

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
 DIVISION OF WATER  
**STORMWATER SURVEILLANCE REPORT**

TRANS. CODE	KPDES #	YR	MO	DA	TYPE	INSPECTOR	FAC. TYPE
151	1K1YIR1110101110161	19	11	010171	ICI	ISI	121
RATING	REMARKS						
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22	57						
58	66	67	69	70	71	73	74
						EMPLOYEE NO.	
						- 1778 & 828	
						75	

Facility Name: Plum Creek at Pebble Creek

County: Boone

Facility Location: West of Pleasant Valley Road. At confluence of Gunpowder and South Fork of Gunpowder Creeks

Person(s) Contacted: No one on site. Boone Co. has issued a Stop Work Order on bridge

Remarks and General Observations:

Inspectors Mark Jones and Gretchen Bartley arrived at the subject construction site at the request of Boone County Codes Enforcement and as a follow-up to inspections conducted during August 1999. Earlier in the day, Boone County personnel had observed that the bridge was not being constructed as per the design plans submitted by Finke Homes to Boone County, and approved by Boone County, As a result of these findings, they issued a Stop Work Order on the construction of the bridge.

The Florence Regional Office does not have a copy of the design plans, as approved by the Division's Floodplain Section. As such we were not able to evaluate the construction as it related to the approved plans. The subject facility has obtained a permit from DOW to build a bridge at the subject location (Stream Construction Permit 6537-Revised issued July 27, 1999 and expiring on July 27, 2000). Upon completion of the construction, the facility is required to submit an "As built" plan to the Division. Significant deviation to the DOW approved plans can result in the required removal of the structure.

At the time of the inspection, work on the bridge had begun, but was not currently active due to the Order. We observed that the facility had installed a culvert pipe in the stream, presumably to temporarily route the base flow of the stream around the active construction area. Footers for both retaining walls had been poured and one retaining wall was observed to have been partially constructed out of concrete cubes.

In addition to the bridge construction, the facility has constructed a trench at the downstream/outlet end of the culvert pipe. This trench is about three feet wide (the width of a trackhoe bucket) and extends for a linear distance of about 150 feet downstream. The trench routes the base flow of the stream out of its natural channel and around the footer area on the far (Plum Creek) side of the stream. Additionally, the facility has created a "coffer dam" and "levee" out of rock material scraped from the substrate of the stream. This structure routes the flow to the inlet of the culvert pipe and extends about sixty feet upstream of the inlet of the culvert pipe. In addition to the affected "in-stream" areas described above, the facility continues to use the low water crossing to tram equipment across the stream. The total linear extent of this new in-stream disturbance is within the three hundred and fifty feet previously impacted and cited in a Notice of Violation issued June 18, 1999. The previously issued NOV cited Stream degradation and the channelization of greater than 200 linear feet in a blueline stream. (A violation of Section 401 of the Cleanwater Act in that the facility had filled and channelized a 350 foot section of stream). During the October 7, 1999 inspection, we observed that additional channelization and disturbance of the substrate had occurred since the last inspection dates (August 3, 1999 and August 8, 1999). The in-stream disturbance is within the same area previously impacted, but the substrate and actual stream channel have been significantly more impacted by the trenching, rearrangement and disturbance of the substrate. This type of activity requires that a Water Quality Certification and Corps of Engineers Permit be issued prior to the commencement of in-stream activities and the implementation of a comprehensive BMP plan and adequate stream mitigation. No such permits/certifications have been applied for by Finke Homes, and no efforts have been made to minimize stream damage or otherwise mitigate the impact to the stream.

Pebble Creek/ Plum Creek Subdivision  
Finke Homes  
KYR100106  
Stormwater Surveillance Report  
October 7, 1999  
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In addition to work observed on the bridge construction and in-stream disturbance, we also observed the surface disturbance areas of the active construction site. As in earlier inspections, we observed that no work had been done to adequately implement and maintain sediment/erosion control measures. Although the facility was required to develop, implement and submit a written Best Management Practice Plan, as specified by the remedial measures in the NOV dated June 18, 1999, the specified deadline of July 15, 1999 has past and we are still not in receipt of the BMP. Furthermore, it does not appear that any addition measures for sediment/erosion control have been implemented since our last inspection on August 8, 1999

A pile of construction/demolition debris was also observed on the site in the vicinity of the Pebble Creek side of the bridge. Reportedly, Boone County has been having problems with the developer in the proper disposal of construction demolition debris.

