



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
JACKSON DISTRICT OFFICE



PHILLIP D. ROOS
DIRECTOR

September 14, 2023

Violation Notice No. VN-014898

VIA EMAIL

Rob Wilson
Mid-Michigan Materials
4984 Earhart Road
Ann Arbor, Michigan 48105

Dear Rob Wilson:

SUBJECT: Violation Notice
Site Name: AMC-WSG LLC (Vella Pit)
Property Location: 4984 Earhart Road, Ann Arbor, Michigan 48105
National Pollutant Discharge Elimination System Permit No. MIG490349

On July 27, 2023, staff of the Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), conducted a Compliance Evaluation Inspection (CEI) at the AMC-WSG LLC (Vella Pit), located at 4984 Earhart Road, Ann Arbor, Michigan to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq., and the administrative rules promulgated thereunder being 2006 AACS R 323.2101 et seq., as amended; The National Pollutant Discharge Elimination System (NPDES) Permit No. MIG490349 and NPDES, Notice of Coverage No. MIG490349, which was issued and effective on April 5, 2022.

WRD staff conducted a second inspection of the above referenced parcel of property on September 6, 2023, to determine compliance with Part 31, Water Resources Protection; and Part 91, Soil Erosion and Sedimentation Control, of the NREPA, MCL 324.9101 et seq., and the Administrative Rules promulgated thereunder, being 2005 AACS R 323.1701 et seq., as amended (Part 17 Rules); Part 301, Inland Lakes and Streams, of the NREPA, MCL 324.30101 et seq., and the administrative rules promulgated thereunder, being R281.811 et seq., as amended; and Part 303, Wetlands Protection, of the NREPA, MCL 324.30301 et seq., and the administrative rules promulgated thereunder, being R281.921 et seq., as amended.

The Vella Pit is owned and operated by Mid-Michigan Materials (MMM). Current operations include mining and production of washed sand and stone. Reserve material is mechanically mined and hauled to the wash plant and sized for usable product. Finished product is stockpiled on site and the wastewater from the wash plant is routed

through four (4) on-site settling ponds for treatment and is discharged from the North pond to an unnamed tributary of Flemming Creek. Water is recirculated back to the wash plant from the pond directly West of the wash plant.

Bridgett Carver (WRD), Pat Norwood (MMM), and Nick Koch (MMM), participated in the on-site inspection on July 27, 2023, which included discussion of operations and sampling procedures, and a site tour inspection. Rob Wilson (MMM) participated in the on-site inspection via phone call to discuss records review, sampling review, and analytical methodology review. Post inspection records review, discharge monitoring report (DMR) spot checks, and analytical methodology was communicated with Rob Wilson and Leslie Nelson (Haley & Aldrich) via email. WRD would like to thank you all for your time and assistance with this inspection.

The following NDPES Permit items were discussed during the **July 27, 2023**, inspection:

1. Sampling procedures were discussed onsite with MMM staff. Total suspended solids (TSS) and total dissolved solids (TDS) samples were being taken as 3-part composite samples prior to being sent to Fibertec Environmental Services. According to the NPDES Mining Wastewater General Permit, the TDS sample type is a grab sample instead of a composite sample. Staff confirmed that they would change their procedures to reflect the permit sample type.
2. Flow monitoring was discussed onsite with MMM staff. The flow meter is located in the outfall pipe before the gate valve on the north side of the property. MMM staff stated that the flow meter was calibrated by an outside company in May 2023 and it was determined that if their flow was not filling the outfall pipe, then an accurate flow reading could not be obtained. After this was determined, MMM installed a gate valve to fix the issue. **Please submit the calibration record that was conducted by the Xylem in May 2023.**
3. Receiving waters turbidity was discussed onsite with MMM staff. WRD notified MMM staff of complaints that had recently been received of major turbidity reaching the Flemming Creek which inlets to Massey Lake. The operators were not aware of the issue at the time of the July inspection and the effluent discharge water appeared mostly clear with minimal turbidity. The discussion ended with the understanding that WRD staff would be investigating the turbidity complaints further via aerial photo review. MMM staff were asked to keep a close watch on the receiving waters during their daily outfall observation monitoring.
4. DMR Spot checks were conducted post inspection after records were sent via email on August 23, 2023. Upon review, two discrepancies were noted:

- a. The May 3, 2023, DMR records show a pH analysis result of 7.8 SU; bench sheets provided via email on August 23, 2023, do not show any record of a pH analysis being conducted. In a follow up email communication on September 8, 2023, it was confirmed that the pH result submitted in the DMR was analyzed at the Fibertec Environmental Service laboratory two days after the sample was taken. This analysis result is invalid because it is outside the hold time of 15 minutes. It was also confirmed that an onsite analysis was conducted May 3, 2023, but that result was not recorded in the May DMR. **An email was sent to WRD staff on September 8, 2023, confirming the May, June, and July 2023 DMRS were revised with the correct on-site pH analysis results. No further action is needed.**
 - b. July 28, 2022, DMR records show a pH analysis result of 7.7 SU; bench sheets provided via email on August 23, 2023, do not show a record of a pH analysis being conducted. However, the bench sheet does show a 7.7 SU pH result on July 27, 2022. It may be likely that the pH result was recorded on the wrong day in the bench sheet or DMR. **Please confirm which date the pH 7.7 SU sample result was analyzed.**
5. Bench sheet records were reviewed post inspection during the DMR spot checks. On-site bench sheets include monitoring results for flow, pH, and outfall observation. Laboratory analysis sheets obtained from Fibertec Environmental Services are kept for TSS and TDS records. Sampler name, date, and time are recorded on the Chain of Custody (COC), analyst name, date and time are recorded on the laboratory analysis records. The COC was reviewed and was found to be satisfactory.
6. AMC-WSG LLC has reported the following Total Suspended Solids (TSS) monitoring violations occurring during the month of November 2022. These monitoring results are violations of your permit. **Please notify WRD staff of the cause of these TSS exceedances**

| Date | Parameter | Effluent Limitation | | Reported Values | |
|------------|-------------|---------------------|-----------------|-----------------|-----------------|
| | | Daily Maximum | Monthly Average | Daily Maximum | Monthly Average |
| 11/16/2022 | TSS | 45 | | 50 | |
| 11/30/2022 | TSS | 45 | | 50 | |
| 11/2022 | TSS Monthly | | 30 | | 34 |

On August 11, 2023, WRD staff called Rob Wilson, Vice President of MMM to notify him of the ongoing turbidity investigation via aerial imagery review. In addition to the turbidity in the receiving waters of the unnamed tributary, Flemming Creek, and Massey Lake, WRD staff also notified Mr. Wilson of the potential Part 301, Inland Lakes and

Streams; Part 303, Wetlands Protection; and Part 91, Soil Erosion and Sedimentation Control, of the NREPA, concerns that had developed during the aerial photo review. A Microsoft Teams meeting was scheduled for August 15, 2023, with EGLE staff, MMM staff, and Haley & Aldrich staff, among others.

On August 15, 2023, a Microsoft Teams meeting was held to discuss potential violations at the Vella Pit under Part 31, Water Resources Protection; Part 91, Soil Erosion and Sedimentation Control; Part 301, Inland Lakes and Streams; and Part 303, Wetlands Protection, of the NREPA. During this meeting, it was determined that a second site inspection would be scheduled with all EGLE staff from the programs listed above. A second onsite inspection was scheduled and conducted on September 6, 2023.

The September 6, 2023, inspection was conducted by EGLE staff Bridgett Carver (Part 31), Matt Konieczki (Part 91), Jeff Pierce and Jim Bales (Part 301 and Part 303), and Andrew LeBaron (Water Use Program). MMM staff Rob Wilson lead the inspection tour with Leslie Nelson from Haley & Aldrich, along with Ken Vermeulen with Honigman LLP.

