

4. EPA has consulted with the Pennsylvania Department of Environmental Protection (“PADEP”) regarding this action and, subsequent to the Effective Date, EPA will provide a copy of this fully executed AOC to the appropriate PADEP representative.

II. GENERAL PROVISIONS

5. For purposes of this proceeding, Respondents admit to the jurisdictional allegations set forth in this AOC.
6. Except as provided in Paragraph 5, above, Respondents neither admit nor deny the specific factual allegations set forth in this AOC.
7. The provisions of this AOC shall apply to and be binding upon the Respondents and its officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondents.
8. Respondents shall bear their own costs and attorneys’ fees in connection with this proceeding and associated with the implementation or enforcement of this AOC, including any costs related to resolution of any dispute arising regarding this AOC.
9. Issuance of this AOC is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. EPA also reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §1251, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this AOC, following the Effective Date, as defined below.
10. This AOC does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondents. Nothing in this Order shall relieve Respondents of their obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Order does not constitute a waiver, suspension or modification of the requirements of the Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.
11. Respondents waive any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondents 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.
12. 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.

13. The undersigned representatives of Respondents certify 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.
14. By signing this AOC, Respondents acknowledge that this AOC may be available to the public and represents that, to the best of Respondents' knowledge and belief, this AOC does not contain any confidential business information or personally identifiable information from Respondents.
15. Respondents certify 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 Respondents 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. Respondents and their 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.

III. STATUTORY AND REGULATORY BACKGROUND

16. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328, 1342, and 1344.
17. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the National Pollutant Discharge Elimination System ("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. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides for the authorization of state programs to issue NPDES permits.
18. "Discharge of a pollutant" means "[a]ny addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source'." 40 C.F.R. § 122.2, *see also* 33 U.S.C. § 1362(12).
19. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized PADEP to administer the NPDES program in the Commonwealth of Pennsylvania.

IV. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS

20. As a municipality, Respondents are a "person" within the meaning of Section 502(4) and (5) of the Act, 33 U.S.C. § 1362(4) and (5).
21. At all times relevant to this AOC, Respondent, Tamaqua Borough Authority, owned and Respondent, Borough of Tamaqua, operated the Wastewater Treatment Plant located at 32

Sewer Plant Road, Tamaqua, PA (“WWTP” or “Facility”), a municipal wastewater treatment facility that treats wastewater from the Borough of Tamaqua. The WWTP discharges domestic wastewater from Outfall 001 at the Facility into Little Schuylkill River.

22. At all times relevant to this AOC, the operation of the WWTP has been subject to Pennsylvania NPDES Discharge Permit No. PA0027006 (“Permit”), which was issued by PADEP on December 7, 2011 and became effective on January 1, 2012. The Permit expired on December 31, 2016 and is currently administratively extended.
23. Respondents are authorized to discharge pollutants, in the form of domestic wastewater from the WWTP, to waters of the United States only in accordance with the terms and conditions of the Permit.
24. The Little Schuylkill River is a water of the United States within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).
25. At all times relevant to this AOC, the WWTP discharged wastewater into the Little Schuylkill through a “point source,” as that term is defined at Section 502(14) of the Act, 33 U.S.C. § 1362(14).
26. On December 15, 2021, January 4, 2022, January 12, 2022, January 19, 2022, and January 26, 2022, PADEP representatives inspected the WWTP for purposes of determining compliance with the Permit (“PADEP Inspection(s)”).
27. On February 14 and 15, 2022, representatives of EPA and PADEP inspected the WWTP for purposes of determining compliance with the Permit (“Inspection”).

Count 1 Effluent Exceedances

28. Part A of the Permit sets forth the effluent limits in effect from January 1, 2012 through December 31, 2016, which has been administratively extended until a new permit is issued.
29. There were a total of 15 Permit effluent limit violations from November 30, 2020 to January 31, 2022. A summary of those effluent exceedances is as follows:

NPDES Permit No. PA0027006 effluent violations 11/01/2021 – 01/31/22

| Outfall # | Monitoring Period End Date | Parameter Name | DMR Value | Permit Limit | Units | Limit Type | % Exceeding Limit |
|-----------|----------------------------|-------------------------|-----------|--------------|-----------|-----------------------|-------------------|
| 001 | 11/30/2020 | Coliform, fecal general | 35,000 | 10,000 | cfu/100ml | Instantaneous Maximum | 250% |
| 001 | 12/20/2021* | Coliform, fecal general | 19,000 | 10,000 | cfu/100ml | Instantaneous Maximum | 90% |
| 001 | 12/31/2021 | Solids, total suspended | 48 | 45 | mg/L | Weekly Average | 7% |
| 001 | 12/31/2021 | Coliform, fecal general | 10,700 | 10,000 | cfu/100ml | Instantaneous Maximum | 7% |

| Outfall # | Monitoring Period End Date | Parameter Name | DMR Value | Permit Limit | Units | Limit Type | % Exceeding Limit |
|-----------|----------------------------|---------------------------------|-----------|--------------|-------|-----------------------|-------------------|
| 001 | 12/31/2021 | BOD, carbonaceous [5-day, 20 C] | 43 | 25 | mg/L | Monthly Average | 72% |
| 001 | 12/31/2021 | BOD, carbonaceous [5-day, 20 C] | 50 | 40 | mg/L | Weekly Average | 25% |
| 001 | 1/12/2022* | TSS | 72 | 60 | mg/L | Instantaneous Maximum | 20% |
| 001 | 1/12/2022* | CBOD | 69.1 | 50 | mg/L | Instantaneous Maximum | 38% |
| 001 | 1/19/2022* | TSS | 100 | 60 | mg/L | Instantaneous Maximum | 67% |
| 001 | 1/19/2022* | CBOD | 99.9 | 50 | mg/L | Instantaneous Maximum | 100% |
| 001 | 1/26/2022* | CBOD | 51.9 | 50 | mg/L | Instantaneous Maximum | 4% |
| 001 | 1/31/2022 | CBOD | 44 | 25 | mg/L | Monthly Average | 76% |
| 001 | 1/31/2022 | CBOD | 67 | 40 | mg/L | Weekly Maximum | 68% |
| 001 | 1/31/2022 | TSS | 35 | 30 | mg/L | Monthly Average | 17% |
| 001 | 1/31/2022 | TSS | 56 | 35 | mg/L | Weekly Maximum | 60% |

*Effluent Violations that were taken by PADEP grab samples

30. Based on the allegations in Paragraph 29, above, EPA concludes that as a result of the identified effluent limitation exceedances, Respondents violated Part A of the Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a), on at least the dates set above.
31. In failing to comply with the effluent limitations contained in Part A of its Permit, Respondents violated the terms of the Permit and have violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 2

Failure to Implement Nine Minimum Controls

32. Part C.II.A. of the Permit states, in pertinent part, that Respondent shall continue the implementation of the technology-based Nine Minimum Controls (“NMCs”), demonstrate wide compliance with NMCs and submit discharge monitoring reports and annual reports to PADEP with appropriate documentation.
33. Part C.II.B. of the Permit states, in pertinent part, that PADEP will use the EPA guidance document “Guidance For Nine Minimum Controls” (“NMCs Guidance”) (EPA 832-B-95-003), dated May 1995, and specific comments provided during review of the NMC documentation reports to determine continued compliance with the combined sewer overflow (“CSO”) requirements in the Permit.
34. The NMCs Guidance requires permittees to display public notification of the locations of CSOs and the actual occurrences of CSOs.
35. The NMCs Guidance requires permittees to implement measures for CSO outfalls to eliminate or reduce significantly visible floatables and solids.

36. The NMCs Guidance requires permittees to determine whether nondomestic sources are contributing to CSO impacts, and if those sources are, the permittee is required to investigate ways of controlling such nondomestic sources.
37. During the February 14 and 15, 2022 Inspection, representatives of EPA and PADEP observed that out of twelve (12) CSOs listed in the Permit, signage providing notice for the following four CSOs could not be located: No. 003, No. 006, No. 010, and No. 015. In addition, the actual locations of CSOs No. 006 and No. 015 could not be located at all.
38. During the February 14 and 15, 2022 Inspection, representatives of EPA and PADEP observed solids and floatables at and near the outfalls of both CSOs No. 003 and No. 014.
39. In December 2021, the Facility experienced an upset due to a suspected toxic slug of white/gray wastewater which entered the WWTP through a combined sewer system (“CSS”) that was believed by Facility representatives to have come from an industrial user in the Rush Township sewer system that connects to the Tamaqua CSS.
40. Based on the allegations in Paragraphs 37, 38, and 39, above, Respondents violated Part C.II.A. and B. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to implement technology-based NMCs and failing to adhere to the CSO Policy and the “Guidance for Nine Minimum Controls,” EPA 832-13-95-003, May 1995 (“NMC Guidance”) by not: 1) providing notice to the public of the locations of all CSO, 2) implementing measures to reduce/eliminate solids and floatables at all CSO outfalls, and 3) investigating and controlling nondomestic sources of discharge negatively impacting CSO outfalls.
41. In failing to comply with the requirements contained in Part C.II.A and B. of the Permit, Respondents violated the terms of the Permit and have violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 3