Photographs, both digital and still, were taken of the site during the course of the inspection. A Notice of Violation is being issued for the Water Quality Violations and Violations of the Stormwater Permit Regulations.

A handwritten signature in cursive script, reading "Gretchen M. Bartley", is written over a horizontal line.

Gretchen M. Bartley  
Environmental Inspector III  
Florence Regional Office  
Kentucky Division of Water

**COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER**

**NOTICE OF VIOLATION**

TO: George Finke Facility: Pebble Creek/Plum Creek Sub.  
Finke Homes Inc. I.D. #: KYR100106  
3180 Burlington Pike County: Boone  
Burlington, Kentucky Date of Violation: October 7, 1999  
41005 October 13, 1999

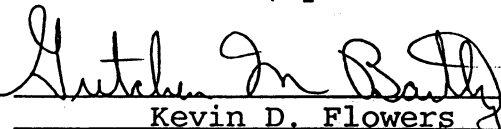
This is to advise you that, as specified below, you are in violation of the provisions of ( ) KRS 146, ( ) KRS 151, ( ) KRS 223, (X) KRS 224 Regulation: 401KAR5:031 Sec.4, KRS 224.16.050(2) and Section 401 of the Clean Water Act, 33 USC 1342: 401KAR5:065 Sec. 1 (1), (4) & (5).

A description of the violation(s) follows: 1. Stream Degradation 2. Channelization and disturbance of a stream and streambed area greater than 200 linear feet without the appropriate Water Quality Certification. 3. Failure to comply with conditions of KPDES General Stormwater Permit by failing to develop, implement and maintain an adequate Best Management Practices Plan for erosion/sediment control. 4. Failure to Mitigate by not complying with requirements of previously issued Notices of Violation. 5. Failure to conduct adequate operation and maintenance of facility by not implementing BMP.

Remedial measures required include, but are not limited to: 1. Apply for Water Quality Certification to provide for the restabilization of the affected riparian (stream) areas impacted by the subject construction project by November 1, 1999. 2. Immediately implement adequate erosion/sediment control measures as required by the KPDES General Permit. 3. Submit copy of written Best Management Practice Plan to Florence Regional Office by November 1, 1999 4. Attend Administrative Conference to be held at DOW Central Office at a date/time scheduled by the Division's Enforcement Branch.

Remedial measures must be completed by: As stated above.

Violations of the above cited statutes and regulations are subject to penalties of up to \$25,000 per day. Compliance with remedial measure deadlines does not provide exemption from liability for violations during the period of remediation. Any person who knowingly violates the aforementioned statutes may be subject to criminal prosecution. To discuss this Notice of Violation, please contact the undersigned at: (606) 292-6411

Issued By:   
Kevin D. Flowers

Date: October 19, 1999

Name of person to who copy was delivered: \_\_\_\_\_

Date: \_\_\_\_\_

How Delivered:  Certified Mail  Personal Service

JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FLORENCE REGIONAL OFFICE  
8020 EWING BLVD STE 110  
FLORENCE KY 41042

October 19, 1999

CERTIFIED MAIL NO: Z 123 361 170  
RETURN RECEIPT REQUESTED

Mr. George Finke  
Finke Homes, Inc.  
3180 Burlington Pike  
Burlington, Kentucky 41005

Re: Plum Creek at Pebble Creek  
Continued Stream Degradation  
Inadequate Erosion/Sediment Control

Dear Mr. Finke:

On October 7, 1999, personnel from the Kentucky Division of Water's Florence Regional Office conducted an inspection of the subject construction site to observe the status of construction of the bridge over Gunpowder Creek, and to evaluate the Best Management Practice Plans being implemented to mitigate adverse affects to the stream as a result of the bridge construction and subdivision development.