During the September 6, 2023, inspection, WRD staff observed the following:

1. Discharge of Sediment to Waters of the State: WRD staff observed the discharge of sediment to the unnamed tributary stream, Flemming Creek, Massey Lake, and adjacent wetlands. Additionally, the discharged sediment has accumulated within the wetlands, on the streambed of the unnamed tributary and Flemming Creek, and on bottomland of Massey Lake. The primary source of this sediment discharge appears to be from erosion runoff from the northern berm and erosional scouring at the effluent discharge outfall. The discharge of sediment to Waters of the State is a violation of Part 31, Water Resources Protection, of the NREPA, Section 324.3109 (1) and Part 91, Soil Erosion and Sedimentation Control, of the NREPA. Additionally, the accumulated sediment in the wetlands, the unnamed tributary, Flemming Creek, and Massey Lake is considered a filling of wetlands and a diminishment of the streams and lake, which are violations under Part 303, Wetlands Protection, and Part 301, Inland Lakes and Streams, of the NREPA, respectively.
2. Soil Erosion and Sedimentation Controls (SESC) Measures: Off-site sediment discharges were observed on the northern berm as a result of inadequate SESC measures. Additionally, erosion and off-site sediment discharges were noted at several locations on the east side of the site as a result of inadequate SESC measures. Failure to properly install and/or maintain SESC measures, extensive erosion, and off-site sediment discharges constitute violations of Part 91, Soil Erosion and Sedimentation Control, of the NREPA.
3. Construction/enlargement of a Waterbody within 500 feet of a stream: WRD staff have observed that the northern pond was constructed and enlarged in 2021 and 2022 and is within 500 feet of Flemming Creek without a permit. The

construction and/or enlargement of an artificial waterbody within 500 feet of a stream requires a permit under Part 301, Inland Lakes and Streams, of the NREPA. This activity is therefore in violation of Part 301.

4. Mining of the Southern Lake: A review of aerial imagery has identified that a waterbody with an approximate area of 2.66 acres was present in the southwest of the site in 2020 when the site was purchased by MMM. This waterbody was expanded through mining operations by MMM in 2021 and 2022 and resulted in creation of approximately five (5) acres of surface water, which is considered a lake under Part 301, Inland Lakes and Streams, of the NREPA. Aerial imagery from 2021 and 2022 shows the presence of this approximate five (5) acre lake until pumping operations began in 2022. The subsequent pumping operation has now drawn down the surface water and drained the lake. The creation, enlargement or diminishment of a lake requires a permit under Part 301. No permits have been applied for nor issued for this activity and is therefore in violation of Part 301.

MMM's current pump's rated capacity is 4.8 million gallons per day (MGD). A new or increased withdrawal above two (2) MGD requires a Part 327, Great Lakes Preservation, of the NREPA permit. The maximum pumping rate on MMM's current registration (registration id 8976-20234-35) is 2 MGD.

The violations identified in this Violation Notice are continuing. The violations identified in this letter are violations of Part 31, Water Resources Protection, Section 324.3109 (1); Part 91, Soil Erosion and Sedimentation Control; Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; and Part 327 Great Lakes Preservation, of the NREPA. MMM should take immediate action to achieve and maintain compliance with the terms and conditions of Part 31, Water Resources Protection; Part 91, Soil Erosion and Sedimentation Control; Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; and Part 327, Great Lakes Preservation.

To bring the site into compliance with Part 31, Water Resources Protection, Section 324.3109 (1) and Part 91, Soil Erosion and Sedimentation Control, of the NREPA, MMM must do the following:

1. Submit, within 30 days of this letter or an agreed upon schedule, a detailed plan for review on how MMM will reduce the velocity of effluent discharge at the outfall and adequately dissipate the effluent discharge to prevent erosion and discharge of injurious turbidity to Waters of the State. Two potential options for addressing the discharge velocity that were discussed during our on-site meeting were installation of velocity control structures at the outfall or moving the outfall discharge location to an upland location with construction of a sediment basin at the outfall. The modification of the outfall may require a permit under Part 301, Inland Lakes and Streams, of the NREPA, and/or a revision to the NPDES permit.