Failure to Properly Record Discharge Monitoring Reports for Combine Sewer Overflows

42. Part C.IV.A of the Permit states, in pertinent part, that Respondent shall record data on CSO discharges in the format specified in PADEP’s discharge monitoring reports (“DMR”) for CSOs attached to the Permit. PADEP’s DMRs required Respondent to include the dates when CSOs are inspected and information regarding observations made during such inspections.
43. During the February 14 and 15, 2022 Inspection, Respondents produced a CSO DMR for the month of December 2021 that failed to include the dates when the CSOs were inspected and failed to include any information about missing CSO signage, and whether solids and floatables were observed at or near the outfalls.
44. Based on the allegations in Paragraph 43, above, Respondents violated Part C.IV.A of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to provide all the necessary information in the format required by PADEP’s DMRs such as the dates when the

CSOs were inspected, and information about missing CSO signage, and whether solids and floatables were observed at or near the outfalls.

45. In failing to comply with the requirements contained in Part C.IV of the Permit, Respondents violated the terms of the Permit and have violated Section 301 of the CWA, 33 U.S.C. § 1311

Count 4

Failure to Properly Operate and Maintain the Facility

46. Part B.I.D.2. of the Permit states, in pertinent part, “the [Respondent] shall operate and maintain all facilities and systems of treatments and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit.”
47. Part A.I.C.1. of the Permit states, in pertinent part, that Respondent may not discharge floating materials, oil, grease, scum, foam, sheen and substances in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water used to be protected or to human, animal, plant, or aquatic life.
48. During the February 14 and 15, 2022 Inspection, the Inspection Team observed the following operation and maintenance issues at the Facility:
- i. One of the two secondary digester tanks located adjacent to the office building was offline due to a non-functioning lid. The equipment at the top of the offline tank was observed to be rusted. Additionally, the concrete at the top of the tank walls for both digester tanks was observed to be deteriorated.
 - ii. The primary clarifier distribution chamber was found to contain equipment in need of maintenance or repair. One of the three primary clarifiers was inoperable for approximately 8-9 years prior due to a faulty gearbox.
 - iii. Solids and floatables were observed at and near the outfalls of both CSO No. 003 and No. 014.
49. Based on the allegations in Paragraph 48, above, Respondents violated Part B.I.D.2 of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to maintain all treatment systems at the Facility in working order, including failing to repair or replace valves, digester tanks, and a primary clarifier.
50. Based on the allegations in Paragraph 48, above, Respondents violated Part A.I.C.1 of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by discharging floating materials, oil, grease, scum, foam, sheen and substances in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water used to be protected or to human, animal, plant, or aquatic life.

51. In failing to comply with the requirements contained in Parts B.I.D.2. and A.I.C.1. of the Permit, Respondents violated the terms of the Permit and have violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 5

Failure to Notify PADEP of Unanticipated Noncompliance with the Permit

52. Part A.III.C.3.a. of the Permit states, in pertinent part, that if there is there is a toxic substance (or a substance which would endanger those downstream, or otherwise result in pollution, create danger of pollution, or damage property), the Respondent shall immediately notify PADEP by telephone of the location and nature of the danger. If possible, the Respondent should also notify downstream users of the affected waters of the Commonwealth with the location and nature of the danger.
53. In December 2021, the Facility experienced an upset due to a suspected toxic slug of white/gray wastewater which entered the WWTP through a CSS system that was believed by Facility representatives to have come from an industrial user in the Rush Township sewer system that connects to the Tamaqua CSS.
54. Respondents never notified PADEP of the plant upset described in Paragraph 53, above, including the subsequent permit discharge limit exceedances due to the suspected toxic slug discharge in December 2021, nor did they notify any downstream users of water likely to be affected by the slug.
55. Based on the allegations in Paragraphs 53 and 54, Respondents violated Part A.III.C.3.a. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to notify PADEP of the release of a toxic slug from the Facility.
56. In failing to comply with the requirements contained in Part A.III.C.3.a. of the Permit, Respondents violated the terms of the Permit and have violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 6