As you are aware, the development site has been issued a currently effective Stream Construction Permit for the purpose of constructing the bridge. While the Regional Office does not have adequate data to evaluate the construction of the bridge with the approved plans, we would remind you that upon completion of the bridge, your engineer must submit a signed certification that the construction was completed as per the approved plans. Should it be determined that the construction is significantly different from the approved plan, you may be required to remove the structure. This is clearly stated in Item 6 of the Stream Construction Permit.



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Mr. George Finke  
Plum Creek at Pebble Creek  
October 19, 1999  
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Additionally, you have been issued Three Notices of Violation. The first Notice of Violation was issued on May 20, 1999, and pertained to construction of the bridge without the necessary permit. A second Notice of Violation was issued on June 18, 1999 addressing the in-stream work involving channelization of the stream and in-stream work involving more than 200 linear feet without the required Water Quality Certification and/or Corps of Engineers Permit. The second NOV also cited inadequate implementation and documentation of an erosion/sediment control Best Management Practices Plan in accordance with the Stormwater Permitting Regulations. This Notice of Violation required that you submit a copy of the written Best Management Practice Plan to the Florence Regional Office by July 15, 1999, and implement erosion control measures to prevent excessive siltation of the nearby stream. A third Notice of Violation was issued on August 10, 1999 for filling in the floodplain area adjacent to the two tributaries and failure to develop, implement, maintain and adequately document the required erosion/sediment control Best Management Practice Plan. It appears that the affected floodplain area referenced in the third NOV is planned for the construction of streets and residential housing. It is imperative that the site be evaluated for flood potential and that the appropriate State and Local Floodplain Permits be obtained prior to additional development.

In response to the first Notice of Violation you did apply for and obtain the required Stream Construction Permit on July 27, 1999. The remedial measures required by the other two Notices of Violation continue to be unresolved.

The site inspection conducted on October 7, 1999 determined that additional, significant disturbance in the stream, streambed and substrate of Gunpowder Creek has taken place since the site inspection of August 8, 1999. This disturbance involves trenching in the stream, diversion of the stream and the excavation of stream substrate. The extent of disturbance is approximately three hundred twenty feet. No Water Quality Certification or U S Army Corps of Engineers Permit have been applied for. The low water crossing continues to be used to tram equipment from one side of the construction site to the other.

Additionally, no additional erosion control measures have been implemented since the site inspection on August 8, 1999. Given the time of year, it is critical that a comprehensive Best Management Practice Plan be implemented to control erosion on the subject site to prevent further degradation of the stream by siltation.

Mr. George Finke  
Plum Creek at Pebble Creek  
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A detailed description of our observations from the October 7, 1999 inspection is included on the attached Surveillance Report. As a result of these observations, a fourth Notice of Violation (NOV) is being issued. The remedial measures require that you submit the comprehensive written Best Management Practice Plan to the Florence Regional Office by November 1, 1999. The second Notice of Violation required this document to be submitted by July 15, 1999. You are also being required to apply for a Water Quality Certification by November 1, 1999. Due to the extensive amount of unpermitted, in-stream disturbance caused by your construction activity it will be necessary for you to stabilize affected areas of stream to mitigate the degradation done to the stream and streambed. This work must be done in accordance to the requirements of Section 401 of the Clean Water Act.

In addition to the remedial measures summarized above, you will be required to attend an Administrative Conference to be held at our Central Office in Frankfort, Kentucky. You will be notified directly by the Division's Enforcement Branch as to the exact time, date and location of the Conference.

Please review the attached Surveillance Report and Notice of Violation carefully. If you have any questions or need additional clarification, please contact our office at (606) 292-6411.

Sincerely,



Gretchen M. Bartley  
Environmental Inspector III  
Florence Regional Office  
Kentucky Division of Water

**Attachments**

**Copies:** Bob Sparrow, Enforcement Branch  
John Dovak, Water Quality Certification Branch  
Ghasem Pour Ghasemi, Floodplain Section