to open one here and to run the operation similar to those in Detroit. He was advised to speak with the zoning administrator. J. Jocks indicated that it is a non-conforming use. K. Wentzloff indicated research needed to be done.

Closed at 7:18pm

**B. Presentation by Julie Clark TART Trails**

J. Clark provided a status update on recent work with the TART trails. They are working with group of stake holders to extend the trail from Acme (Bunker Hill) to Charlevoix. Over past two years, they have broken the segment up. Non-motorized, multiple use. For those interested in updated information, go to the website <http://traversecitytocharlevoix.org>. They used “Choosing by Advantages” as criteria measurement for scoring routes. Restrictions for private involvement would rely on zoning. The DNR lists trails as a top priority which is way to get more points to get grant. The rail corridor to Lautner Road was considered but expensive and they are unable to get land owner approval. A map of proposed and existing routes is attached.

It is important for the Trail to get people down to the shoreline along Bunker Hill. Conclusion: More connections and alternative routes are best. It makes sense to have a trail run through the Bay Park property. LochenHeath owners have shown interest in integrating trail into their development as well. There is excitement about making Acme a connected community. Getting a plan together in common format for all entities to work from in order to start the grant process is key.

**C. APPROVAL OF AGENDA:**

Motion to approve agenda by M. Timmins; support by T. Forgette. Motion passed unanimously.

**D. INQUIRY AS TO CONFLICTS OF INTEREST:** None

**E. CONSENT CALENDAR:** The purpose is to expedite business by grouping non-controversial items together for one Board motion without discussion. A request to remove any item for discussion later in the agenda from any member of the Board, staff or public shall be granted.

**a) RECEIVE AND FILE:**

**1. Draft Unapproved Minutes of:**

1. Township Board minutes 04/07/15
2. Zoning Administrators monthly report March-April
3. ~~DEQ, Administrative Consent Order/The Village at Grand Traverse, L.L.C.~~

**b) ACTION:**

**1. Draft Unapproved Minutes of:**

1. Planning Commission minutes: 04/13/15

**F. ITEMS REMOVED FROM THE CONSENT CALENDAR:**

1. DEQ, Administrative Consent Order/The Village at Grand Traverse, L.L.C

Motion by M. Timmis to approve consent calendar with removal of DEQ Administrative Consent Order supported by B. Ballentine. Motion passed unanimously.

J. Jocks provided a review and summary of the April 17, 2015 received copy of the signed Administrative Consent Order between the Michigan DEQ and The Village at Grand Traverse. A copy of ACO-000265 is attached to the minutes. This settlement agreement between the DEQ and VGT sets out requirements and standards to go with project and has specific requirements on items such vegetating, sampling, and requirement of certified storm water agent onsite during rain or discharge events to name a few. By October 31st all of the property is to be "buttoned-up". Penalties would be applied for any non-compliance. Next month J. Iacoangeli will have the final engineered plan for review. C. Abernathy asked if plans would be available to the public. K. Wentzloff indicated that they would be available with next month packet.

Motion by M. Timmins to receive and file the DEQ Administrative Consent Order, supported by T. Forgette. Motion passed unanimously.

**G. CORRESPONDENCE:** Township received notice from Whitewater Township Planning Commission of their completed Master Plan.

**H. PUBLIC HEARINGS: None**

**I. NEW BUSINESS: None**

**J. OLD BUSINESS:**

**a) Sign amendment:** Electronic message/price signs

The revised sign ordinance was reviewed. J. Jocks discussed some possible changes to be made to J. Iacoangeli's revisions and recommended updated language. Discussion among planning commissioners regarding scope and the purpose of limitations.

Motion by M. Timmins to schedule a public hearing for next meeting for an amendment to the sign ordinance with changes to 12a, "Shall only be used on premises for a motel/hotel vacancy sign or gas station price per gallon of gas", and 12c, "No digital sign shall be permitted to flash, blink, scroll, oscillate or have animation. All digital signs shall have "instant" changes with no animated effects", and removal of item 12d. Second by S. Feringa. Motion passed unanimously.

**K. PUBLIC COMMENT & OTHER PC BUSINESS**

**1. Zoning Administrator update on projects:** N. Lennox indicated residential land use permits seem to be picking up

**2. Planning Consultant:** None

**3. P C Education etc.:** Steve Feringa: Trails. GT Resort & Spa is working with TART and VGT on getting a spur from M-72 to the Resort; and connecting West side of property to Hope Road; and on southeast side crossing of TART trail on S. Lautner near Redwood development to get to VASA trail.

M. Timmins - tomorrow night study session for boat launch at Saylor Park.

K. Wentzloff indicated several planning commission members are attending a green infrastructure conference workshop on June 4<sup>th</sup> which will discuss green infrastructure and planning.

**PUBLIC COMMENT:** None. Closed at 8:18pm.

**ADJOURN:** Motion to adjourn meeting by M. Timmins, supported by B. Ballentine. Motion passed. Meeting adjourned at 8:18pm.



**ACME TOWNSHIP PLANNING COMMISSION MEETING**  
**ACME TOWNSHIP HALL**  
**6042 Acme Road, Williamsburg MI 49690**  
**May 11, 2015 7:00 p.m.**

**6:30 p.m. PLANNING COMMISSION EDUCATION: Great Lakes Water Levels**

**CALL TO ORDER WITH PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

**A. LIMITED PUBLIC COMMENT:**

Public Comment periods are provided at the beginning and end of each meeting agenda. Members of the public may address the Board regarding any subject of community interest during these periods. Comment during other portions of the agenda may or may not be entertained at the moderator's discretion.

**B. Presentation by Julie Clark TART Trails**

**C. APPROVAL OF AGENDA:**

**D. INQUIRY AS TO CONFLICTS OF INTEREST:**

**E. CONSENT CALENDAR:** The purpose is to expedite business by grouping non-controversial items together for one Board motion without discussion. A request to remove any item for discussion later in the agenda from any member of the Board, staff or public shall be granted.

**a) RECEIVE AND FILE:**

**1. Draft Unapproved Minutes of:**

1. Township Board minutes 04/07/15
2. Zoning Administrators monthly report March-April
3. DEQ, Administrative Consent Order/The Village at Grand Traverse, L.L.C.

**b) ACTION:**

**1. Draft Unapproved Minutes of:**

1. Planning Commission minutes: 04/13/15

**F. ITEMS REMOVED FROM THE CONSENT CALENDAR:**

1. \_\_\_\_\_

**G. CORRESPONDENCE: None**

**H. PUBLIC HEARINGS: None**

**I. NEW BUSINESS: None**

**J. OLD BUSINESS:**

**a) Sign amendment:** Electronic message/price signs

**K. PUBLIC COMMENT & OTHER PC BUSINESS**

1. Zoning Administrator update on projects:
2. Planning Consultant:
3. P C Education etc.: Steve Feringa: Trails

**ADJOURN:**



**ACME TOWNSHIP BOARD MEETING  
ACME TOWNSHIP HALL  
6042 Acme Road, Williamsburg MI 49690  
Tuesday, April 7, 2015, 7:00 p.m.**

**CALL TO ORDER WITH PLEDGE OF ALLEGIANCE AT 7:00 p.m.**

Zollinger commented on a recent article in the Record Eagle regarding Acme Township resident, Roy Challenger, and his work on the Yuba School.

Zollinger also stated that on the Grand Traverse Road commission website a link can be found to give residents an update on the road construction.

**Members present:** J. Aukerman, C. Dye, A. Jenema, G. LaPointe, P. Scott, D. White, J. Zollinger  
**Members excused:** None  
**Staff present:** J. Jocks, Legal Counsel  
N. Edwardson, Recording Secretary

**A. LIMITED PUBLIC COMMENT: None**

**B. APPROVAL OF AGENDA:**

**Motion by White, seconded by Aukerman, to approve the agenda as presented with the addition of Sayler Park presentation, Grand Traverse County Treasurer report, Fireworks request, M-72 /Lautner scheduling road work, DEQ sewer violation, VGT Spring erosion plans, VGT progression on ponds and SAD resolution. Motion carried by unanimous roll call vote.**

**C. INQUIRY AS TO CONFLICTS OF INTEREST: None**

**D. CONSENT CALENDAR:** The purpose is to expedite business by grouping non-controversial items together for one Board motion (roll call vote) without discussion. A request to remove any item for discussion later in the agenda from any member of the Board, staff or public shall be granted.

**1. RECEIVE AND FILE:**

- a. Treasurer's Report**
- b. Clerk's Revenue/Expenditure Report and Balance Sheet**
- c. Draft Unapproved Meeting Minutes:**
  - 1. Planning Commission 03/09/15**
  - 2. Parks & Rec 01/22/15**
- d. Metro Fire 2014 Annual Report**
- e. Parks and Maintenance Report – Tom Henkel**

**2. APPROVAL:**

- 1. Township Board meeting minutes of 03/03/15**
- 2. Accounts Payable Prepaid of \$124,273.60 and Current to be approved of \$98,465.24 (Recommend approval: Cathy Dye, Clerk)**

**E. ITEMS REMOVED FROM THE CONSENT CALENDAR:**

Jenema asked that the Treasurer's report be removed to clarify to the Board unrestricted funds.

**Motion by Jenema, seconded by White to approve the consent calendar with the removal of the Treasurer's report. Motion carried by unanimous roll call vote.**

**Motion by LaPointe, seconded by Dye to approve the Treasurer's report as presented. Motion carried by unanimous vote.**

**F. SPECIAL PRESENTATIONS/DISCUSSIONS:**

Klaus Heinert, landscape architect/engineer from Gosling Czubak gave an overview on the engineering and construction plans for the Saylor Boat launch. Trustee, Aukerman gave a update on the two grants, MDNR and Oleson Foundation, that have been submitted.

**G. REPORTS: Received and filed**

1. **Sheriff's Report – Deputy: Ken Chubb**
2. **County Commissioner's Report - Crawford**
3. **Road commission report – McKellar**
4. **GTC Resource recovery – Kim Elliott**
5. **County Treasurer – Heidi Scheppe**  
Scheppe presented a settlement history for Acme Township.

**H. CORRESPONDENCE:**

1. **News Release “Oak Wilt Prevention” Recommendations**

**I. PUBLIC HEARING: None**

**J. NEW BUSINESS:**

1. **Consumers Energy installations of upgraded meters**  
Consumers Energy will be in our area in the next few weeks installing upgraded meters.

2. **Budget resolution to amend Budget multiple accounts**

**Motion by LaPointe, seconded by White, to approve Resolution R # 2015-12 for various fund moves adjustments. Motion carried by unanimous roll call vote.**

3. **Schedule 2015/16 Budget review**  
The first scheduled meeting will be Tuesday, April 21, 2015, at 7:00 pm

4. **Annual Road Brine application contract with GTCRC**

**Motion by LaPointe, seconded by White, to approve the agreement between Grand Traverse County Road commission and Acme Township for annual road brining cost of \$1,508.63. Motion carried by unanimous roll call vote.**

5. **Zoning/Planning discussion on job ad for open position**  
Jenema prepared a draft job description for a Zoning Administrator. Discussion followed. Jenema will prepare an ad and place in several different publications.

6. **Fireworks request**  
The Traverse City Boom Boom Club in its 4<sup>th</sup> year of producing a 4<sup>th</sup> of July fireworks show over West Bay requesting a contribution in the \$200-\$250 range from Acme Township. The monies are used to pay for fireworks production, insurance, etc.

**Motion by LaPointe, seconded by Aukerman, to approve contributing \$250.00 to the Traverse City Boom Boom Club. Motion carried by unanimous roll call vote.**

7. **M-72 & Lautner Rd Construction Phasing**  
The Board was given a chart of dates for the M-72 & Lautner Rd construction beginning April 20, 2015.

8. **SAD Resolution**

**Motion by LaPointe, seconded by White to approve SAD Resolution R-2015-13, confirming Special Assessment Roll. Motion carried by unanimous roll call vote.**

**K. OLD BUSINESS:**

1. **Freedom of Information 2014 changes – Jocks**

Jocks presented a summary of the Acme Township Freedom of Information Act procedures and Guidelines which need to be adopted by May or June. Discussion followed. Board was asked to direct any questions or concerns to Jock before the May meeting.

2. **Review of updated draft for Rules and Procedures**

Dye addressed the questions that were raised at the March meeting.

**Motion by LaPointe, seconded by Aukerman to approve Resolution R-2015-14 adopting the Rules of Procedures for Acme Township. Motion carried by unanimous vote.**

3. **Part 41 Sewer violation notice DEQ:**

Supervisor Zollinger provided an update that the Township had responded to the DEQ on the Violation Notice and requested an extension (DEQ suggested we request the extension) to provide final answers to the engineering questions the DEQ had asked us to answer. We just received an approval for that extension on 4/3/15 and have our engineers working to document our responses.

4. **VGT/GTTC Update**

Zollinger read into record a VGT/GTTC update prepared by John Iacoangeli of Beckett & Raeder concerning status of final basin engineering drawings and vegetation augmentation plans which is hoped to be ready for final approval the third week of April.

**PUBLIC COMMENT & OTHER BUSINESS THAT MAY COME BEFORE THE BOARD:**

C. Abernethy, 4312 Westridge Dr, asked if there would be a meeting to discuss the Stormwater plan for the VGT/GTTC site. Zollinger commented that we are not ready for a meeting.

**Adjourned at 10:25 pm**

To: Acme Township Board of Trustees  
Planning Commission

From: Nikki Lennox

Date: 03/06/2015

THE FOLLOWING IS A SUMMARY OF KEY PLANNING, ZONING & ADMINISTRATIVE  
ACTIVITIES FOR THE MONTHS OF MARCH, APRIL, 2015

**Land Use Permits Issued For March and April:12.**

**Residential permits:** Includes 2 new homes, 3 residential additions, 1 accessory building.

**Commercial permits:** 6.

3) new 30 x 45 storage building at 6811 E. M-72

4612 US 31 Waters Edge Assisted Living new deck

5549 S Bates TC Bulldogs Athletic Assoc. interior remodeling

6517 Bates Missionary Church remodeling

**Sign Permits Issued: 2)**

**Planning & Zoning Projects:** The Planning Commission is working on an amendment to its sign ordinance to allow static electronic signs for gas station prices and hotel vacancy signs. Careful attention is being paid to limiting luminosity and size.