Failure to Properly Sample

57. Part A.III.A.4. of the Permit states, in pertinent part, that facilities that test or analyze environmental samples to demonstrate compliance with permit requirements shall be in compliance with the laboratory accreditation requirements of 27 Pa. C.S. §§4101-4113. Test procedures must be approved under 40 C.F.R. Part 136, unless other test procedures have been specified in the permit.
58. Part A.II. defines “Composite Samples” as a combination of individual samples (at least eight for 24-hour periods, or four for 8-hour periods) of at least 100 mL, each obtained at spaced time intervals during the compositing period. The composite must be flow proportioned, meaning the volume of each individual ample is proportional to discharge rates, or the sampling intervals are proportional to the flow rates over the time period used to produce the composite.

59. During the February 14 and 15 2022 Inspection, the Inspection Team observed no effluent sampler or effluent flow meters by which composite samples could be taken proportioned to the flow as required under the Permit.
60. Based on the allegations in Paragraph 59, Respondents violated Part A.III.A.4. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to take the required composite flow-proportioned effluent samples for outflow from the Facility.
61. In failing to comply with the requirements contained in Part A.III.A.4. of the Permit, Respondents violated the terms of the Permit and have violated Section 301 of the CWA, 33 U.S.C. § 1311.

Count 7
Failure to Provide Information

62. Part B.I.C.1. of the Permit states, in pertinent part, that the Respondent shall furnish to PADEP, within a reasonable time, any information which PADEP may request to determine cause exists for modifying, revoking and reissuing, or terminating the Permit, or to determine compliance with the Permit.
63. During the December 15 and 16, 2021 PADEP inspection, PADEP officially required Tamaqua to conduct 1) daily effluent 24-hour composite samples for analysis of, at least, Total Suspended Solids and carbonaceous biochemical oxygen demand (CBODs), 2) daily effluent grab samples for analysis of Fecal coliform, and 3) 24-hour composite samples of the effluent for pollutant groups 1-6 listed in the NPDES Application for Individual Permit to Discharge Sewage Effluent for Major Sewage Facilities Instructions (3800-PM-BCW0009a).
64. During the February 14 and 15, 2022 Inspection, the Inspection Team observed that Tamaqua failed to implement PADEP's additional sampling request as described in Paragraph 63 above.
65. Based on the allegations in Paragraphs 64, Respondents violated Part B.I.C.1. of the Permit and Section 301(a) of the CWA, 33 U.S.C. 1311(a), by failing to provide the information PADEP requested from sampling within a reasonable time.
66. In failing to comply with the requirements contained in Part B.I.C.1. of the Permit, Respondents violated the terms of the Permit and have violated Section 301 of the CWA, 33 U.S.C. § 1311.

V. COMPLIANCE ORDER

Therefore, Respondents are hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to conduct, and consent to conduct, the following activities:

67. Within 30 days of the Effective Date of the AOC, the Respondents shall:

- i. Remove the accumulation of sewage solids in the receiving stream, if any, and provide standard operating procedures or a plan for the detection, reporting, and removal of all future accumulation of sewage solids in the receiving stream;
 - ii. Install signage providing notice for the following CSOs: Nos. 006, 010, 015, and 017. Provide photo and outfall GPS location to EPA and PADEP.
68. Within ninety (90) days of the Effective Date of the AOC, Respondents shall provide to EPA for review a Corrective Action Plan (“CAP”), which meets the requirements set forth in this AOC. The CAP shall include, at a minimum, plans and a schedule for implementing corrective actions to address the following:
 - i. Maintain compliance with the Permit effluent limits for the following parameters: 1) pH; 2) Suspended Solids; 3) Nitrogen, ammonia total; 4) Fecal Coliform; and 5) 5-Day Biological Oxygen Demand (BOD5);
 - ii. Provide the Facility’s current proposed Nine Minimum Control Plan;
 - iii. Install outfall flow monitors on CSO outfalls;
 - iv. Provide a sample O&M log for a pump station;
 - v. Repair the CSO 014 headwall;
 - vi. A draft plan and schedule for the construction and completion of the proposed interim draft improvements to the WWTP described in Attachment A to this AOC, subject to the Force Majeure provisions set forth in Section X of this AOC.
 - vii. Standard Operating Procedures (SOPs) to address the current wet weather flow at the WWTP and a plan to meet the requirements in 40 C.F.R. § 122.41(m); and
 - viii. Tamaqua must meet all the sampling requirements in 40 C.F.R. § 122.41(j)(1).
69. The schedule to implement the corrective actions identified in the CAP shall not exceed one-hundred twenty (120) days from EPA’s acceptance of the CAP pursuant to Paragraph 71.a, below, except for item 68.vi, above.
70. Tamaqua shall develop and implement an EPA-approved industrial pretreatment program meeting the requirements contained in the upcoming NPDES Permit as issued by PADEP.
71. After review of the CAP:

- a. EPA will in writing: (a) accept the submission; (b) accept the submission upon specified conditions; (c) accept part of the submission and request resubmission of the remainder; or (d) request a new submission.
 - b. If the submission is accepted pursuant to Paragraph 71(a) (above), Respondents shall take all actions required by the CAP, in accordance with the schedule and requirements of the CAP, as approved. If the CAP is conditionally accepted or accepted only in part, pursuant to Paragraph 71.a.(b) or (c), Respondents shall, upon written direction from EPA, take all actions required by the accepted CAP that EPA determines are technically severable from any unacceptable portions.
 - c. If the CAP is unacceptable in whole or in part, Respondents shall, within fifteen (15) days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the CAP, or any unacceptable portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is accepted in whole or in part, Respondents shall proceed in accordance with the preceding Paragraph.
 - d. CAP Deadlines. No later than twenty (20) days from EPA's acceptance of the CAP, Respondents shall submit to EPA for review a list of deadlines included in the CAP. The list shall be submitted in an electronic format (e.g., unlocked spreadsheet or similar format agreed to by the Parties). Within twenty (20) days of modification of any deadline under the CAP, Respondent shall provide an updated list reflecting changes to the future schedule.
72. Respondents shall submit a notice to EPA within thirty (30) days of completing a scheduled event in the CAP until all work as identified in and required by the CAP has been completed.
73. Within two hundred seventy (270) days of the Effective Date of the AOC, the Respondents shall provide to EPA a final draft of the proposed improvements to the WWTP, a plan and schedule for the construction and completion of the improvements to the WWTP subject to the Force Majeure provisions set forth in this AOC, and proof of financial commitment (i.e. PENNVEST Award Letter) for the construction and completion of the such improvements or, alternatively, Respondents shall provide to EPA for review an Engineering Evaluation of the WWTP. The Engineering Evaluation must be completed by a certified Professional Engineer. This evaluation must include an analysis of the causes, and responsive recommendations to comply with the Permit effluent limitations and monitoring requirements to Outfall 001, including any and all repairs and upgrades to the WWTP to comply with the Permit effluent limitations and monitoring requirements to Outfall 001 in the event Respondents determine not to proceed with the proposed upgrades to the WWTP.
74. EPA will review the Engineering Evaluation and make a determination of completeness, based on the requirements described in Paragraph 73, above. If EPA determines that the Engineering Evaluation is not complete or adequate, EPA shall notify Respondent in

writing and Respondents shall resubmit an updated Engineering Evaluation within thirty (30) days of Respondents' receipt of EPA's notice.