2. Submit by October 13, 2023, documentation (including photos) summarizing actions taken to address these violations and a brief plan summarizing any remaining actions to be taken with estimated completion dates. This should include proposed actions for installing adequate SESC measures at the site and any additional actions MMM proposes to remove accumulated discharged sediments to off-site Waters of the State and/or reduce continued mobilization of these sediments to Waters of the State during storm events.
3. Submit by November 13, 2023, documentation (including photos) summarizing how these violations have been adequately addressed. Note: A follow-up inspection may be completed, if necessary.

In consideration of the requirements of Part 301, Inland Lakes and Streams, of the NREPA, the WRD may be able to consider processing an After-the-Fact permit application for the enlargement of the pond within 500 feet of a stream and the excavation, expansion, and drawdown of a lake for the mining operations. To aid in WRD's review of the Part 301 violations, we are requesting you provide, by no later than 30 days from the date of this letter, the following information:

1. A copy of the current mining development plans, including plan views, cross-sections, and elevations of the previously existing ground surface and proposed final grades. These plans should also include the proposed future mining areas and final proposed area of the lake created from mining.
2. A Potentiometric Surface Map and/or contour map of water table elevations across the site. The map should also include the direction of groundwater flow, locations of monitoring wells on the site, and water-level measurements from nearby wetlands, streams, and lakes.
3. A Hydrogeologic Investigation Report and Modelling. It is WRD's understanding that MMM is currently developing the Hydrogeological Investigation report at this time, please submit any baseline information that is already prepared for the report and provide an estimated timeline for when the Hydrogeological Investigation will be completed.

To bring the site into compliance with Part 327, Great Lakes Preservation, of the NREPA, MMM must reduce the capacity of pump(s) withdrawing from waters of the State to no more than two (2) million gallons per day.

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

Rob Wilson
Mid Michigan Materials
Page 7
September 14, 2023

Compliance with the terms of this Violation Notice does not relieve MMM of any liability, past or present for failure to comply with Part 31, Water Resources Protection; Part 91, Soil Erosion and Sedimentation Control; Part 301, Inland Lakes and Streams; Part 303, Wetlands Protection; and Part 327, Great Lakes Preservation, of the NREPA.

The WRD reserves the right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future. This may include civil action seeking fines, enforcement costs, injunctive relief, and potential criminal prosecution.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding Part 91 violations, please contact Matt Konieczki at KonieczkiM@Michigan.gov or 517-867-0745; Part 301/Part 303 violations, please contact Jeff Pierce at PierceJ2@Michigan.gov or 517-416-4297; Part 31 violations please contact Bridgett Carver at CarverB@Michigan.gov or 517-257-7380; Part 327 violations please contact Andrew LeBaron at LebaronA@Michigan.gov or 517-599-3792. You may also contact the EGLE, WRD, Jackson District Office, 301 East Louis Glick Highway, Jackson, Michigan 49201-1535.

Sincerely,



Tiffany J. Myers, Water Quality Supervisor
Jackson District Office
Water Resources Division
517-243-4915



Jeff Pierce, Water Resources Supervisor
Jackson District Office
Water Resources Division
517-416-4297

Rob Wilson
Mid Michigan Materials
Page 8
September 14, 2023

cc: Rick Judkins, Ann Arbor Charter Township (via email)
Nick Koch, Mid-Michigan Materials (via email)
Pat Norwood, Mid-Michigan Materials (via email)
Leslie Nelson, Haley & Aldrich (via email)
Ken Vermeulen, Honigman LLP (via email)
Jim Bales, EGLE, WRD (via email)
Bridgett Carver, EGLE, WRD (via email)
Matt Konieczki, EGLE, WRD (via email)
Andrew LeBaron, EGLE, WRD (via email)