**US-31/M-72 Business District:** The Planning Commission is re-visiting the architectural standards section of this ordinance in order to enhance the visual appearance of new buildings in this district.

The Planning Commission will continue to work on its "PC ACTION PLAN" (to-do list) which includes suggestions for researching several new ordinances and amending several others.

**General Planning & Zoning:**

The Advance Auto building at 3939 M 72 is under construction.

LochenHeath (RE Future L.L.C. properties) has been purchased by Stars and Stripes 3J L.L.C. a Drapac USA company



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



DAN WYANT  
DIRECTOR

April 17, 2015

VIA OVERNIGHT MAIL

Mr. Dennis Donohue  
Warner Norcross & Judd LP  
900 Fifth Third Center  
111 Lyon Street NW  
Grand Rapids, Michigan 49503-2487

Dear Mr. Donohue:

SUBJECT: The Village At Grand Traverse, L.L.C., Administrative Consent Order (ACO)

Enclosed please find an original signed copy of ACO-000265 entered between the Michigan Department of Environmental Quality (DEQ) and The Village At Grand Traverse, L.L.C., for the resolution of the violations documented pursuant to Part 31, Water Resources Protection; and Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and the promulgated rules. The ACO became effective on April 16, 2015.

The DEQ appreciates your cooperation and resolution of this matter. If you have any questions, regarding this matter, please contact me at 517-284-5492; [boasek@michigan.gov](mailto:boasek@michigan.gov); or at DEQ, P.O. Box 30458, Lansing, Michigan 48909-7958.

Sincerely,

Karen Rae Boase, Enforcement Specialist  
Water Enforcement Unit  
Water Resources Division

Enclosure

cc: Mr. Barry H. Selden, DEQ  
cc/enc: Mr. Brian Jankowski, DEQ  
Mr. Justin Bragg, DEQ



STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER RESOURCES DIVISION

In the matter of:

ACO-000265

Date Entered: 4/16/15

The Village At Grand Traverse, L.L.C  
3805 Edwards Road, Suite 700  
Cincinnati, Ohio 45209

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ADMINISTRATIVE CONSENT ORDER

This document results from allegations by the Michigan Department of Environmental Quality (MDEQ), Water Resources Division (WRD). The MDEQ alleges The Village At Grand Traverse, L.L.C. (VGT) located at 1651 East Hayes Road, Ithaca, Michigan 48847, is in violation of Part 31, Water Resources Protection, MCL 324.3101 *et seq.* (Part 31); and Part 91, Soil Erosion and Sedimentation Control (SESC), MCL 324.9101 *et seq.* (Part 91), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and associated administrative rules. These violations occurred as a result of earth change activities associated with development of the 182-acre commercial development owned by the VGT and Meijer, Inc., located at the southwest corner of M-72 and Lautner Road, Acme Township, Grand Traverse County (Property).

On January 23, 2015, the VGT obtained a construction easement from Meijer, Inc., on property owned by Meijer, Inc. The construction easement establishes an ownership interest allowing the VGT to obtain the necessary permits in its name for the completion of the construction activities on Meijer, Inc.'s property under Part 31 and Part 91 of the NREPA.

The VGT has agreed to the entry of this Administrative Consent Order (Consent Order), which contains specific requirements for the Property to ensure compliance with Part 31 and Part 91 of the NREPA.

The VGT is a person, as defined by Section 301 of the NREPA, MCL 324.301, and is registered with the Michigan Department of Licensing and Regulatory Affairs as able to conduct business in the State of Michigan under Identification No. B3521F. The VGT and the MDEQ agree to resolve the alleged violations set forth herein through entry of this Consent Order. The VGT

and the MDEQ agree that the effluent limits set forth in this Consent Order are considered interim limits for this Property only and shall not apply to any discharges associated with any future development of the Property or any other site in the State of Michigan.

### I. STIPULATIONS

The VGT and the MDEQ stipulate as follows:

- 1.1 The NREPA is an act that controls pollution to protect the environment and natural resources in the state.
- 1.2 Part 31 of the NREPA and the rules promulgated pursuant thereto provide for the protection, conservation, and control of pollution of the water resources of the state.
- 1.3 Part 91 of the NREPA and the rules promulgated pursuant thereto provide for the control of soil erosion and sedimentation arising from earth change activities.
- 1.4 The MDEQ is authorized by Section 3112(4) of Part 31 MCL 324.3112(4), and Section 9112(7) of Part 91 MCL 324.9112(7), to enter orders requiring persons to abate pollution, or otherwise cease or correct activities in violation of Part 31 and Part 91 of the NREPA. The director of the MDEQ may delegate this authority to a designee under Section 301(b) of the NREPA, MCL 324.301(b).
- 1.5 The VGT consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of the MDEQ and is enforceable as such under Section 3112(4) of Part 31 and Section 9112(7) of Part 91 of the NREPA. The VGT agrees not to contest the issuance of this Consent Order, and that the resolution of this matter by the entry of this Consent Order is appropriate and acceptable. It is also agreed that this Consent Order shall become effective on the date it is signed by the chief of the MDEQ, WRD, as delegate of the director of the MDEQ, pursuant to Section 301(b) of the NREPA.

- 1.6 The VGT and the MDEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by the VGT that the law has been violated.
- 1.7 The signatory to this Consent Order certifies that it is fully authorized by the VGT to enter into the terms and conditions of this Consent Order and to execute and legally bind the VGT to this document. The signatory also certifies that the VGT agrees to voluntarily enter into this Consent Order. The VGT hereby agrees to comply with all requirements under this Consent Order to resolve the violations stated in Section II of this Consent Order and agrees to achieve compliance with Part 31 and Part 91 of the NREPA and associated rules by fulfilling the terms of Section III of this Consent Order.

## II. FINDINGS

- 2.1 On October 16, 2003, the VGT became fee owner of five parcels that comprise the Property. The parcel identification numbers for the five properties were 28-01-102-005-00, 28-01-102-001-00, 28-01-102-001-00, 28-01-102-009-00, and 28-01-102-017-00.
- 2.2 On October 16, 2003, the five parcels comprising the Property were consolidated into two parcels with two new parcel identification numbers 28-01-102-001-01 (21.56 acres) and 28-01-102-001-02 (160.55 acres).
- 2.3 On July 3, 2012, the Grand Traverse County Enforcing Agency (Grand Traverse CEA) issued to the VGT Permit No. 23049 under Part 91 of the NREPA to conduct an earth change activity on 78 acres of the Property (Construction Site). The expiration date for Permit No. 23049 was June 14, 2014.
- 2.4 On October 4, 2013, Meijer, Inc. purchased parcel identification number 28-01-102-001-01 from the VGT. The VGT remained the owner of parcel 28-01-102-001-02.

- 2.5 On January 31, 2014, the VGT obtained authorization under Part 31 of the NREPA and the Part 21 Rules, Wastewater Discharge Permits, promulgated pursuant to Part 31; 2006 AACS R 323.2101 *et seq.*, as amended, specifically, R 323.2190 (Permit-by-Rule) to discharge storm water from the Property. The expiration date for the authorization under Permit-by-Rule was June 14, 2014.
- 2.6 On June 12, 2014, the Grand Traverse CEA issued the VGT Permit No. 23059 under Part 91 of the NREPA to conduct an earth change activity on 78 acres that span both the Meijer, Inc. and VGT properties and to replace Permit No 23059. The expiration date for the Part 91 Permit No. 23059 is June 14, 2015.
- 2.7 On June 26, 2014, the VGT obtained reauthorization under Part 31 of the NREPA and Permit-by-Rule to discharge storm water from the Property.
- 2.8 In July or August 2014, the VGT started conducting the earth change activities on the Property.
- 2.9 The MDEQ conducted inspections on the following dates and identified violations of Part 31 and Part 91 of the NREPA:
- September 23, 2014
  - October 2, 2014
  - October 3, 2014
  - October 15, 2014
  - November 24, 2014
- 2.10 The MDEQ notified the VGT of the alleged violations of Part 31 and Part 91 of the NREPA in letters dated October 10, 2014; October 21, 2014; and January 28, 2015 (see Attachment A).

- 2.11 The VGT responded to the MDEQ's letters in correspondence date October 31, 2014, and February 13, 2015. The VGT also provided a Corrective Action Plan to the MDEQ with its October 31, 2014, response.

### III. COMPLIANCE PROGRAM

IT IS THEREFORE AGREED AND ORDERED THAT the VGT shall take the following actions to comply with and prevent further violations of Part 31 and Part 91 of the NREPA and the associated administrative rules:

- 3.1 The VGT shall comply with all requirements under Part 31 and Part 91 of the NREPA and the associated administrative rules, including obtaining and maintaining all required permits and seeking permit modification as required under law. This Consent Order does not obviate the need to acquire additional state, local, or federal permits as may be required by law.
- 3.2 Not later than 14 days after the effective date of this Consent Order, the VGT shall submit to the Grand Traverse CEA an application for a revised Part 91 permit that includes a revised SESC plan. The application shall seek authorization for only those activities associated with finishing the grading of the Construction Site and installing both temporary and permanent SESC measures. The application shall not include earth change activities associated with the future development of the Property. Once the Grand Traverse CEA modifies or reissues the permit, including the revised SESC plan, to the VGT (2015 SESC Permit), it shall be incorporated by reference and become enforceable under this Consent Order. Within three business days after the VGT receives the modified or reissued permit from Grand Traverse CEA, the VGT shall submit a Notice of Renewal for the Notice of Coverage under Permit-by-Rule to the MDEQ, WRD, Permits Section, as required under Part 31 of the NREPA.
- 3.3 If the SESC measures or SESC plan is determined to be ineffective by the MDEQ or the Grand Traverse CEA, the VGT shall take any and all additional actions necessary to

address the deficiencies as required under Part 31 and Part 91 of the NREPA. Within five days of the determination by the MDEQ or the Grand Traverse CEA that the SESC measures or SESC plan is determined to be ineffective, the VGT shall request a modification of the 2015 SESC Permit and the SESC plan by submitting a narrative describing the basis of the change, description of the proposed modification, and revised plan to the MDEQ, WRD, Cadillac District Office, and the Grand Traverse CEA for review and approval. Within three business days after the Grand Traverse CEA modifies or reissues the permit, the VGT shall submit a Notice of Renewal for the Notice of Coverage under Permit-by-Rule to the MDEQ, WRD, Permits Section, as required under Part 31 of the NREPA.

- 3.4 If any area(s) on the Construction Site are inactive for more than 14 days from May 1, 2015, through October 1, 2015, the VGT shall temporarily seed and mulch or place other temporary or permanent cover over the area(s) until earth change resumes in the area(s). All area(s) that are not permanently stabilized by October 1, 2015, shall be seeded and mulched.
  
- 3.5 If either of the two basins on the Property is discharging storm water, the VGT shall sample the storm water discharge(s) daily. The sampling sites shall be located where the slow release channel from each basin discharges into the adjacent wetlands (Sample Locations 1 and 2) as detailed on the map in Attachment B. The daily maximum limit for Sample Location 1 is 100 nephelometric turbidity units (NTU). At Sample Location 2 the daily maximum limit is 200 NTU. The daily maximum is the sum of the concentrations of individual samples divided by the number of samples taken during any calendar day. The individual samples used to calculate the daily maximum shall be representative of the discharges occurring on each calendar day from the basin(s). The daily maximum limits are only valid from the effective date of this Consent Order to September 1, 2015. After September 1, 2015, this Consent Order does not allow any discharge of sediments or sediment-laden water.

