

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

Philadelphia, Pennsylvania 19103-2029

In the Matter of:

**Centre Concrete Company
629 E. Rolling Ridge Drive
Bellefonte, PA 16823**

Respondent

Docket No. CWA-03-2021-0019DN

**ADMINISTRATIVE
ORDER ON CONSENT**

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency (“EPA”) has made the following findings of fact and issues this Administrative Order on Consent (“AOC”) pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director, Enforcement & Compliance Assurance Division, Region III.
2. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any permit condition or limitation implementing certain sections of the Act, in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, he shall issue an order requiring such person to comply with such section or requirement.
3. Centre Concrete Company (“Respondent”) has agreed to the issuance of this AOC.

II. STATUTORY AND REGULATORY BACKGROUND

4. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States

except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System (“NPDES”) program under Section 402 of the Act, 33 U.S.C. § 1342.

5. Section 402 of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA, or a state upon approval by EPA, may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.
6. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Pennsylvania Department of the Environment Protection (“PADEP”) to issue NPDES permits in the Commonwealth of Pennsylvania.
7. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that, with some exceptions not relevant here, storm water discharges are “point sources” subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).
8. “Storm water” (or “stormwater”) is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
9. An NPDES permit is required for discharges of storm water associated with industrial activity. Section 402(p) of the Act, 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a), (c); 40 C.F.R. § 122.21.
10. Pursuant to 40 C.F.R. § 122.26(b)(14)(ii), facilities classified as, inter alia, Standard Industrial Classification Group 32, including Industry Group 327 (Concrete Products), are engaged in “industrial activity” within the meaning of Section 402(p) of the Act and 40 C.F.R. § 122.
11. The term “stormwater associated with industrial activity” means, in pertinent part, “the discharge from any conveyance that is used for collection and conveying stormwater and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant.” 40 C.F.R. § 122.26(b)(14)(i)-(ix) and (xi).
12. Dischargers of storm water associated with industrial activities to waters of the United States are required to seek NPDES permit coverage. 40 C.F.R. § 122.26(c).
13. Pursuant to the authority of the Act and the NPDES program approval, the Commonwealth of Pennsylvania issued Respondent a NPDES Permit No. PAS144813, Discharge Requirements for Stormwater Associated with Industrial Activities (“the Permit”). The effective date of the Permit was December 1, 2018 with an expiration date of November 30, 2023.

14. NPDES Permit No. PAS144813 authorizes discharges of storm water associated with industrial activities to waters of the United States (including discharges to, or through municipal separate storm sewer systems), when in accordance with the conditions and terms of the Permit.
15. Respondent is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.
16. At all times relevant herein, upon information and belief, Respondent was the owner and/or operator of a site known as State College Plant located at 2280 E. College Avenue, State College, Pennsylvania (the “Facility”).
17. At the Facility, the Respondent has been at all relevant times engaged in industrial activity that discharges storm water from a point source to an unnamed tributary to Spring Creek.
18. The unnamed tributary to Spring Creek is a “water of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
19. The industrial activity performed by Respondent at the Facility discharges stormwater that is directly related to manufacturing, processing, or raw materials storage areas at Respondent’s industrial plant within the meaning of 40 C.F.R. § 122.26(b)(14)(i)-(ix) and (xi).
20. On June 18, 2019, representatives of EPA Region III and EPA contractors from PG Environmental (jointly “the Inspection Team” or “the inspectors”) conducted an inspection at the Facility (hereinafter, “the Inspection”) to assess compliance with the NPDES Permit No. PAS144813.
21. The Inspection Team prepared an inspection report from the Inspection dated August 1, 2019 (“the Inspection Report”), which included multiple observations regarding Respondent’s compliance with the requirements of the Permit. EPA sent a copy of the Inspection Report to the Respondent on August 1, 2019.
22. On September 27, 2019, Respondent sent to EPA a comprehensive response to the Inspection Report which included narratives that described the corrective actions taken by Respondent, along with photographic documentations of such corrective actions since the time of the Inspection.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

**Count I
Unauthorized Discharges**

23. The allegations of Paragraphs 1 through 22 of this AOC are incorporated herein by reference.
24. Part C.I.A. and B. of the Permit authorizes Respondent to discharge non-polluting stormwater from the Facility in conjunction with authorized wastewaters from Outfall 001.
25. Part A of the Permit specifically prohibits Respondent from discharging, *inter alia*, floating solids, scum, sheen or substances that result in observed deposits in the receiving water.
26. At the time of the Inspection on June 18, 2019, the inspectors observed an active discharge of truck wash water leaving the Facility entrance and flowing into storm drains outside Respondent's property that drain into Spring Creek.
27. At the time of the Inspection on June 18, 2019, the inspectors observed an overflow of sediment pollution and wash water from the concrete drum wash system discharging along the western border of the Facility, including an erosion channel indicating previous discharges occurring from this industrial activity to the unnamed tributary to Spring Creek.
28. The industrial stormwater discharges described in Paragraphs 26 and 27, above, are not authorized under Part C.I.A. and B. of the Permit.
29. Based upon the information described in Paragraphs 26 through 28, Respondent engaged in unauthorized discharges at the Facility in violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