- 75. In the event Respondents provide EPA with an Engineering Evaluation of the WWTP pursuant to Paragraph 73, above, in lieu of performing the improvements to the WWTP as proposed in Attachment A of this AOC, Respondents shall submit to EPA a Preventative Maintenance Plan ("PMP") within three hundred sixty (360) days of the Effective Date of the AOC. This PMP will detail the specific preventative maintenance requirements for the improvements to the WWTP as described in the Engineering Evaluation of the WWTP, including a PMP for each primary treatment, secondary treatment, and disinfection process or other equipment at the WWTP critical for optimal plant operation. As part of the preventative maintenance for each treatment process, include daily, weekly, or monthly schedules to be followed by the plant operator that prescribe Preventative Maintenance procedures, including, at a minimum, calibration, lubrication, cleaning and replacement of equipment. Each item identified in Paragraph 68, above, that has a corrective action shall have a corresponding preventative action described in the PMP. The PMP shall also include a process for regularly inspecting and correcting any issues identified at Outfall 001 for any prohibited characteristics which may be present due to the Facility's discharges.
- 76. EPA will review the PMP and make a determination of completeness, based on the requirements described in Paragraph 75, above. Upon a determination of completeness as provided in writing by EPA to the Respondents, Respondents will begin implementation of the PMP

VI. PROCEDURES FOR SUBMISSIONS

- 77. All documents required to be submitted by this Order and any Request for Termination shall be accompanied by a certification signed by a responsible officer, as defined in 40 CFR § 122.22(a), that reads as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision 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 fine and imprisonment for knowing violations.

Signed _____

Title: _____

Date: _____

- 78. Respondents 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, at the time any information is submitted to EPA, Respondents do not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondents.

79. Unless otherwise directed in writing, Respondents shall submit any submission or written communication, including any accompanying data, relating to this AOC via email to:

Email: Maslowski.Steve@epa.gov
Mr. Steve Maslowski
NPDES Enforcement
Enforcement and Compliance Assurance Division
U.S. EPA, Region III

Any information submitted electronically shall be submitted in a widely recognized electronic format.

VII. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF AOC

80. Upon completion of all items required by the CAP and a determination of completeness of each item, Respondents shall submit to EPA a Certification of Compliance and Request for Termination of this AOC. Such certification and request shall include:
- a. a certification that Respondents have maintained compliance with this AOC for the term of this AOC and that Respondents have completed the construction and installation of the WWTP upgrades at the Facility; and
 - b. all necessary documentation, including photo documentation as appropriate, to support a finding that Respondents have complied with Section V (Compliance Order) of this AOC.
81. If, following review of any Certification of Compliance and Request for Termination of this AOC, EPA agrees that Respondents have adequately complied with all requirements of this AOC, then EPA may, in its unreviewable discretion, provide written notification of termination of this AOC.

VIII. AOC MODIFICATIONS

82. Any request to modify the terms of, or parties to, this AOC shall be submitted, in writing, by Respondents to EPA and shall be subject to review and approval by EPA, in its sole and unreviewable discretion. Respondents' submission of a written request for modification of this AOC shall not relieve Respondents of any obligation under this AOC and shall have no effect on EPA's statutory or regulatory authority to enforce the terms of this AOC, in its sole and unreviewable discretion.

IX. CHANGE OF OWNERSHIP OR OPERATION OF THE WWTP

83. Until or unless this AOC is modified or terminated, in accordance with the terms of this AOC, Respondents shall remain responsible for compliance with the terms of this AOC following any transfer of ownership or operation of the WWTF.
84. At least ninety (90) days prior to any transfer of ownership or operation of the WWTP, Respondents shall submit a written notification to EPA of any such anticipated change in ownership or operation of the WWTP (Notification of Change of Tamaqua Ownership or Operation). Each such Notification of Change of Tamaqua Ownership or Operation shall include, at a minimum, a detailed summary of the anticipated change in ownership or operation, contact information for the proposed new owner or operator of the WWTP and a schedule for such anticipated change.
85. Respondents shall condition any sale or transfer of ownership or operation of the WWTP, in whole or in part, upon the execution by such Prospective Third-Party Purchaser, or Transferee, of an agreement, which creates an obligation that shall survive the closing of such sale or transfer, of the WWTP, whereby such Prospective Third-Party Purchaser or Transferee agrees to comply with and be bound by the terms of this AOC.