- 3.6 When there is discharge from the basin(s) or during a rain event that results in storm water discharging from the Property, the VGT shall conduct daily in-stream sampling within Acme Creek at least 100 feet from Sample Location 2, but no farther than the western boundary of the Property as detailed on the map in Attachment B (Sample Location 3). At Sample Location 3, the daily maximum limit is 50 NTU. The individual samples used to calculate the daily maximum shall be representative of the turbidity level in Acme Creek at Sample Location 3. The daily maximum limit is only valid from the effective date of this Consent Order to September 1, 2015.
- 3.7 During 2-year, 5-year, 10-year, and 25-year/24-hour rain events resulting in a discharge of storm water from the basin(s), the VGT shall collect representative samples at Sample Locations 1, 2, and 3, starting from the first 30 minutes of the discharge from the rain event until the peak discharge is expected to occur from the basin(s). Within 14 days of the execution of this Consent Order, the VGT shall provide a sampling plan to the MDEQ for review and approval detailing the number of samples it will collect to calculate the representative sample at each sample location for each rain event. The representative samples for each rain event will count each individual sample as part of the calculations for the daily maximum limit of 100 NTU for Sample Location 1, 200 NTU for Sample Location 2, and 50 NTU for Sample Location 3.
- 3.8 The VGT shall document all of the individual sampling results taken for each sample location and the daily maximum calculated for each of the sample locations. The VGT shall submit to the MDEQ the electronic copies of all sampling results for Sample Locations 1, 2, and 3, by the next business day in accordance with paragraph 3.20 of this Consent Order. If the basin(s) are not discharging storm water, this must be clearly documented in the daily storm water inspection logs.
- 3.9 If the discharge limit of 100 NTU is exceeded at Sample Location 1, or 200 NTU at Sample Location 2, the VGT shall take one or more of the following actions to come into compliance with the NTU discharge limit for sample location(s):

- a. Immediately cease the discharge of storm water from the basin(s) by plugging the outfall of the basin(s) and detaining the storm water until the sediment in the basin(s) settles and the discharge limit of 100 NTU for Sample Location 1, and 200 NTU for Sample Location 2, are met before the basin(s) is allowed to discharge.
  - b. Immediately cease the discharge of storm water from the basin(s) by plugging the outfall; and
    - i. Pump and haul the storm water that enters into the storm water basin(s) on the Property to the location authorized under Groundwater Discharge Permit No. GW11110726; or
    - ii. Pump storm water detained in the basin(s), with or without treatment through the polyacrylamide (PAM) system identified in the 2015 SESC Permit, provided that the discharge limit of 100 NTU for Sample Location 1, and 200 NTU for Sample Location 2, are met at the discharge location(s) and that the discharge occurs through a filter bag in a permanently stabilized area on the Property so as to ensure that the discharge does not cause soil erosion or sedimentation from occurring at the discharge location.
- 3.10 If the daily maximum is calculated to be 200 NTU or greater for Sample Location 1, or 300 NTU for Sample Location 2, the VGT shall immediately cease the discharge of storm water from the basin(s) and do the following:
- a. Pump and haul the storm water that enters into the storm water basin(s) on the Property to the location authorized under Groundwater Discharge Permit No. GW11110726 until the discharge limit of 100 NTU for Sample Location 1, and 200 NTU for Sample Location 2, can be met before discharges can continue;



or

- b. Pump storm water detained in the basin(s), with or without treatment through the polyacrylamide (PAM) system identified in the 2015 SESC Permit, provided that the discharge limit of 100 NTU for Sample Location 1, and 200 NTU for Sample Location 2, are met at the discharge location(s) and that the discharge occurs through a filter bag in a permanently stabilized area on the Property so as to ensure that the discharge does not cause soil erosion or sedimentation from occurring at the discharge location.
- 3.11 If the MDEQ determines that corrective action is required due to sediment and/or sediment-laden water being discharged into waters of the state, the VGT shall be required to take corrective action to restore the affected area. The VGT shall submit to the MDEQ, a corrective action plan within 14 days of the MDEQ's determination detailing the actions the VGT will take to restore the affected areas and shall include a schedule for implementing the plan. In addition, the plan shall ensure that appropriate approvals and permit modification are obtained as required under paragraph 3.3 of this Consent Order. Upon approval by the MDEQ, WRD, the corrective action plan will be incorporated by reference into this Consent Order.
  - 3.12 The VGT shall have the Property inspected by a certified storm water operator for all disturbed areas and storm water discharge points every day that the VGT is actively conducting an earth change on the Property and during all rain events until the Part 31 and Part 91 permits are terminated. If VGT is not actively conducting an earth change activity on the Property and there are no rain events, then VGT shall inspect the site at least once per week. Each inspection shall be documented on a storm water log by the certified storm water operator and maintained on file at the Property by the VGT.
  - 3.13 The VGT shall submit electronic copies of all certified operator inspection logs required under paragraph 3.12 of this Consent Order for the previous month by the 10th day of

each month until a Notice of Termination (NOT) under Part 31 of the NREPA is issued certifying that the Property is permanently stabilized.

- 3.14 The VGT shall conduct weekly meetings with its contractors and staff to discuss the SESC conditions and actions needed on the Property to ensure compliance with Part 31 and Part 91 of the NREPA. The VGT shall document the weekly meetings and include the names of the participants, the date and time the meetings took place, and the topics discussed. The VGT shall submit electronic copies of the weekly meeting logs for the previous month by the 10th day of each month in the same manner as required for the certified operator inspection logs under paragraph 3.13 of this Consent Order.
- 3.15 Not later than five days after the effective date of this Consent Order, the VGT shall provide the MDEQ the name of the person designated as the contact person for the Property who has the oversight authority on ensuring the Property is in compliance with Part 31 and Part 91 of the NREPA. The VGT shall provide the MDEQ the name of any new or additional persons designated a contact person under this paragraph within five days of their designation.
- 3.16 Not later than October 31, 2015, the VGT shall have completed all activities under the 2015 SESC Permit, including permanent stabilization of the Construction Site. The Construction Site is considered permanently stabilized when all permanent control measures have been installed, maintenance for the permanent controls has been arranged, vegetation is well established throughout all areas that were disturbed, and temporary controls have been removed.
- 3.17 The VGT shall schedule a final review with the MDEQ and the Grand Traverse CEA to verify that the Construction Site has been permanently stabilized as required under Part 31 and Part 91 of the NREPA. Once the MDEQ determines the Construction Site is permanently stabilized, the VGT shall submit an NOT as required under the Permit-by-Rule for the storm water coverage to the MDEQ within ten days of the final review.

- 3.18 The VGT agrees not to conduct any additional earth changes for any future development on the Property outside of the Construction Site until the Construction Site is permanently stabilized and the NOT is submitted as required under paragraph 3.17 of this Consent Order.
- 3.19 The restrictions in paragraphs 3.18 of this Consent Order shall not apply to earth changes on the northern and eastern edges of the Property associated with the right-of-way improvements conducted on M-72 and Lautner Road scheduled to be completed in 2015 by the Michigan Department of Transportation. Nothing in this Consent Order is intended to abridge or restrict the ability of the proper parties to secure a permit and complete the road improvement work.
- 3.20 The VGT shall submit all reports, work plans, specifications, schedules, or any other writing required by this section to the MDEQ, WRD, Cadillac District Supervisor, 120 West Chapin Street, Cadillac, Michigan 49601-2158. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.

#### **IV. MDEQ APPROVAL OF SUBMITTALS**

- 4.1 For any work plan, proposal, or other document, excluding applications for permits or licenses, that are required by this Consent Order to be submitted to the MDEQ by the VGT, the process and terms of approval, below, shall apply.
- 4.2 All work plans, proposals, and other documents required to be submitted by this Consent Order shall include all of the information required by the applicable statute and/or rule, and all of the information required by the applicable paragraph(s) of this Consent Order.
- 4.3 In the event the MDEQ disapproves a work plan, proposal, or other document, it will notify the VGT, in writing, specifying the reasons for such disapproval. The VGT shall

submit, within 30 days of receipt of such disapproval, a revised work plan, proposal, or other document that adequately addresses the reasons for the MDEQ's disapproval. If the revised work plan, proposal, or other document is still not acceptable to the MDEQ, the MDEQ will notify the VGT of this disapproval.

- 4.4 In the event the MDEQ approves with specific modifications a work plan, proposal, or other document, it will notify the VGT, in writing, specifying the modifications required to be made to such work plan, proposal, or other document prior to its implementation and the specific reasons for such modifications. The MDEQ may require the VGT to submit, prior to implementation and within 30 days of receipt of such approval with specific modifications, a revised work plan, proposal, or other document that adequately addresses such modifications. If the revised work plan, proposal, or other document is still not acceptable to the MDEQ, the MDEQ will notify the VGT of this disapproval.
- 4.5 Upon MDEQ approval, or approval with modifications, of a work plan, proposal, or other document, such work plan, proposal, or other document shall be incorporated by reference into this Consent Order and shall be enforceable in accordance with the provisions of this Consent Order.
- 4.6 Failure by the VGT to submit an approvable work plan, proposal, or other document, within the applicable time periods specified above, constitutes a violation of this Consent Order and shall subject the VGT to the enforcement provisions of this Consent Order, including the stipulated penalty provisions specified in paragraph 9.3 of this Consent Order.
- 4.7 Any delays caused by the VGT's failure to submit an approvable work plan, proposal, or other document when due shall in no way affect or alter the VGT's responsibility to comply with any other deadline(s) specified in this Consent Order.
- 4.8 No informal advice, guidance, suggestions, or comments by the MDEQ regarding reports, work plans, plans, specifications, schedules, or any other writing submitted by

the VGT will be construed as relieving the VGT of its obligation to obtain written approval, if and when required by this Consent Order.

#### V. EXTENSIONS

- 5.1 The VGT and the MDEQ agree that the MDEQ may grant the VGT a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request in duplicate to the MDEQ, WRD, Water Enforcement Unit Chief, P.O. Box 30458, Lansing, Michigan 48909-7958, and the MDEQ, WRD, Cadillac District Supervisor, at the address in paragraph 3.20 of this Consent Order, no later than ten business days prior to the pertinent deadline, and shall include:
- a. Identification of the specific deadline(s) of this Consent Order that will not be met.
  - b. A detailed description of the circumstances that will prevent the VGT from meeting the deadline(s).
  - c. A description of the measures the VGT has taken and/or intends to take to meet the required deadline.
  - d. The length of the extension requested and the specific date on which the obligation will be met.

The Cadillac District Supervisor or a designee, in consultation with the Water Enforcement Unit Chief, shall respond in writing to such requests. No change or modification to this Consent Order shall be valid unless in writing from the MDEQ and, if applicable, signed by both parties.

#### VI. REPORTING

- 6.1 The VGT shall verbally report any violation(s) of the terms and conditions of this Consent Order to the MDEQ, WRD, Cadillac District Supervisor, by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five business days following detection of such

violation(s). The written report shall include a detailed description of the violation(s), as well as a description of any actions proposed or taken to correct the violation(s). The VGT shall report any anticipated violation(s) of this Consent Order to the above-referenced individual in advance of the relevant deadlines whenever possible.

#### VII. RETENTION OF RECORDS

- 7.1 Upon request by an authorized representative of the MDEQ, the VGT shall make available to the MDEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to the NREPA or its rules. All such documents shall be retained by the VGT for at least a period of five years from the date of generation of the record unless a longer period of record retention is required by the NREPA or its rules.

#### VIII. RIGHT OF ENTRY

- 8.1 The VGT shall allow any authorized representative or contractor of the MDEQ, upon presentation of proper credentials, to enter upon the premises of the facility at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the MDEQ to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder or any other applicable statutory provision.

#### IX. PENALTIES

- 9.1 The VGT agrees to pay to the State of Michigan **\$20,000** as partial compensation for the cost of investigations and enforcement activities arising from the violations specified in Section II of this Consent Order. Payment shall be made in accordance with paragraph 9.7 of this Consent Order.
- 9.2 The VGT agrees to pay a civil fine of **\$20,000** for the violations specified in Section II of

this Consent Order. Payment shall be made in accordance with paragraph 9.7 of this Consent Order.

- 9.3 Except as provided in paragraphs 9.5 and 9.6, for each failure to comply with a provision of Section III or IV of this Consent Order, the VGT shall pay stipulated penalties of **\$200** per violation per day for 1 to 7 days of violation, **\$300** per violation per day for 8 to 14 days of violation, and **\$500** per violation per day for each day of violation thereafter. Payment shall be made in accordance with paragraph 9.7 of this Consent Order.
- 9.4 For each failure to comply with a provision of Section VI, VII, or VIII of this Consent Order, or any other requirement of this Consent Order, the VGT shall pay stipulated penalties of **\$200** per violation per day for each day of violation. Payment shall be made in accordance with paragraph 9.7 of this Consent Order.
- 9.5 For each failure to comply with the daily maximum limit for Sample Locations 1 and 2 as required under paragraph 3.5 and 3.6 of this Consent Order, the VGT shall pay a stipulated penalty of **\$5,000** per day according to the following schedule and terms:
- a. The stipulated payment shall accrue and be payable starting on the second day of violation and every consecutive day of violation thereafter if Sample Location 1 exceeds the daily maximum of 100 NTU or Sample Location 2 exceeds the daily maximum of 200 NTU.
  - b. Notwithstanding subparagraph 9.5(a), above, the stipulated payment shall accrue and be payable on the first day of violation and for every consecutive day of violation thereafter if:
    - i. Sample Location 1 exceeds the daily maximum limit of 200 NTU, or
    - ii. Sample Location 2 exceeds the daily maximum limit of 300 NTU, or
    - iii. Sample Location 3 exceeds a daily maximum limit of 50 NTU.
  - c. The stipulated penalties calculated under this paragraph 9.5 are cumulative, but shall not exceed **\$10,000** for each day of violation.

d. Payment shall be made in accordance with paragraph 9.7 of this Consent Order.

9.6 If a discharge of sediment-laden and/or turbid water from the Property exceeding the 50 NTU daily maximum limit at Sample Location 3 reaches the Grand Traverse Bay, the MDEQ may demand payment of stipulated penalties and the VGT shall pay stipulated penalties as follows:

- First Discharge - **\$2,500**
- Second Discharge - **\$5,000**
- Third Discharge - **\$10,000**
- Fourth Discharge - **\$15,000**
- Fifth Discharge and Every Discharge Thereafter- **\$20,000**

However, if the MDEQ determines that the discharge from the Property into the Grand Traverse Bay is due to a significant event, the VGT shall be subjected to stipulated penalties of **\$20,000** for each day the sediment-laden and/or turbid water persists in the Bay. In assessing penalties under this provision, MDEQ shall consider mitigating factors such as upstream contributions. Payment shall be made in accordance with paragraph 9.7 of this Consent Order.

9.7 All payments shall be submitted within 30 days of receipt of an invoice from the MDEQ. The VGT agrees to pay all funds due pursuant to this agreement by check made payable to the State of Michigan and delivered to the Accounting Services Division, Cashier's Office for the MDEQ, P.O. Box 30657, Lansing, Michigan 48909-8157, or hand delivered to the Accounting Services Division, Cashier's Office for the MDEQ, 425 West Ottawa Street, Lansing, Michigan 48933. To ensure proper credit, all payments made pursuant to this Consent Order must include the **Payment Identification No. WRD40095**.

9.8 The VGT agrees not to contest the legality of the civil fine or costs paid pursuant to paragraphs 9.1 and 9.2 of this Consent Order. The VGT further agrees not to contest



the legality of any stipulated penalties assessed pursuant to paragraphs 9.3, 9.4, 9.5, or 9.6 of this Consent Order, but reserves the right to dispute the factual basis upon which a demand by the MDEQ for stipulated penalties is made.