**Count II
Failure to Implement Best Management Practice Requirements**

30. The allegations of Paragraphs 1 through 29 of this AOC are incorporated herein by reference.
31. Part C.II.E.2 of the Permit also requires Respondent to "Install and maintain runoff controls, as necessary, around truck wash off area(s). All wastewater collected in these area(s) shall be contained, reused, recycled on-site, or disposed of properly, as necessary."

32. Part C.II.E.3 of the Permit requires Respondent to “Install and maintain berms, inlets, underground piping, or other runoff control devices in truck loading areas and other areas that have the potential to cause stormwater pollution, to divert uncontaminated stormwater away from such areas.”
33. At the time of the Inspection on June 18, 2019, the inspectors observed a failure to properly maintain all best management practices (BMPs) on site which caused unauthorized non-stormwater discharges under the Permit. The facility’s vehicle rinse area basin was not properly maintained with runoff controls, causing an active discharge at the time of the inspection. Also, the facility’s closed-loop drum wash system was not properly maintained, causing an active discharge.
34. At the time of the Inspection on June 18, 2019, the inspectors observed sediment pollution from the vehicle cement loading/unloading area had bypassed the facility’s treatment system, causing a mixture of stormwater and sediment pollution to discharge to outfall 001.
35. Based upon the information described in Paragraphs 33 and 34, Respondent failed to implement BMPs in accordance with Part C.II.E.2 and 3 of the Permit.
36. Respondent’s failure to implement BMPs in accordance with Part C.II.E.2 and 3 of the Permit constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count III
Failure to Maintain Good Housekeeping Standards

37. The allegations of Paragraphs 1 through 36 of this AOC are incorporated herein by reference.
38. Part C.II.A.8 of the Permit requires, in pertinent part, that Centre Concrete Company “Keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids, ensure that discharges have a control (e.g., secondary containment, treatment).”
39. Part C.II.D. of the Permit states: “The permittee shall minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop a plan consistent with Part C IV for effective responses to such releases.”
40. At the time of the Inspection on June 18, 2019, the inspectors observed dumpsters at the Facility that were uncovered and uncontained, totes of chemical additives that were stored

outdoors at the Facility, and petroleum sheens in multiple locations throughout the Facility.

41. Based upon the information described in Paragraph 40, above, Respondent failed to keep containers closed when not in use and failed to minimize the potential for leaks and spills at the Facility in accordance with Part C.II.A.8 and C.II.D. of the Permit.
42. Respondent's failure to keep containers closed when not in use and failure to minimize the potential for leaks and spills at the Facility constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

IV. ORDER

AND NOW, Pursuant to Section 309(a) of the Act, 33 U.S.C. § 1319(a), Respondent is hereby ORDERED to do the following:

Enhanced Inspections:

43. Within 30 days from the Effective Date of this Order, Respondent shall develop a standard stormwater inspection form for the Facility and submit the report to EPA and PADEP for review and comment.
 - a. Within 30 days from the date Respondent receives EPA's comments to the stormwater inspection form (the "Inspection Start Date"), Respondent shall begin using the stormwater inspection form for a twenty-four (24) month period commencing on the Inspection Start Date.
 - b. The stormwater inspection form must include a section for the following information:
 - i. Date and time of the inspection;
 - ii. Name and signature of the inspector; and
 - iii. Weather conditions at the site, and the date of any precipitation event that exceeded .25 inch during a 24-hour period that prompted an inspection as a result of such precipitation event.
 - c. The stormwater inspection form must contain a checklist for the following items:
 - i. all the on-site stormwater inlets;
 - ii. all the stormwater BMPs utilized at the Facility;
 - iii. all stormwater conveyances; and
 - iv. stormwater inlets within 20 feet of the Facility.