X. EXTENSION OF TIME BASED ON FORCE MAJEURE

86. “Force Majeure Event,” for purposes of this AOC, is defined as any event arising from causes beyond the control of either Respondent, of any entity controlled by Respondents or any contractor of either Respondent, that delays or prevents the performance of any obligation under this AOC subsequent to Respondents exercising best efforts to fulfill the obligation(s) at issue. The requirement that each Respondent exercises “best efforts to fulfill the obligation” includes using best efforts to anticipate any Force Majeure Event and best efforts to address the effects of any such event: (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay. Unanticipated or increased costs or expenses associated with the performance of Respondents’ obligations under this AOC or Respondents’ financial inability to perform any obligation under this AOC shall not constitute circumstances beyond Respondents’ control nor serve as the basis for an extension of time under this AOC.
87. If at any time during the implementation of this AOC, any Force Majeure Event occurs that may delay the performance of any obligation under this AOC, including implementation of an EPA-approved plan or schedule, Respondents shall, within seven (7) days of determining that such event may delay the performance of such obligation, provide to EPA a written request for an extension of time to comply with any such obligation (Force Majeure Extension of Time Request). Such Extension of Time Request shall include, at a minimum, the following information for each specific obligation(s) for which an extension of time is sought.
- i. The specific obligation(s) for which an extension of time is sought, including each applicable deadline.

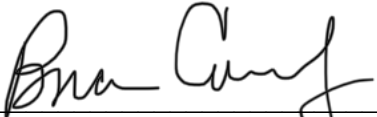
- ii. A detailed explanation and description of the Force Majeure Event at issue and the reasons for the requested extension of time, including all supporting documentation.
 - iii. The amount of time for which an extension of time is sought.
 - iv. A detailed description of all actions taken to prevent or minimize the amount of time for which an extension of time is sought, including a detailed description of each Respondents' best efforts to fulfill the obligation.
 - v. A detailed description, including a schedule for implementation, of all actions to be taken to prevent or mitigate the amount of time for which an extension is sought and the effect of any delay on any other obligation pursuant to this AOC.
 - vi. A statement as to whether, in the opinion of Respondents, the Force Majeure Event at issue may cause or contribute to an endangerment to public health, welfare, or the environment.
88. Respondents shall be deemed to know of the occurrence of, or reasonable likelihood of an occurrence of, any circumstance or event that may delay the performance of any obligation under this AOC of which Respondents, any entity controlled by Respondents or any contractor of Respondents knew or reasonably should have known.
89. Any Force Majeure Extension of Time Request shall be submitted in accordance with this AOC and EPA may, in its unreviewable discretion, approve or disapprove any Force Majeure Extension of Time Request.
90. EPA's approval, including conditional approval, of any Force Majeure Extension of Time Request shall not, of itself extend the time for performance of any other obligation not explicitly addressed in such approval.
91. Failure to comply with the above requirements may preclude Respondents from asserting any claim of Force Majeure or other related defense for non-compliance with the terms of this AOC for the time period such non-compliance is related to a reportable event.

XI. EFFECTIVE DATE

92. This AOC will become effective upon the Respondents' receipt of a fully-executed copy of this AOC ("Effective Date").
93. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the tasks set forth in Paragraphs 67 through 76 of this AOC, above, is deemed restitution, remediation, or required to come into compliance with the law.

FOR TAMAQUA BOROUGH AUTHORITY

Date: 9/29/23

By: 

NAME: Brian Connely
TITLE: Chairman

FOR BOROUGH OF TAMAQUA

Date: 9/29/23

By: 

NAME: Brian Connely
TITLE: President

SO ORDERED:

FOR U.S. ENVIRONMENTAL PROTECTION AGENCY

By:

[Digital Signature and Date]

Karen Melvin, Director

Enforcement & Compliance Assurance Division

U.S. Environmental Protection Agency, Region III



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103-2852**

In the Matter of:

Borough of Tamaqua
320 East Broad Street
Tamaqua, PA 18252

U.S. EPA Docket No. CWA-03-2023-0058DN

Tamaqua Borough Authority
320 East Broad Street
Tamaqua, PA 18252

**ADMINISTRATIVE ORDER ON CONSENT
PURSUANT TO 33 U.S.C. § 1319(a)**

Respondents

Borough of Tamaqua
Wastewater Treatment Plant
32 Sewer Plant Road
Tamaqua, PA 18252
NPDES Permit No. PA0027006

Facility.

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Order on Consent, EPA Docket No. CWA-03-2023-0058DN, was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the Administrative Order on Consent. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses.

A copy of the Administrative Order on Consent and this Certificate of Service was served via UPS to each person listed below:

Brian Connely
Borough of Tamaqua
Tamaqua Borough Authority
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Tamaqua, PA 18252

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[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III