- 9.9 The MDEQ reserves its rights to seek interest on any unpaid sums due pursuant to the terms of this Consent Order. Subject to the other provisions of Section IX of this Consent Order, the MDEQ may waive, in its unreviewable discretion, any portion of stipulated penalties and interest that has accrued pursuant to this Consent Order. This interest penalty shall be based on the rate set forth at MCL 600.6013(8), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full.

#### X. FORCE MAJEURE

- 10.1 The VGT shall perform the requirements of this Consent Order within the time limits established herein, unless performance is prevented or delayed by events that constitute a *Force Majeure*. Any delay in the performance attributable to a *Force Majeure* shall not be deemed a violation of the VGT's obligations under this Consent Order in accordance with this section.
- 10.2 For the purpose of this Consent Order, "*Force Majeure*" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of the VGT, such as: an Act of God, untimely review of permit applications or submissions by the MDEQ or other applicable authority, and acts or omissions of third parties that could not have been avoided or overcome by the VGT's diligence and that delay the performance of an obligation under this Consent Order. *Force Majeure* does not include, among other things, unanticipated or increased costs, changed financial circumstances, or failure to obtain a permit or license as a result of the VGT's actions or omissions.

- 10.3 The VGT shall notify the MDEQ, by telephone, within 48 hours of discovering any event that may cause a delay in its compliance with any provision of this Consent Order. Verbal notice shall be followed by written notice within ten calendar days and shall describe, in detail, the anticipated length of delay, the precise cause or causes of delay, the measures taken by the VGT to prevent or minimize the delay, and the timetable by which those measures shall be implemented. The VGT shall adopt all reasonable measures to avoid or minimize any such delay. Nothing in this paragraph obviates the need to report violations as required by paragraph 6.1 of this Consent Order.
- 10.4 Failure of the VGT to comply with the notice requirements and time provisions under paragraph 10.3 of this Consent Order shall render Section X of this Consent Order void and of no force and effect as to the particular incident involved. The MDEQ may, at its sole discretion and in appropriate circumstances, waive in writing the notice requirements of paragraph 10.3 of this Consent Order.
- 10.5 If the parties agree that the delay or anticipated delay was beyond the control of the VGT, this may be so stipulated, and the parties to this Consent Order may agree upon an appropriate modification of this Consent Order. However, the MDEQ is the final decision maker on whether or not the matter at issue constitutes a *Force Majeure*. The burden of proving that any delay was beyond the reasonable control of the VGT, and that all the requirements of Section X of this Consent Order have been met by the VGT, rests with the VGT.
- 
- 10.6 An extension of one compliance date based upon a particular incident does not necessarily mean that the VGT qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

## XI. GENERAL PROVISIONS

- 11.1 With respect to any violations not specifically addressed and resolved by this Consent Order, the MDEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of the VGT to comply with the requirements of the NREPA and its rules.
- 11.2 The MDEQ and the VGT consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 31 and Part 91 of the NREPA.
- 11.3 This Consent Order in no way affects the VGT's responsibility to comply with any other applicable state, federal, or local laws or regulations.
- 11.4 The MDEQ, WRD, reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and at its discretion, may also seek stipulated fines or statutory fines for any violation of this Consent Order. However, the MDEQ, WRD, is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.
- 11.5 The parties agree to diligently and in good faith pursue informal negotiations to resolve any disputes arising out of this Consent Order prior to resorting to judicial enforcement. Such negotiations shall proceed in a timely manner.
- 11.6 Nothing in this Consent Order is or shall be considered to affect any liability the VGT may have for natural resource damages caused by the VGT's ownership and/or operation of the facility. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 11.7 In the event the VGT proposes to sell or transfer an interest in the Property, in whole or part, it shall provide any purchaser or transferee with a copy of this Consent Order,

including all attachments and any amendments or modifications. The VGT shall also send duplicate written notices to the MDEQ, WRD, Cadillac District Supervisor, at the address in paragraph 3.20 of this Consent Order and to the MDEQ, WRD, Water Enforcement Unit Chief, at the address in paragraph 5.1 of this Consent Order. The written notice shall be provided to the MDEQ no less than 30 calendar days before the sale or transfer closes or actions are taken that conclude the sale or transfer. The written notice shall include the identity, address, and telephone number of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser or transferee.

The purchaser or transferee of this Consent Order must enter into a written agreement assuming all of the obligations of this Consent Order that the MDEQ determines are appropriate for the area(s) of the Property being sold or transferred prior to closing or other actions that conclude the sale or transfer of all or part of the Property.

Notwithstanding any oral or written agreement between the VGT and a potential or actual purchaser or transferee of the Property, the VGT shall remain bound by this Consent Order until the MDEQ issues a Termination Notice (TN) under Section XII of this Consent Order, including in the following circumstances: (a) if the purchaser or transferee of the Property does not enter into a written agreement with the MDEQ assuming all appropriate obligations of this Consent Order; (b) if the VGT does not actually sell or transfer the Property even if the purchaser or transferee has entered into a written agreement with the MDEQ assuming all appropriate obligations of this Consent Order; or (c) if the VGT retains any legal interest in the Property following the sale or transfer of an interest in the Property.

- 11.8 The provisions of this Consent Order shall apply to and be binding upon the parties to this Consent Order and their successors and assigns.

- 11.9 This Consent Order constitutes a civil settlement and satisfaction as to the resolution of the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

## XII. TERMINATION


- 12.1 This Consent Order shall remain in full force and effect until terminated by a written TN issued by the MDEQ. Prior to issuance of a written TN, the VGT shall submit a request consisting of a written certification that the VGT has fully complied with the requirements of this Consent Order and has made payment of any fines, including stipulated penalties, required in this Consent Order. A suggested form for providing the required written certification is appended as Attachment C. Specifically, an acceptable certification shall include:
- a. The date of compliance with each provision of the compliance program in Section III of this Consent Order, and the date any fines or penalties were paid.
  - b. A statement that all required information has been reported to the MDEQ, WRD, Cadillac District Supervisor.
  - c. Confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility.

The MDEQ may also request additional relevant information. The MDEQ shall not unreasonably withhold issuance of a TN.

Signatories

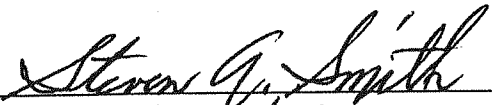
The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY**

  
\_\_\_\_\_  
William Creal, Chief  
Water Resources Division

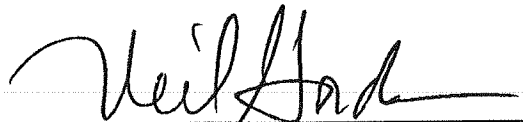
4-16-2015  
Date

**THE VILLAGE AT GRAND TRAVERSE, L.L.C.**

  
\_\_\_\_\_  
By: Member/Manager  
Title:

4-14-15  
Date

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
By: Neil D. Gordon, Assistant Attorney General  
For: S. Peter Manning, Chief  
Environment, Natural Resources, and Agriculture Division  
Michigan Department of Attorney General

4/16/15  
Date

**ATTACHMENT A**



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
GAYLORD FIELD OFFICE



DAN WYANT  
DIRECTOR

October 10, 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. J.R. Anderson  
Village at Grand Traverse LLC  
3805 Edwards Road Suite 700  
Cincinnati, Ohio 45209

Dear Mr. Anderson:

SUBJECT: Storm Water Construction Inspection  
NPDES Permit No. MIR112950  
Designated Name: Grand Traverse Town Center-Acme

On October 2, 2014, staff from the Department of Environmental Quality (DEQ), Water Resources Division (WRD) inspected the Grand Traverse Town Center Construction Project (Construction Site), located at M-72 and Lautner Road, Acme, Michigan 49610. The inspection was to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.3101 *et seq.*, and the Administrative Rules promulgated there under (Part 31). As well as compliance with Part 91, Soil Erosion and Sedimentation Control (SESC) of the NREPA, 1994 PA 451, as amended, MCL 324.9101 *et seq.*, and the Administrative Rules promulgated there under (Part 91).

Mr. Mark Walters, Construction Storm Water (CSW) Operator/SESC Inspector, and Mr. Steve Folkersma, Project Manager, participated in the inspection. The inspection included an in depth review/walk through of the site to make sure the SESC measures implemented are performing properly to prevent sediment-laden water from leaving the site, as well as a thorough review of the CSW/SESC inspection logs. The Construction site did have some areas of concern, as well as the following violations that were found during the inspection.

1. Following the implementation of several SESC measures and after a site visit conducted on September 23, 2014, there was still a discharge of sediment-laden water to the regulated wetlands at the end of the slow release channels of basin one and two. Although no water entered Acme Creek, this is still a violation of Part 31 and Part 91.
2. During the inspection, sediment laden water was found discharging off the south side of the property into regulated wetlands. This is a violation of Part 31 and Part 91. DEQ staff confirmed on October 9, 2014 that material has eroded into the wetland on the south edge of the project area, beyond the boundary as permitted under DEQ File No. 11-28-0034-P. As discussed during the October 9, 2014, site meeting between Mr. Folkersma, Mr. Terry Boyd, Gourdie-Fraser, and Robyn Schmidt, DEQ, the material that has eroded into the wetland, beyond the permitted boundary must be removed, under the authority of Part 303, Wetlands Protection, of NREPA, 1994 PA 451, as amended (Part 303). To comply with Part 303, Part 31 and Part 91 the following wetland restoration actions are required to resolve this issue:



- a) Remove all eroded fill from the wetland, beyond the permitted boundary, using either a Vac-truck or an excavator.
- b) Restore the wetland to the original grade, as is feasible, without impacting the existing plant roots. The DEQ understands this may require a few inches (less than 4-inches) of material to remain in the wetland area.
- c) Place the material removed from the wetland in an on-site upland location or within the permitted area.
- d) Immediately upon completion of the wetland restoration requirements contact Robyn Schmidt, DEQ, to schedule a follow up inspection.

There were also several areas of concern that the DEQ staff noticed during the inspection that could lead to future violations if not corrected by the Construction Site. Those are as follows.

1. There were several areas where the silt fences were overtopped by storm water and needed to be fixed. It was noted that staff was correcting this during the inspection.
2. The CSW/SESC inspection logs from July 4, 2014 till August 18, 2014 were not on site with the rest of the logs at the time of the inspection. Mr. Walters, Storm Water Inspector, said he has all the logs saved electronically and that he must have forgotten to put them in the book. These will need to be emailed to Justin Bragg, DEQ, upon receiving this letter.
3. There is still a concern with sediment-laden surface water possibly leaving the site. The Polyacrylamides/floc logs (soap on a rope) did not seem to be settling out the sediment picked up during runoff. A bench test should be done to see if the floc logs that are being used will work for the type of sediment on this site.
4. There was an area to the Southwest of the site where the mulch was dislodged and started to wash away. This area should be fixed so future erosion does not take place.
5. Vegetation is not established on the site yet, and these areas will need to be monitored closely, going forward to make sure that no erosion occurs and that no sedimentation leaves the site. The facility should review their SESC measures and research possibilities that could be used to temporarily stabilize the site without vegetation.

Please resolve the soil erosion violations/concerns listed above by **October 24, 2014**. The wetland restoration must be completed not later than **November 10, 2014**. Once these actions are completed by the listed dates, a response needs to be sent to the Gaylord Field Office. At a minimum, the responses shall include:

1. What has been done and/or will be done in the future, with a timeline, to prevent another discharge of any type of sediment-laden water from leaving the site. Please provide photos, if appropriate, to demonstrate the effectiveness of SESC measures that have been implemented as a result of this violation.
2. A complete SESC plan highlighting the new SESC measures put in place that addresses all areas of earth disturbance. Including a revised timing and sequencing plan that includes a detailed projected schedule for the remaining earth change activities through the anticipated final stabilization efforts.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this matter or if you would like to arrange a meeting to discuss, please contact me at 989-705-3438; braggj@michigan.gov; or DEQ, WRD, Gaylord Field Office, 2100 W. M-32, Gaylord, Michigan 49735. If you have any question regarding the wetland restoration, please contact Ms. Robyn Schmidt, DEQ, WRD, Cadillac District Office, at 231-876-4444.

Sincerely,



Justin Bragg,  
Environmental Quality Analyst  
Gaylord Field Office  
Water Resources Division

Enclosure

Cc/enc: Mr. Brian Jankowski, DEQ  
Mr. Joe Haas, DEQ  
Mr. Pete Bruski, Grand Traverse County CEA  
Mr. Steve Schooler, Director of Construction  
Mr. Terry Boyd, Gourdie Fraser  
Mr. Steve Folkersma, Team Elmer's

DEQ-WATER RESOURCES DIVISION  
POST INSPECTION REPORT

Gr Traverse Town Center-Acme  
Storm Water Construction Inspection  
Inspection ID: 57717

FACILITY INFORMATION

Facility Name: Gr Traverse Town Center-Acme  
Facility Address:

M-72 and Lautner Road, SW Corner  
Acme, Michigan 49610

Facility Phone:

Facility Contact:

Facility Contact Phone:

Permit Reviewed Permit No.: MIR112950

Issued: 6/26/2014

Effective: 6/26/2014

Expires: 6/14/2015

App. Due:

Certified Operator: Blain Scheller

Certified Operator Phone:

Primary Industry:

Nature of Business:

Wastewater Treatment Processes:

Municipal Classification Code: N/A

Major: No

INSPECTION INFORMATION

Insp Start Date

10/02/14

Insp End Date

10/02/14

Transmittal Date

Sampling Start Date

N/A

Sampling End Date

N/A

DEQ Inspector(s)

Justin Bragg

Workgroup

Cadillac

Inspection Contact(s)

Name

Working Title

Phone Number

Inspection Summary/Notes

Mr. Mark Walters, the Construction Storm Water (CSW) Operator/SESC Inspector, and Mr. Steve Folkersma the Project Manager, participated in the inspection with Justin Bragg of the DEQ. The inspection included an in depth review/walk through of the site to make sure the SESC measures implemented are performing properly to prevent sediment-laden water from leaving the site, as well as a thorough review of the CSW/SESC inspection logs. The Construction site did have some areas of concern, as well as the following violations that were found during the inspection.