- d. Respondent must visually inspect each of the items on the form for compliance with the Permit conditions and must use the stormwater inspection form to document compliance with the Permit conditions during each inspection.
- e. The stormwater inspection form must include a section to record any corrective actions to be implemented and/or proposed corrective actions in response to any inspection such as maintenance, repairs, additional BMPs, and improved implementation of BMPs and good housekeeping practices. The stormwater inspection form shall provide that until Respondent completes such corrective actions, it shall continue to list the necessary corrective actions in subsequent inspection forms and shall thereafter note the date a corrective action is completed on the inspection form. Respondent shall notify EPA and PADEP of any corrective actions to be implemented and/or proposed corrective actions in response to any inspection such as maintenance, repairs, additional BMPs, and improved implementation of BMPs and good housekeeping practices.
- f. For a period of twenty-four (24) months commencing on the Inspection Start Date, Respondent must use the stormwater inspection form to conduct stormwater management compliance inspections on a monthly basis on or before the last day of the month and within 24 hours (or next weekday if the inspection would otherwise have to occur on a weekend or national holiday) after every precipitation event that exceeds .25 inch of rainfall during a 24-hour period provided that no more than one inspection per week is required under this Order.
- g. The person conducting the inspection shall be adequately trained in stormwater compliance.
- h. The Facility shall maintain copies of completed stormwater inspection forms on-site for at least five years from the date of inspection and present such documentation upon request by representatives of Pennsylvania and/or federal environmental agencies.
- i.. Respondent must review the stormwater inspection form once a year by January 31 to determine whether any updates or edits are necessary to account for stormwater management compliance measures taken on the site, and if so, make the appropriate changes on the stormwater inspection form. Situations in which changes must be noted or documented in updating or filling out the stormwater inspection form include but are not limited to when any stormwater control is added to or removed from the site, when spills or leaks have occurred, and when industrial materials or activities may be exposed to stormwater.

44. For purposes of this AOC, any submissions and inspection reports made pursuant to Paragraph 43 herein shall not require certification by a responsible corporate officer as provided in Paragraph 45, below.
45. Any notice, submission, certification, data presentation, or other document submitted by Respondent to EPA pursuant to this AOC which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirements of this AOC shall be certified by a responsible corporate officer of the Respondent. A responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The aforesaid certification shall provide the following statement above the signature of the responsible corporate officer signing the certification on behalf of Respondent:

I certify under penalty of law that this document and all attachments are true, accurate and complete. As to [the/those] identified portions of this [type of submission] for which I cannot personally verify [its/their] accuracy, I certify under penalty of law that this [type of submission] and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature: _____
Name: _____
Title: _____

46. Any notice, submission, certification, data presentation, or other document submitted by Respondent to EPA pursuant to this AOC shall be sent via-email transmission to the attention of:

Jennie Brancho (3ED32)
NPDES Section, Water Branch
Enforcement and Compliance Assurance Division

U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029
branco.jennie@epa.gov

and

Anne Hughes
Environmental Group Manager
Department of Environmental Protection, Clean Water
North Central Regional Office
208 West Third Street, Suite 101
Williamsport, PA 17701
annehughes@pa.gov

and

Louis F. Ramalho (3RC40)
Sr. Asst. Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.
Ramalho.Louis@epa.gov

V. GENERAL PROVISIONS

47. Issuance of this AOC is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any rights and remedies available to it under the CWA, 33 U.S.C. §§ 1251-1388, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Order, following its effective date (as defined below).
48. This AOC does not constitute a waiver or modification of the terms or conditions of the Respondent's Permit. Compliance with the terms and conditions of this Consent Order does not relieve Respondent of its obligations to comply with any applicable federal, state, or local law, regulation or permit.

49. By signing this AOC, Respondent neither admits nor denies the specific factual allegations set forth in this AOC.
50. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
51. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
52. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this AOC and to execute and legally bind the party.
53. The provisions of this AOC shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of Respondent.
54. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this AOC are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
55. Respondent may assert a business confidentiality claim covering part or all of the information which this AOC requires it to submit to EPA, but only to the extent and only in the manner described in Part 2 Subpart B of Title 40 of the C.F.R. The EPA will disclose information submitted under a confidentiality claim only as provided in Part 2 Subpart B of Title 40 of the C.F.R. If Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

VI. EFFECTIVE DATE

This AOC is effective after receipt by Respondent of a fully executed document.

SO ORDERED:

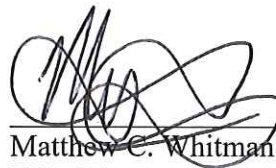
Date: _____

Karen Melvin
Director, Enforcement
& Compliance Assurance Division
U.S. EPA Region III

AGREED TO:

Centre Concrete Company

Date: 2-Dec-2020



Matthew C. Whitman

EHS Director

CERTIFICATE OF SERVICE

I certify that the enclosed Administrative Order on Consent was delivered to the following persons:

Delivery by UPS:

Centre Concrete Company
629 E. Rolling Ridge Drive
Bellefonte, PA 16823

Delivery by electronic mail:

Scott A. Gould, Esq.
McNees, Wallace & Nurick, LLC
Environmental Law & Toxic Tort Group
100 Pine Street | P.O. Box 1166 | Harrisburg, PA 17108-1166
Email: sgould@mcneeslaw.com

Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Date: _____

Louis F. Ramalho
Sr. Assistant Regional Counsel