1. Following the implementation of several SESC measures, after a site visit conducted on September 23, 2014, there was still a discharge of sediment-laden water to the regulated wetlands at the end of the slow release channels of basin one and two. Although no water entered Acme Creek this is still a violation of Part 31 and Part 91.
2. During the inspection of the site it was also found that sediment laden water was discharged off the south side of the property and into regulated wetlands. This is a violation of Part 31 and Part 91 as well. For this area we do not recommend cleaning up the sediment deposition in the wetlands until the ground is firm enough to get heavy equipment down there. The side of this hill should be stabilized though in order to prevent future erosion into the wetlands.

**DEQ-WATER RESOURCES DIVISION  
POST INSPECTION REPORT**

There were also several areas of concern that the DEQ staff noticed during the inspection that could lead to future violations if not corrected by the Construction Site. Those are as follows.

1. There were several areas where the silt fences were overtopped by storm water and needed to be fixed. It was noted that staff was correcting this during the inspection.
2. The CSW/SESC inspection logs from July 4, 2014 till August 18, 2014 were not on site with the rest of the logs at the time of the inspection. Mr. Walters, the storm water inspector said he has all the logs saved electronically and that he must have forgot to put them in the book. These will need to be emailed to be upon receiving this letter.
3. There is still a concern with sediment-laden surface water possibly leaving the site. The Polyacrylamides/floc logs (soap on a rope) did not seem to be settling out the sediment picked up during runoff. A bench test should be done to see if the floc logs that are being used will work for the type of sediment on this site.
4. There was an area to the Southwest of the site where the mulch was dislodged and started to wash away. This area should be fixed so future erosion does not take place.
5. Vegetation is not established on the site yet, and these areas will need to be monitored closely going forward to make sure that no erosion occurs and that no sedimentation leaves the site. The facility should review their SESC measures and research possibilities that could be used to temporarily stabilize the site without vegetation.

**AREAS EVALUATED**

**Comment**

OVERALL SITE RATING            Marginal

They need to find a better way to filter out the fine clay particles from the surface storm water runoff. They should consider getting a rain gauge so that their inspection logs accurately match the amount of rain received in site.

---

PROCEDURES FOLLOWED            Satisfactory

---

SEDIMENT DISCHARGED OFF-SITE    Marginal

There is sediment leaving the site, it is going to the regulated wetlands but not to Acme Creek. This needs to be fixed so that sediment-laden storm water is leaving the site. I say marginal because they were working on fixing it with PAMS while I was inspecting.

---

SEDIMENT DISCHARGE TO WATERS OF STATE    Un-Satisfactory

There was some sediment-laden water getting into the surrounding regulated wetlands.

---

SESC PERMIT COMPLIANCE    Marginal

There were a couple inspection logs missing.

---

SESC PERMIT ON-SITE Satisfactory

---

SESC PLAN APPROPRIATE    Marginal

DEQ-WATER RESOURCES DIVISION  
POST INSPECTION REPORT

There are still a couple areas that need to be worked on. The system does not seem to be well designed for fine clay particles.

---

SESC PLAN COMPLIANCE      Marginal

The drainage to the west of Basin #2 is causing a problem. The wetland area to the south of the site needs to be remediated. The slow release basin channels need to be worked on to make sure not fine clay particles are leaving the site.

---

SESC PLAN ON-SITE      Satisfactory

---

ACCESS ROAD      Satisfactory

They are wet but are pretty good overall.

---

CHECK DAMS      Satisfactory

---

DEWATERING      Satisfactory

When dewatering the sediment basins they are pumping the water through a storm klear system and a filter bag that seems to be working well.

---

EROSION CONTROL BLANKETS      Marginal

They are not working to keep the fine clay particles on the site, other temporary measures should be researched and utilized to keep the clay particles on site.

---

INSPECTION LOGS      Marginal

The logs for 7/4/14-8/18/14 were not in the log book. According to the inspector they are saved electronically. These should be sent to me as soon as they receive their compliance letter.

---

RIPRAP      Satisfactory

---

ROAD/STREAM CROSSING      Not Applicable

---

RUBBISH/CHEMICAL CONTROL      Marginal

The Polyacrylamides are not working the way they should be, and a bench test should be completed to make sure that they have the correct floc logs (soap on a rope) for the sediment on site.

---

SCHEDULING/STAGING      Marginal

---

DEQ- WATER RESOURCES DIVISION  
POST INSPECTION REPORT

SEDIMENT BASIN(S) Un-Satisfactory

Basin #2 was not online at the time of the inspection. The basins also do not work very well to settle out the fine clay particles of this site.

---

SILT FENCE Marginal

Silt fences were overtopped in a couple areas, they were being fixed as I was inspecting the facility.

---

SPOIL PILE(S) Not Applicable

---

STABILIZED OUTLETS Un-Satisfactory

There are still clay particles in the water coming out of the stabilized outlets of the drainage basins.

---

STORM SEWER INLETSSatisfactory

The storm sewer inlets that are in place are working well, and protected, but not all the curbing is put in yet.

---

STORM WATER BASIN(S) Un-Satisfactory

Basin #2 was not online at the time of the inspection. The basins also do not work very well to settle out the fine clay particles of this site.

---

VEGETATIVE COVER/MULCHING Marginal

There is no vegetative cover, but the mulch and seeding has been applied. The site is still having a problem with fine clay particles.

---

OTHER Not Evaluated

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**VIOLATIONS**

**Effluent Violations**

Viol ID	Detection Date	Mon. Point	Mon. Point Descript.	Parameter	Permit Limit	Sample Result	Limit Type	Status
None								

**SOC Violations**

Viol ID	SOC ID	Program Name	Schedule Name	Due Date	Detection Date	SOC Status	Violation Status

DEQ-WATER RESOURCES DIVISION  
POST INSPECTION REPORT

DMR/CMR Report Submittal Violations

Viol ID	Report Start Date	Report End Date	Report Due Date	Type	Viol Status

Other Violations

Viol. ID	Detection Date	Violation Category	Violation Type	Violation Status

ENFORCEMENT

Enf. ID	Enf. No.	Enforcement Type	Action Type	Issued Date	Issued By	Enf. Status

FOLLOW-UP ACTION

Item ID	Item Name	Due Date	Received Date	Approved Date	Locked	Item Type

Comments/Notes

Completed by Justin Bragg

Date 10/8/14



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
GAYLORD FIELD OFFICE



DAN WYANT  
DIRECTOR

October 21, 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. J.R. Anderson  
Village at Grand Traverse LLC  
3805 Edwards Road, Suite 700  
Cincinnati, Ohio 45209

VN No. VN-005944

Dear Mr. Anderson:

SUBJECT: Violation Notice, Natural Resources and Environmental Protection Act,  
Grand Traverse Town Center Construction Project, Acme Township, Michigan

The Department of Environmental Quality (DEQ), Water Resources Division (WRD), has inspected the Grand Traverse Town Center Construction Project (hereafter "site" or "construction site"), located at M-72 and Lautner Road, Acme, Michigan 49610 to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.3101 *et seq.*, and the Administrative Rules promulgated there under (hereafter Part 31), as well as compliance with Part 91, Soil Erosion and Sedimentation Control (SESC) of the NREPA, 1994 PA 451, as amended, MCL 324.9101 *et seq.*, and the Administrative Rules promulgated there under (hereafter Part 91), and Rule 323.2190, Permit-By-Rule of the 1979 Administrative Code; and your National Pollutant Discharge Elimination System (NPDES) Notice of Coverage (NOC) No. MIR112950, which was issued on June 26, 2014.

The construction site was initially inspected by WRD staff on September 23, 2014, after heavy rains. Follow up inspections performed by WRD staff occurred on October 2, 2014, October 3, 2014, and October 15, 2014. The inspections were intended to verify if the SESC measures were functioning sufficiently, and to determine if a storm water discharge containing suspended sediment or other pollutants was occurring to any waters of the state, in violation of Part 31, Part 91, and your NOC.

On each of the above noted inspection dates, WRD staff observed the unlawful discharge of soils from the construction site to either wetlands and/or Acme Creek. The purpose of this letter is to identify and provide notice of violations of the above-cited Acts, Permit, and NOC. As a result of these discharges, the receiving water (including wetlands) contained suspended sediment and/or sediment deposits significant enough to result in unnatural quantities of physical properties in those waters, including discernable increases in turbidity and suspended solids, changes in color, and/or deposition, in violation of Part 31 and its associated Administrative Rules.

It is integrally recognized and understood that a discharge of storm water to Acme Creek that contains eroded/suspended soil particles results in a discharge of the same to Grand Traverse Bay, particularly with respect to the minute silt and clay particles that will not readily settle and deposit in Acme Creek. However, even though the apparent, principle concern for the site resides with the mobilized and suspended silt and clay, and their impacts and fate in the receiving waters, migration and deposition of heavier silts and sand particles are also a concern.



Staff also observed that soil erosion control measures were not effective, contributing to the aforementioned discharges to the surface waters of the state. The control measures were ineffective because they were not fully installed and/or were not of a type sufficient to address the clay content of the site's soils, especially given the significant extent of the site that consisted of bare soils. The extent of the site that consisted of exposed soils was a principle contributor to the unlawful discharge. The failure to ensure adequate soil erosion control measures is a violation of Part 91 Section 9116, Section 1702(2) of the Part 91 Administrative Rules, and Section (2)(c) the Permit-by-Rule of Part 31.

Observations of the specific inspection dates follow:

1. The unlawful discharge of water containing suspended sediment (sediment-laden) from the construction site, in violation of Part 31, Part 91, and your NOC, was observed during the September 23, 2014, and October 2, 2014, inspections. These violations were cited in the compliance communication letter that was sent out to you by certified mail, and dated October 10, 2014. The direction and schedules provided in that letter are still in effect. Any direction and schedules provided herein are in addition to those identified in that October 10, 2014, letter.
2. On October 3, 2014 WRD staff inspected the construction site during or immediately following rain that had occurred that day and the previous night, to both assess the effectiveness of the additional SESC control measures the contractor (Team Elmer's) had implemented in previous days, and to determine if storm water containing suspended soils was continuing to unlawfully discharge to wetlands and/or other waters of the state. During the inspection, WRD staff observed sediment-laden water entering both regulated wetlands and Acme Creek from the area on site that is adjacent to "basin one" and its serpentine discharge channel. That evening, WRD staff observed and followed a discharge, originating from the site, of a distinct and very light tan colored water that can be additionally described as opaque, "cloudy" or "milky" (resulting from clay soil particles suspended and dispersed uniformly throughout the storm water). The "milky" water from this area of the construction site was followed into and through a wetland spur to a location at that wetland's confluence with Acme Creek. At the confluence that milky water could be visibly discerned entering the creek, in violation of Part 31, Part 91, and the NOC. Water being pumped through a filter bag was observed as a contributor to this unlawful discharge (WRD staff was able to track this milky water from that specific source to the aforementioned confluence or point of discharge into Acme Creek). Sediment from the site mobilized by prior rain events was also observed to have been deposited in regulated wetlands in violation of Part 303, Wetland Protection, of PA 451, as amended (NREPA). The October 10, 2014 letter, noted-above, contains direction regarding expected restoration activities with respect to Part 303.

The October 3, 2014 inspection also found other areas where opaque water containing suspended soils had reached Acme Creek or surface water features tributary to Acme Creek.

3. During the inspection on October 15, 2014, WRD staff found several violations at the site. Sediment-laden water was observed being pumped across the access drive off of Lautner Road. This same water was witnessed running along the ditch to the south of Lautner Road and leaving the site, constituting a Part 91 violation and a violation of your NOC. When informed of this, Team Elmer's did shut the pump off. Another Part 91 and NOC violation was noted in the northwest corner of the site where silt fence was overtopped with

sediment-laden water that was seen running onto the adjacent property to the west. Water was also observed being pumped through a Storm Klear system on the southwest part of the property. This water was viewed running downhill through a vegetative buffer and entering the Acme Creek wetland corridor, still opaque and diffused throughout with clay soil particles, in violation of Part 31, Part 91, and your NOC.

The Village at Grand Traverse LLC is expected to immediately take all necessary and otherwise lawful actions needed to achieve and maintain compliance with Part 91, Part 31 along with the terms and conditions of the NOC. Please note however, that the Village at Grand Traverse LLC or its authorized agents are expected to obtain any state, local, or federal regulatory approvals and permits applicable to any actions taken to bring the site into compliance, from the appropriate agencies.

Given the nature of the clay soils, the site topography, and large area of disturbed soil, and the present and forthcoming time of year, specific measures have considerably more merit. Measures that provide permanent or temporary cover of the exposed soils, and that shield those soils from rainfall, runoff, or channelized flow, are considered vital and most paramount to bringing the site into compliance. The site has been unable to effectively eliminate the violations of Part 91, Part 31, and the NOC, therefore Village at Grand Traverse, LLC should seek the assistance of a qualified consultant or other resource that specializes in soil erosion and sedimentation control to explore, evaluate, and implement available technologies needed to improve soil cohesion and/or provide protective soil cover, in conjunction with runoff control, to return the site to compliance and to ensure compliance is maintained throughout the duration of the project through final stabilization.

In addition, please submit a written response to this Violation Notice. Please send this response to Mr. Justin Bragg in the Gaylord Field Office, with a copy of the response to Mr. Brian Jankowski in the Cadillac District Office at 120 W. Chapin Street, Cadillac, MI 49601-2158, by October 29, 2014. At a minimum, the response shall include:

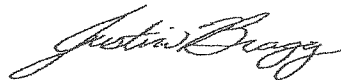
- A corrective action plan, with schedules, that identifies steps taken, and/or to be taken to immediately cease the aforementioned violations and to prevent further discharge of soil-laden water from the site to either regulated wetlands or any other waters of the state. This should include a detailed description and compilation of activities undertaken to date, and those planned for future implementation, to prevent another discharge of any type of water carrying soil from leaving the site and entering adjacent properties, wetlands or surface waters. Please provide photos, if appropriate, to demonstrate the placement of or effectiveness of SESC measures that have been implemented subsequent to this violation notice.
- A revised SESC plan highlighting the existing, new, and/or proposed SESC measures intended to address all areas of earth disturbance. Including a revised timing and sequencing plan that includes a detailed projected schedule for the remaining earth change activities through the anticipated final stabilization efforts.

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.

Please be advised that compliance with the terms and conditions of this Violation Notice does not constitute a release or waiver of liability for past or continuing violations of Parts 31, 91, or 303, the NOC, or other statutes, if applicable. Please be further advised that the DEQ reserves the right to require additional activities, including restoration activities in Acme Creek and its floodplains, wetlands or Grand Traverse Bay, along with other possible corrective actions as identified by WRD. The DEQ also reserves the right to take additional or escalated enforcement action and levy fines and penalties with regard to past, continuing or future violations.

We anticipate your cooperation in resolving this matter. Should you require further information, or if you would like to arrange a meeting to discuss these matters, please contact me directly at 989-705-3438; braggj@michigan.gov; or DEQ, WRD, Gaylord Field Office, 2100 W. M-32, Gaylord, Michigan 49735.

Sincerely,



Justin Bragg,  
Environmental Quality Analyst  
Gaylord Field Office  
Water Resources Division

cc: Mr. Brian Jankowski, DEQ  
Mr. Joe Haas, DEQ  
Ms. Robyn Schmidt, DEQ  
Mr. Bill Larsen, DEQ  
Mr. Barry Selden, DEQ  
Mr. Pete Bruski, Grand Traverse County CEA  
Mr. Steve Schooler, Director of Construction  
Mr. Terry Boyd, Gourdie Fraser  
Mr. T. Eric Ritchie, Team Elmer's  
Mr. Steve Folkersma, Team Elmer's  
Mr. Jay B. Zollinger, Acme Township Supervisor



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
GAYLORD FIELD OFFICE



DAN WYANT  
DIRECTOR

January 29, 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. J.R. Anderson  
Village at Grand Traverse, LLC  
3805 Edwards Road, Suite 700  
Cincinnati, Ohio 45209

Violation Notice #VN-005987

Dear Mr. Anderson:

SUBJECT: Violation Notice, Natural Resources and Environmental Protection Act,  
Grand Traverse Town Center Construction Project, Acme Township, Michigan

On November 24, 2014, staff from the Department of Environmental Quality (DEQ), Water Resources Division (WRD), conducted a Storm Water Construction Reconnaissance Inspection at the Grand Traverse Town Center Construction Project (hereafter Site), located at M-72 and Lautner Rd, Acme, Michigan 49610. The Purpose of this Inspection was to evaluate the Site's compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.3101 *et seq.*, and the Administrative Rules promulgated there under (hereafter Part 31), specifically, R 323.2190, Permit-By-Rule of the 1979 Administrative Code; and your National Pollutant Discharge Elimination System (NPDES) Notice of Coverage (NOC) No. MIR112950, issued on June 26, 2014; and compliance with Part 91, Soil Erosion and Sedimentation Control (SESC) of the NREPA, 1994 PA 451, as amended, MCL 324.9101 *et seq.*, and the Administrative Rules promulgated there under (hereafter Part 91).

Mr. Justin Bragg, WRD, conducted the inspection of the Site with participation from Mr. Mike Potter, Horizon Environmental. The purpose of the inspection was to verify SESC measures were installed according to the approved soil erosion plan, being maintained properly, and if the controls were adequate to prevent discharges of sediment off-site onto adjacent properties and/or into waters of the state. A discharge of sediment-laden storm water off-site and into waters of the state is a violation of Part 31, Part 91, and the Site's NOC. The following violations were found during the inspection:

1. A channelized discharge of sediment-laden storm water was observed entering Acme Creek to the north of the slow release channel of basin two. This is a violation of Part 31, Part 91, and the Site's NOC.
2. There was also a discharge of sediment-laden storm water to an adjacent property owner's storm water pond. The pond is located northwest of the Site, this discharge results in a violation of Part 91.
3. DEQ staff also observed significant track-out from the main entrance of the site on M-72. This is a violation of the Part 31, Part 91, and the Site's NOC.

The Village at Grand Traverse, LLC is expected to immediately take all necessary and otherwise lawful actions needed to achieve and maintain compliance with Part 31, Part 91, and the terms and conditions of the NOC. Please note, however, that the Village at Grand Traverse, LLC or its authorized agents are expected to obtain any state, local, or federal regulatory approvals and permits applicable to any actions taken to bring the site into compliance, from the appropriate agencies.

January 29, 2015

In addition, please submit a written response to this Violation Notice. Please send this response to Mr. Justin Bragg, Gaylord Field Office, with a copy of the response to Mr. Brian Jankowski, Cadillac District Office, 120 W. Chapin Street, Cadillac, Michigan 49601-2158, by February 12, 2015. At a minimum, the response shall include:

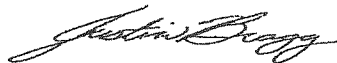
- A Corrective Action Plan (CAP), with schedules, that identifies steps taken, and/or to be taken to immediately cease the aforementioned violations and to prevent further discharge of soil-laden water from the site to either regulated wetlands or any other waters of the state. The DEQ understands that an up-to-date CAP was submitted January 22, 2015; however, that CAP did not address all areas of violation noted above. This CAP should include a detailed description and compilation of activities undertaken to date, and those planned for future implementation, to prevent another discharge of any type of soil-laden water, or soil from leaving the site and entering adjacent properties, wetlands or surface waters. Please provide photos, if appropriate, to demonstrate the placement of or effectiveness of SESC measures that have been implemented subsequent to this Violation Notice.

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.

Please be advised that compliance with the terms and conditions of this Violation Notice does not constitute a release or waiver of liability for past or continuing violations of Part 31, Part 91, or the Site's NOC, or other statutes, if applicable. Please be further advised that the DEQ reserves the right to require additional activities, including restoration activities in Acme Creek and its floodplains, wetlands or Grand Traverse Bay, along with other possible corrective actions as identified by WRD. The DEQ also reserves the right to take additional or escalated enforcement action and levy fines and penalties with regard to past, continuing or future violations.

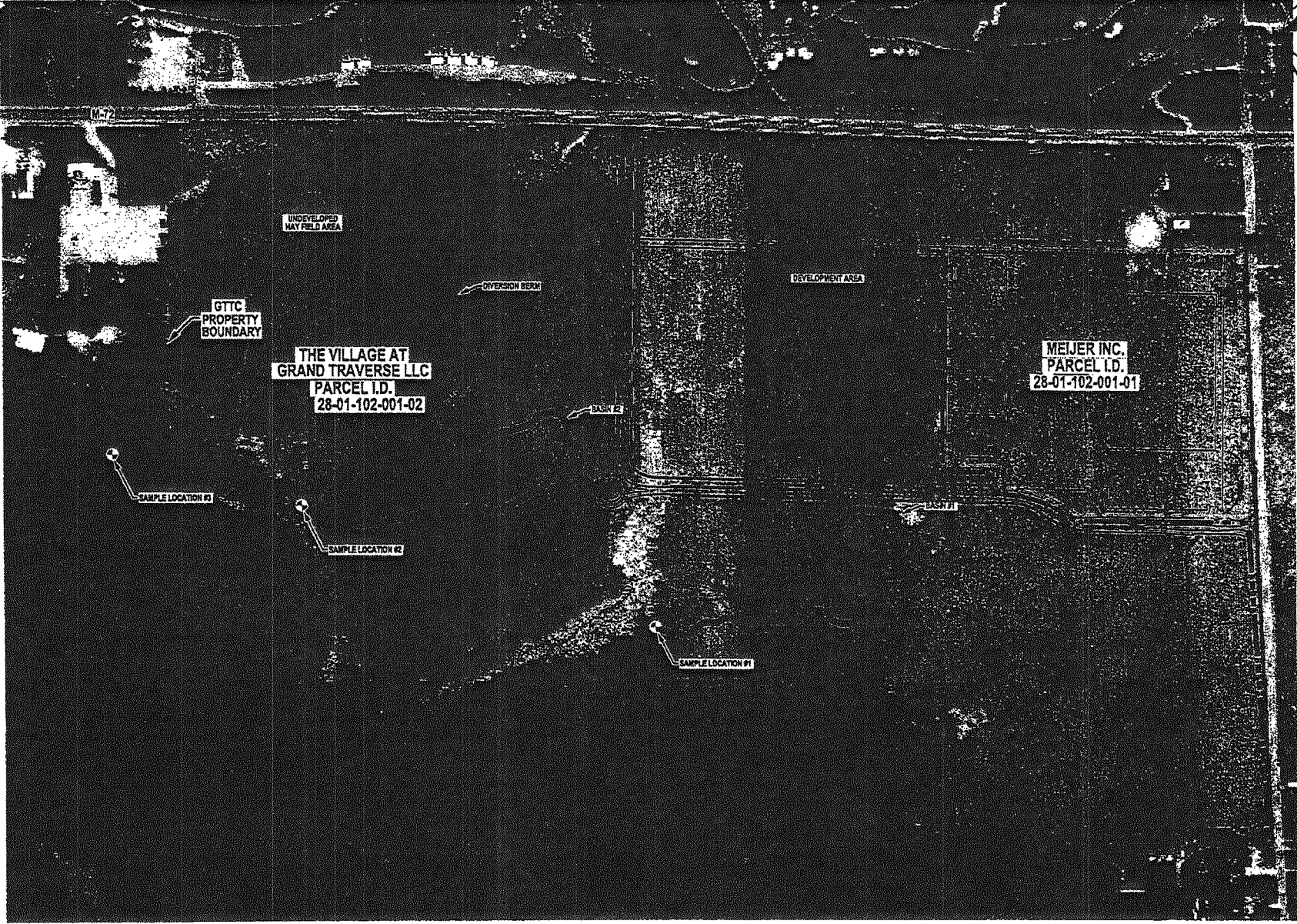
We anticipate your cooperation in resolving this matter. Should you require further information, or if you would like to arrange a meeting to discuss these matters, please contact me directly at 989-705-3438; braggj@michigan.gov; or DEQ, WRD, Gaylord Field Office, 2100 W. M-32, Gaylord, Michigan 49735.

Sincerely,



Justin Bragg,  
Environmental Quality Analyst  
Gaylord Field Office  
Water Resources Division

cc: Mr. Mike Masterson, DEQ  
Mr. Bill Larsen, DEQ  
Mr. Barry Selden, DEQ  
Ms. Karen Boase, DEQ  
Mr. Joseph Haas, DEQ  
Mr. Brian Jankowski, DEQ  
Mr. Pete Bruski, Grand Traverse County CEA  
Mr. Jay B. Zollinger, Acme Township Supervisor  
Mr. Steve Schooler, Director of Construction  
Mr. Terry Boyd, Gourdie Fraser  
Mr. T. Eric Ritchie, Team Elmer's  
Mr. Steve Folkersma, Team Elmer's



UNDEVELOPED  
MAY FIELD AREA

GTTC  
PROPERTY  
BOUNDARY

THE VILLAGE AT  
GRAND TRAVERSE LLC  
PARCEL I.D.  
28-01-102-001-02

DIVERSION BERM

DEVELOPMENT AREA

MEJER INC.  
PARCEL I.D.  
28-01-102-001-01

SAMPLE LOCATION #3

SAMPLE LOCATION #2

SAMPLE LOCATION #1

IMAGE SOURCE: USGS 2010 .3M ORTHORECTIFICATION  
SCALE APPROXIMATELY 1" = 200'

**H**ORIZON ENVIRONMENTAL

PROJECT NUMBER:  
WNJ-1401

Village at Grand Traverse  
Acme Township, Grand Traverse County, Michigan

ATTACHMENT

SAMPLE LOCATION MAP

**B**

APRIL 2015



# ATTACHMENT C

Michigan Department of Environmental Quality  
Water Resources Division

## ADMINISTRATIVE CONSENT ORDER TERMINATION REQUEST

*The completion of this form is voluntary and is intended to be used as guidance for persons that are eligible to request the DEQ to issue a Termination Notice of their Administrative Consent Order (ACO). However, it may not be relied upon as being legally sufficient to cover all potential issues related to the specific requirements of the ACO. The DEQ does not assume any liability for the use of this document and encourages the user to seek independent legal advice before using this form to draft its certification and request for Termination of its ACO.*

PLEASE TYPE OR PRINT

1.ACO	ADMINISTRATIVE CONSENT ORDER NUMBER:		
2. Facility Owner or Legally Authorized Representative	Facility Owner/Legally Authorized Representative Who Signed the ACO:		
	Address:		Address 2 or P.O. Box:
	City:	State:	Zip Code:
	Telephone:	Fax:	E-mail address:
3. Compliance Section	<p><i>Summarize each completed requirement in the Compliance Section of the ACO give the completion date. Please use additional sheets if necessary:</i></p>		



Michigan Department of Environmental Quality  
Water Resources Division

**ADMINISTRATIVE CONSENT ORDER TERMINATION REQUEST**

3. Certification	<p>I, enter the name of owner or legally authorized representative, hereby certify that each requirement of the ACO that was entered into with the Department of Environmental Quality (DEQ) on enter the date has been complied with and completed including paying all money required by the ACO including but not limited to costs, civil fines, stipulated fines and fees. I also certify that all information that I am required to report to the DEQ, enter District Office District Office Supervisor has been reported and that all records I am required to maintain pursuant to the ACO are being maintained at the facility (or other location as specified in Section 12 of the ACO). I hereby request that the DEQ issue a Termination Notice, formally terminating the ACO in recognition of the resolution of the matters therein. I certify under penalty of law that this certification is true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of a fine for having knowledge of violations and certifying that there are none.</p> <p>Print Name _____ Title _____</p> <p>Signature _____ Date _____</p>
------------------	--

Please mail this completed form to the DEQ, Water Resources Division, District Office that is listed in Section III of the ACO the Owner/Legally Responsible Representative entered into with the DEQ. Addresses for the district offices are listed below.

Cadillac District Office  
120 West Chapin Street  
Cadillac, MI 49601-2158

Kalamazoo District Office  
7953 Adobe Road  
Kalamazoo, MI 49009-5025

Gaylord Field Office  
2100 West M-32  
Gaylord, MI 49735-9282

Lansing District Office  
P.O. Box 30242  
Lansing, MI 48909-7742

Grand Rapids District Office  
350 Ottawa Avenue, NW, Unit 10  
Grand Rapids, MI 49503-2316

Saginaw Bay District Office  
401 Ketchum Street, Suite B  
Bay City, MI 48708-5430

Jackson District Office  
301 East Louis Glick Highway  
Jackson, MI 49201-1556

Southeast Michigan District Office  
27700 Donald Court  
Warren, MI 48092-2793

Upper Peninsula District Office  
1504 West Washington Street  
Marquette, MI 49855





**ACME TOWNSHIP PLANNING COMMISSION MEETING**  
**ACME TOWNSHIP HALL**  
**6042 Acme Road, Williamsburg MI 49690**  
**April 13, 2015, 7:00 p.m.**

**CALL TO ORDER WITH PLEDGE OF ALLEGIANCE : 7:00PM**

**ROLL CALL:**

Members Present: D. White, B. Balentine, M. Timmins, S. Feringa, K. Wentzloff, T. Forgette

Members Excused: J. DeMarsh, D. Rosa, M. Binkley (resigned )

Staff Present: N. Lennox, Zoning Administrator; J. Jocks, Township Counsel; J. Iacoangeli, Township Planner

**A. LIMITED PUBLIC COMMENT:** Opened at 7:03pm

J. Hefner, 4050 Bayberry Lane. Discouraged by the resignation of Chris Grobel but not surprised. A wonderful consultant and was impressed when he hired by township for this project. Feels the current condition of the VGT storm water retention system/ponds as designed by Grobel is not being implemented and an alternative proposed by developer is being used. Incidents of runoff reaching the creek and bay last fall as reported by the Record Eagle show poorly for the township and concerned that system is inadequate to protect these resources.

K. Wentzloff . Noted the difference between current condition and completed build-out with respect to above incidents and the present condition is not the final design.

J. Iacoangeli - C. Grobel did not design the ponds but recommended that the developer use a created engineered wetland and is part of the MDEQ best management practices for stormwater runoff. The developers, in their conceptual plan submitted to the planning commission as part of the SUO, showed that system. After that system was approved as part of the conceptual plan. The final engineering was then started. The two stormwater basins currently present are the first of many ponds. The east and west basins are designed to capture the runoff from the site, and additional ponds are to be built this spring/summer that will be part of the engineered wetland. The drawings seen to date have one of the basins with three ponds and one basin will have four ponds. They will all have the treatment train system and they will all be vegetated and planted according to the best management practices. When the final plans are issued (probably in a couple weeks), the pond system will be even more advanced than what it was conceptually thought of three years ago. What we are seeing now is partial construction of the stormwater treatment system.

J. Hefner – If I were the DEQ, I would be more concerned about the construction phase since the build out would have a completed stormwater system.

J. Iacoangeli- DEQ is concerned about it which is why violations have been issued for stormwater discharge into the creek. The developers put enhanced stormwater controls (basin pumping, extra fencing and straw, installed a filtering system last fall) during the construction phase. After approval of the final engineering phase, they will start the final construction of the treatment train system per the SUP that was approved by the planning commission.

J. Hefner – Will this system be similar in design to what Grobel recommended?

J. Iacoangeli - Grobel recommended what is referred to as an engineered wetland system which has a retention basin and then has a series of pools that the water will infiltrate as it moves through the system.

J. Hefner – Why are they not doing that?

J. Iacoangeli- They are going to do that and the last part of it will be done this year.

J. Hefner – I bring this up because some of the planning commission were here during the process and none of us wanted to see our township on the front page of the Record Eagle and clay runoff showing up in the bay. And now we have another project coming up tonight with another creek (Yuba). Want to make sure the same thing does not happen again and we learn from past experience not sure I really heard that.

J. Iacoangeli- A project of this size, considering it really did not get construction started to the end of June/July, and the entire region was hit by significant rainfall in September/October which then further diminished the amount of construction they could get done and typically would take two construction seasons. Additionally, in the coming months, work on M-72 and roundabouts will commence and is also part of

- the infrastructure roadwork for this project. The project is large in scope, it is more than just building a Goodwill or Advanced Auto. This is a 120 acre development along with Meijer, along with major improvements to the regional and county roadway system that are going to take two full construction seasons to actually build out. There are going to be some issues that come up periodically that will need to be monitored and that is why the state and county agencies are there, Gosling Czubak is out there periodically during rain events and have an inspector on site. There are a lot of eyes on these projects.
- J. Hefner – But Grobel’s eyes were not on the project from the time it got improved until after we had an event.
- J. Iacoangeli- Grobel was on site 2-3 weeks after they started construction and my first report from him was the weekend of July 4<sup>th</sup>. It was then dry, and then we had the significant rains in September and he was back out again. During that time period, there were other inspectors out there in the field.
- J. Hefner – Grobel stated the system as designed would handle two 100 year storms back to back and that was impressive. Obviously that was not the case.
- K. Wentzloff – The system that was out there at that particular time is not the final system. This is the construction phase and still needs to be stabilized.
- J. Iacoangeli – The key point here which people tend to forget that the system, when finally built to completion, is built in design for part of the site to be impervious and a part to be vegetated. In the condition it is now there is very little but some vegetation growing but the site has not been stabilized. Once the site is stabilized, then based on all of the calculations, the system will work as designed. But, when you have a wide open system like it was in September where they had taken all of the topsoil off, that entire 120 acre site was subject to runoff. The engineering that goes into design of the basins for the completed development is based on the part that is going to be developed and the part that is going to be vegetative and then the coefficients and calculations are run.
- J. Hefner - I still have a hard time believing that MDEQ and GT County Soil and Erosion would allow the 120 acres to be exposed without strict, temporary measures to keep the runoff from going into the creek and bay.
- J. Iacoangeli – The soil erosion and sedimentation plans were approved by the County and a permit was issued by the County. The developers submitted soil and erosion plans following best management practices to the County, they were approved and had a permit before they came before the planning commission and did everything they were supposed to do but it just wasn’t enough based on the amount of rainfall.
- K. Wentzloff – Some of the issues that come up, we, as a planning commission and township, have to rely on those who issue the permits. As far as what is to come, the system will be different from what you see now.
- J. Hefner – I just hope that we as a township and planning commission learn from this past experience with respect to future projects. Personally I would like to commend those of you on the planning commission for you dedication and service to making Acme a better township.
- B. Kelley, Ridgecrest Drive. Read written statement regarding VGT storm water and that we still don’t have creek monitoring at this time. There was an agreement in November that said monitoring would be done on a weekly basis. It is not occurring.
- J. Iacoangeli – Monitoring starts June 1<sup>st</sup> for parameters based on the plan that was approved by the township and developer. Plan is online with weekly and monthly testing. It starts in June as it is one year. Today, a report was posted online from the last rain event.
- S. Feringa- There was report done prior.
- J. Iacoangeli – There was a full baseline report done prior to construction.

Public comment closed at 7:21pm

- B. APPROVAL OF AGENDA:** Motion by Timmins to approve agenda; seconded by White. Motion passed unanimously.
- C. INQUIRY AS TO CONFLICTS OF INTEREST:** None
- D. CONSENT CALENDAR:** The purpose is to expedite business by grouping non-controversial items together for one Board motion without discussion. A request to remove any item for discussion later in the agenda from any member of the Board, staff or public shall be granted.
- a) RECEIVE AND FILE:**

If you are planning to attend and are physically challenged, requiring any special assistance, please notify Cathy Dye, Clerk, within 24 hours of the meeting at 938-1350.

1. **Draft Unapproved Minutes of:**
  1. Township Board minutes 03/03/15
  2. Parks & Rec minutes 1/22/15

b) **ACTION:**

1. **Draft Unapproved Minutes of:**
  1. Planning Commission minutes: 03/09/15

E. **ITEMS REMOVED FROM THE CONSENT CALENDAR:**

1. None

Motion by Timmins to approve consent calendar; supported by Balentine. Motion passed unanimously

F. **CORRESPONDENCE:**

Letter dated 4/13/15 from C. Abernathy regarding Traverse Bay RV Resort Expansion SUP read into meeting. Copy attached to minutes.

Letter dated 4/10/15 from Tim Norman, Grand Traverse Resort & Spa, regarding Traverse Bay RV Resort Expansion SUP read into meeting. Copy attached to minutes.

Letter dated 3/31/15 from Haggards Plumbing and Heating regarding Traverse Bay RV Resort Expansion SUP read into meeting. Copy attached to minutes.

Voice mail, 4/13/15 from Lot 4 supporting RV Park expansions.

G. **PUBLIC HEARINGS:**

- a) Traverse Bay RV Resort Expansion SUP – Opened hearing at 7:29pm.

B. Kelley- Provided drawing for planning commission members and read a prepared statement that is attached to the minutes.

Public hearing closed at 7:33pm.

H. **NEW BUSINESS:** Traverse Bay RV Park Site Plan Review

J. Iacoangeli – Discussed in detail the Beckett & Raeder site plan review that was in the planning commission packet and part of the agenda. The packet and review included a storm water calculation review from Gosling Czubak, an Impact Assessment Statement prepared by JML Design Group for the applicant, letters of proposed modifications to existing plan, reviews and comments from Grand Traverse Metro Fire, MDEQ Environmental Quality, MDEQ campground construction permit, Grand Traverse County Soil and Erosion, Grand Traverse County DPW, and Grand Traverse County Health Department. David Graves of MDEQ states that the application is presently for connection of 12 sites to the existing septic system. Grand Traverse County Health Department will do joint inspections with the MDEQ for a new system and also does “flow monitoring”. Becket & Raeder also requested and receive a Storm Water Control Plan Review and recommendations from a 3<sup>rd</sup> party firm called Cardno, Inc.

Emphasized in the review in several instances is the need for enhanced storm water control measures on this project due to the proximity to the wetlands. They are in compliance with local ordinance, however, there are some steep slopes that need to be addressed and added protection adhered to. The Cardno report points that out. Other key items with respect to the review include how they plan to remove household waste (central facility or otherwise), landscaping, and how they plan to address some of the items in the Cardno review such as the use of enhanced storm water measures and verification from the Health Department that the current septic system capacity si able to handle the 12 additional lots.

B.Balentine – How can we approve if MDEQ and Health Department have not approved the additional 80 units.

N. Lennox- The Health Department does not have to approve; they are under the jurisdiction of the of the MDEQ and work in conjunction with the DEQ and may do joint inspections but the MDEQ is the responsible agency for

the permitting. They have all of the plans.

J. Iacoangeli – The memo states that the County has spoken with Dave Graves of MDEQ who states the approval is for the connection of the 12 additional sites to the existing system; not the 80.

M. Timmins – So are we only looking at approving the 12 sites tonight and not the 80?

K. Wentzloff- The sheets that I would need to sign off on include all 80 sites or full build-out which is where I am confused.

S. Feringa – The agencies only review what you are going to do right now. Catch-22 situation since they look at the entire build out but only review the current portion which in this case is the 12 sites.

M. Timmins – Section 1.1. of the Cardno report states “the site complies with the mandated 25 foot setback of any structure from a wetland habitat except for the proposed culver location under the proposed road that connects the east and west overlooks drives. This culvert will be set within the wetland habitat and the surrounding road fill will partially fill as well as encroach upon the existing wetland.” This concerns me.

K. Wentzloff – Asked if applicant would like to address.

Fred Campbell on behalf of owner addressed concerns.

- Currently stuck in loop as Phases III and IV were previously approved.
- Culvert location is not a defined creek or stream as indicated on GIS maps.
- The GIS map makes it appear as if this location is a creek the size of Yuba
- If you continue with this same “creek”, it “crosses” four different holes of the golf course; from personal experience this is not the case. The “creek” does not exist on any of those holes.
- We have approval from DEQ for a 36” corrugated culvert; the Cardno review recommends in the report a box culvert which is to allow for aquatic or semi-aquatic organisms to transfer from one side of the area to the other. This is not a stream or defined body of water it is basically a wetted vegetative area like a detention pond that retains water.
- Toe of slope in the 12 unit addition (area 3A) is greater than 312 feet from Yuba Creek. Averages out to 400 ft.

J. Iacoangeli – Having worked with communities in the past with respect to watersheds in relation to the Cardno review is that over time, the culverts will begin to clog which then changes the ecological conditions and habitat. The box culvert provides a greater area to allow free transfer from one side to the other. If, you look around the state road projects, they are removing the round culvert type and replacing with the box culvert in order to reduce the flow resistance. I think it is a reasonable recommendation. Additionally, though the area may be 312 feet from the creek, our township landscape maps have this entire area as an existing sensitive area. You have the creek and all of the riparian areas next to it that needs to be addressed. The site is a micro version of VGT and the Cardno report is basically laying out the same technologies to be used here. You have to use enhanced measures for stormwater management and control due to the types of soils, proximity to the creek and in some instances the steep slopes; not just the basic best management practices.

F. Campbell – The area of the culvert is the only area where we would be encroaching on the wetland setbacks and this would occur only during construction. We are asking for approval of Phase 3A. In Gosling Czubak review, they were interested in the stormwater flow from retention basins into the wetlands. If we were to have a significant rain event, the detention basins would allow a slow release of storm water. When the entire project was submitted 5 years ago, plans were approved by the township, the County Soil and Erosion, and MDEQ. When we re-applied in January, one of the things that changed was the County ordinance. If you compare the plans from five years ago to today, you will notice that there is a change of 33,000 more gallons held today.

M. Timmins- Additional question on septic fields

F. Campbell - An additional 49 units/lots can be added to existing septic field. MDEQ (D. Graves) inspects the site every year to re-license and is very familiar with the site. The septic fields are designed for each lot to handle 40 gallons per day for four months. Quantity is monitored on a daily, weekly, and monthly basis. The proposed

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12 lots of Phase 3A would go to existing system. As a reminder, five years ago DEQ issued a permit for the additional 81 units, the County approved the approved the 81 units and the township issued a land use permit for the additional 81 units. The only thing that has changed was the economics. To respond to townships concerns with previous stormwater issues, in addition to the Cardno Report, and the Gosling Czubak Report, the developer on his own hired on his own Jozwiak Consulting. The Jozwiak Report adds additional measures to protect the wetlands and specifies a specific construction sequence to be able to minimize impact, build the road and a cul-de-sac as required by GT Metro Fire.

Balentine - How long will this take?

D. Scheppe (developer) - Immediately. Minimal disturbance and seeding as fast as possible. As owner I am there 180 days and do not want anything to happen. This project, it is a slower way, I don't want to do 81 at one time, but this 12.

Balentine – Who is to insure this occurs in writing.

J. Iacoangeli- The methodology outlined by Jozwiak is not provided on any drawings at this time

F. Campbell – Tried to include with packet but was too late.

S. Feringa – Show us limits of construction

Balentine – Who is really knowledgeable about managing construction in/and around Yuba Creek to insure protections

J. Iacoangeli – That would be Cardno by reviewing revised drawings. That is all that can be done.

Balentine – Environmental impact study needed?

J. Iacoangeli – We already know what the impact. What we are looking at right now is Phase 3A.

F. Campbell – We already had approval for the 81 units. If we had erased all other phases and showed only 3A would that have made it easier? Unfortunately, if we were to do that, the MDEQ, knowing they had already approved the 81 units, it would be confusing to them. GT Soil and Erosion is a similar issue. Same issue with the land use permit as it expires before

J. Iacoangeli – We are looking at the 12 units only tonight; the developer just showed the entire build out. Developer has to make a decision if they are looking for site plan approval for Phase 3A only, or the entire build out to include Phase 3 and Phase 4. If the applicant is looking for approval on the additional 81 lots, then we would be looking for the need to come back next month due to a number of issues raised in public comment, agency reviews and the site plan review that need to be addressed and resolved. The additional 12 sites is lot more manageable than the 80.

F. Campbell – We asked for approval of the 12 additional units. The planning commission asked to see the overall buildout of the 80 units.

J. Iacoangeli - Recommend to planning commission to approve Phase 3A for the 12 units with stipulations.

K. Wentzloff – The application just doesn't seem to match what we would be approving.

F. Campbell – We ask for site plan approval of the 12 units only.

Motion by Feringa to recommend for approval to the Acme Township Board the major amendment to 99-03SUP Phase 3A and the site plan submitted for the construction of 12 additional RV sites with the following stipulations:

- 1) The Park Model buildings will not have permanent foundations and must have wheels;

- 2) All agency reviews and approvals received;
- 3) The Coach Houses can be permanently affixed to the RV unit site;
- 4) Incorporate recommendations from the Cardno review;
- 5) Submit drawing that shows limits of construction along with enlarged site plan of the 12 additional RV site area and work;
- 6) Conform to the Acme Township ordinance for native landscape plantings;
- 7) The approved site plan package be signed by the Chairperson of the Planning Commission and the Applicant, or their representative;
- 8) Prior to issuance of Land Use Permit, final plans to be reviewed by Beckett & Raeder, Cardno, and any other consultants of Beckett & Raeder to insure recommendations have been followed.

Timmins support the motion. Motion carried unanimously.

**I. OLD BUSINESS:**

a) **US 31/M72 Business District:** Architectural Standards revision – J. Iacoangeli presented revisions of Architectural Standards. Concerns of Acme Business Association were taken into consideration. T. Forgette identified a mistake with the document regarding the storm water component. J Jocks suggest we create a formal document with adds/removes for a recommended approval document for next month.

**J. PUBLIC COMMENT & OTHER PC BUSINESS**

J. Hefner – Thank you to PC for working hard.

Closed at 8:57pm

1. Zoning Administrator update on projects: Getting inquires but nothing concrete. K. Wentzloff commented on trailer at Tractor Supply that appears to be used for signage. T. Forgette commented on unclear entrance for Tractor Supply. D. White commented that site appears to mimic site plan we approved.
2. Planning Consultant: Form based code work; final engineering plans for storm water at VGT. Construction starting on M-72 next week.
3. P C Education etc.: None

**ADJOURN:** Motion to adjourn by M. Timmins. Support by B. Balentine. Motion passed unanimously. 9:03pm

To: Acme Township Planning Commission  
From: Brian Kelley, Acme Township  
Date: April 13, 2015

Good Evening,

The RV park looks like a well run business. I am not opposed to the expansion, but I have very serious concerns about the proximity to the creek.

In reviewing the packet materials for this project, I could not find a plan or document that depicted the location of the development in relation to Yuba Creek. That critical view is conspicuously missing.

Using a plan document, google satellite images, and google map data, a friend assembled a scale composite image that shows the proximity of the creek on the east side of the project expansion, and also running through the middle of the project. I am including that with my comment and have provided you a copy. The project is obviously trying to get as close as absolutely possible to the creek and wetlands. This raises the question of what we consider the actual border - where do the wetlands begin? We need an impartial determination of that.

As we have learned from other projects, clay cannot be filtered or stopped by silt fences and straw bales. This project features clay soils, and extremely steep slopes. It is also located essentially on top of a branch of Yuba creek.

That is a trifeca of challenges - clay, steep slopes and proximity to one of our cold water trout streams.

I spoke with Dan Thorell of the Grand Traverse Health Department regarding this project. He also noted the lack of documents depicting the creek. I asked him to pull up the google imagery of the site. He was very surprised and said he unaware of the proximity of the creek to the development. He was very concerned about it and said he would

be contacting David Graves of the DEQ. He confirmed that the DEQ review only looked at the 12 units and not the rest of the expansion project. The email from the DEQ reflects that. They are only looking at the 12 units, not the entire proposed expansion. The GT health department has also ONLY looked at the 12 units of the expansion, not the entire proposed 80.

This project must be fully and knowingly reviewed by the DEQ and county health before it is approved by the township.

The scheduling of this project is described in plan documents as "market driven". That, and the schedule, raise concerns about earth and soil change scheduling. The plan calls for planting exposed soils only after project completion. The project schedule indicates construction from Fall 2015 through December 2016. That could be a very long period of exposed soils on the site, washing into the creek and bay. Acme has left this to chance before with very poor results.

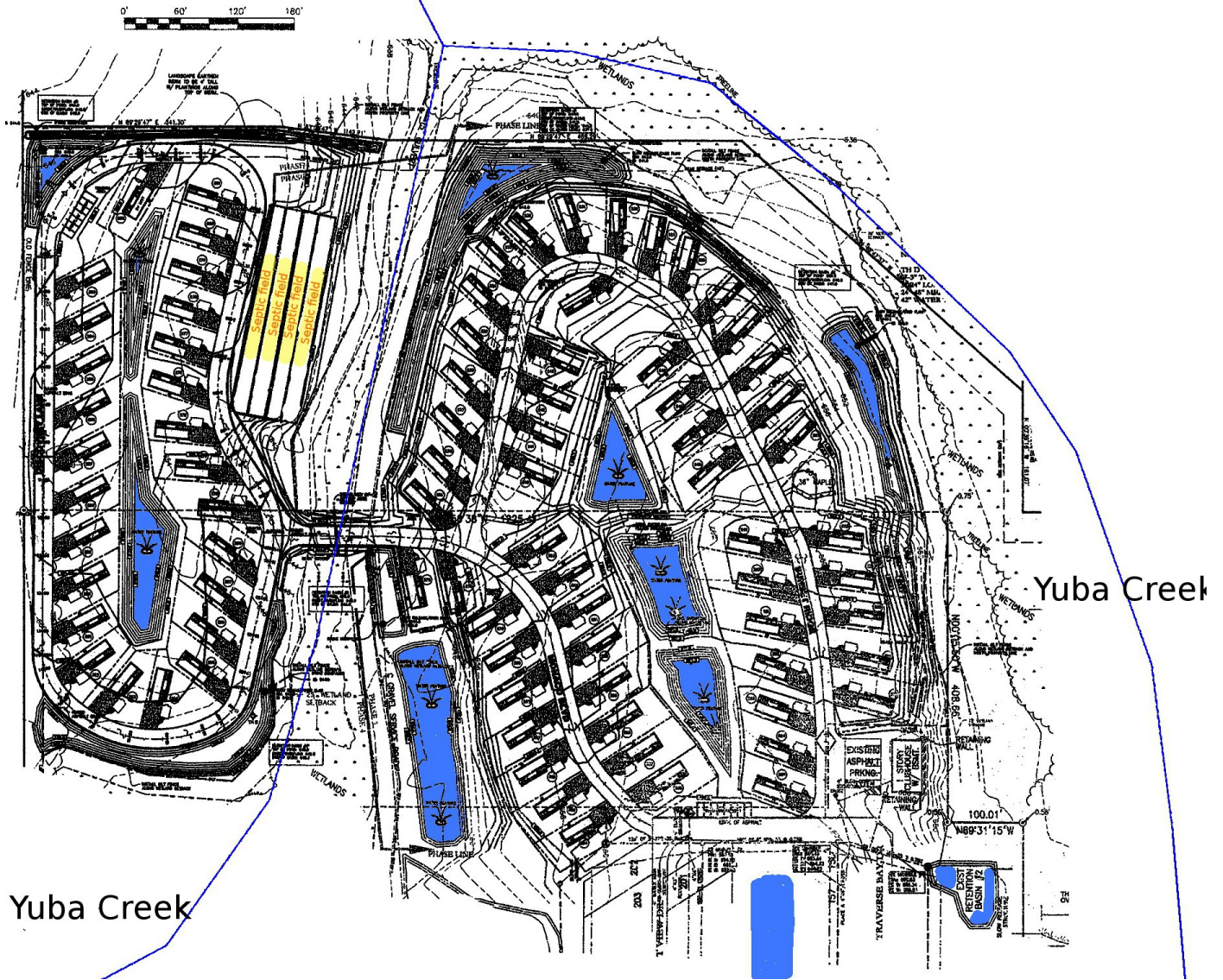
Based on the large number of issues found in the stormwater review, I am not convinced they have all been found. Especially given the potential for the DEQ to require revisions.

Our Acme Master Plan requires that our Creeks and wetlands are protected. The complexity of this project, and attempt to get as close as possible to wetlands demands great scrutiny. The township should require the developer to hire an expert to review the potential impact of this project before moving forward.

Thank you,

Brian Kelley

Yuba Creek



Yuba Creek

Yuba Creek



**c. Commercial Zoning Districts, Excluding B-4, On-Premise Signs Permitted**

1. All signs permitted in Residential Zoning Districts.
2. One free-standing per premises indicating businesses on said premises. Such signs may be up to thirty-two (32) square feet in area, up to twelve (12) feet tall, and set back at least ten (10) feet from any street right-of-way; signs no taller than eight (8) feet are allowed a size bonus of twenty (20) percent. For a planned shopping center, the free-standing sign may identify the center per se and not the individual occupants.
3. Temporary signs not previously specified. Such signs are limited to sixteen (16) square feet in area and may be displayed for no more than sixty (60) days in any calendar year.
4. Wall signs, provided the total area of said signs do not exceed twenty (20) percent of the area of the façade or one-hundred (100) square feet, whichever is less.
5. Canopy-, marquee-, or architectural-projection signs. Such signs' copy area may not exceed twenty (20) percent of the area of the face of the canopy, marquee, or arch-projection.
6. Awning signs. The maximum copy area for awning signs is twenty (20) percent of the background/backlit area of the awning.
7. One (1) projecting sign for each building façade, up to four (4) square feet in area.
8. Window signs. Such signs are limited to twenty (20) percent of window area.
9. Signs displaying the price of gasoline at gasoline stations, not to exceed six (6) square feet in area.
10. One (1) directional signs and/or sign that consist only of words "washing," "lubrication," "repair," or similar above each service bay of an automobile service station. Such signs may not exceed four (4) square feet in area.
11. Corporate logo or institutional flags. Such flags are limited to thirty-five (35) square feet in size.
12. **Changeable message sign.** A sign may contain a changeable message, but only under the following conditions:
  - a) Shall only be used on premise for a motel/hotel or gas station shall display vacancy status (i.e. vacancy or no vacancy) and the price per gallon of gas.
  - b) Electronic changeable messages shall be part of the total square footage of display area permitted for the sign even if the message

is contained in a separate cabinet, except the face of the message shall not consume more than 35 percent of the total permitted display area of the sign.

- c) No digital sign shall be permitted to flash, blink, scroll, oscillate or have full animation, and is deemed a distraction/safety hazard to drivers or pedestrians. All digital signs shall have "instant" changes with no animated effects.
- d) Any electronic message displayed shall remain unchanged for a minimum of one (1) minute prior to switching messages.
- e) The digital sign shall have a black color background and the lettering shall be either in red or green colors but shall not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver.
- f) All digital signs shall maintain an automatic brightness control keyed to ambient light levels.
- g) Digital signs shall be programmed to go dark if the sign malfunctions.
- h) Signage should not be designed to emulate traffic safety signage.