

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Greenwich Township  
420 Washington Street  
Gibbstown, New Jersey 08027

**Respondent**

Proceeding pursuant to Section 309(g) of the  
Clean Water Act, 33 U.S.C. § 1319(g)

**CONSENT AGREEMENT  
AND FINAL ORDER**

**DOCKET NO. CWA-02-2025-3309**

**CONSENT AGREEMENT AND FINAL ORDER**

Complainant, United States Environmental Protection Agency, Region 2 (“EPA”) and Greenwich Township (“Respondent”) by their undersigned representatives, hereby consent and agree as follows:

**I. PRELIMINARY STATEMENT**

1. This is a civil administrative proceeding for the assessment of a civil penalty instituted pursuant to Section 309(g)(2)(A) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(g)(2)(A).
2. The following Findings of Fact are made, and Order issued, pursuant to the authority vested in the Administrator of the EPA by the Clean Water Act, 33 U.S.C. § 1251 *et. seq.* (“Act”), which authority has been duly delegated to the Regional Administrator of the EPA Region 2, and since further re-delegated to the Director, Enforcement and Compliance Assurance Division, EPA Region 2.
3. EPA is initiating and concluding this proceeding for the assessment of a civil penalty pursuant to Section 309(g) of the Clean Water Act (“CWA” or “the Act”), 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice” or “CROP”), which sets forth procedures for simultaneous commencement and conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

4. As set forth below, Complainant alleges that Respondent is liable for several violations of the Clean Water Act in its operation of the municipal separate storm sewer system (“MS4”) located in Gibbstown, New Jersey. Specifically, Complainant alleges that Respondent failed to comply with numerous terms of its New Jersey Pollutant Discharge Elimination System (“NPDES”) CWA permit for the control of discharges from MS4s. Therefore, Complainant alleges that Respondent violated CWA Section 301, 33 U.S.C. § 1311, by failing to comply with the conditions and limitations of a permit issued under CWA Section 402, 33 U.S.C. § 1342, and is proposing to assess a civil penalty pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g).
5. Complainant and Respondent agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and its incorporation into a Final Order without further litigation and without adjudication of any issues of fact or law will avoid prolonged and potentially complicated litigation between the Parties.
6. For the purposes of this settlement only, Respondent admits the jurisdictional allegations contained herein and neither admits nor denies Complainant’s allegations of violations contained in Paragraph III.11, below.
7. As to Complainant, Respondent hereby waives any and all claims for relief and any otherwise available rights to a judicial or administrative hearing or appeal on any issue of law or fact, or on any other provision set forth in this Consent Agreement and Final Order (“CA/FO”), including, but not limited to, any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-706. As to any other party, Respondent reserves all rights and defenses regarding any issue of law or fact set forth in this Agreement.
8. Upon incorporation into a Final Order by the EPA Regional Judicial Officer, this Agreement applies to, and is binding upon, Complainant and upon Respondent and Respondent’s officers, directors, agents, successors, and assigns. Any change in ownership or corporate organization, structure, or status of Respondent, including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent’s responsibilities under this Agreement, unless Complainant, Respondent and the transferee agree in writing to allow the transferee to assume such responsibilities.
9. This Agreement contains all settlement terms agreed to by the Parties.

## **II. APPLICABLE LAW**

1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits discharge of any pollutant by any person from a point source into navigable waters of the United States, except in compliance with, *inter alia*, Section 402 of the Act, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a National Pollutant Discharge Elimination System (“NPDES”) permit for the discharge of any pollutant, or combination of pollutants, subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New Jersey Department of

Environmental Protection (“NJDEP”) is the agency with the authority to administer the federal NPDES program in New Jersey pursuant to Section 402(b) of the CWA, 33 U.S.C. §1342(b). A New Jersey Pollutant Discharge Elimination System (“NJPDES”) permit issued by the NJDEP is required before any person discharges any pollutants from any point source to navigable waters of the United States within or bordering the state of New Jersey. The EPA maintains concurrent enforcement authority with New Jersey for violations of the CWA, including violations of a NJPDES permit.

3. “Person” is defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), to include an individual, corporation, partnership, association, or municipality.
4. “Owner or operator” is defined by 40 C.F.R. § 122.2, as the owner or operator of any “facility or activity” subject to regulation under Section 402 of the CWA, 33 U.S.C. § 1342(a).
5. “Municipality” is defined by Section 502(4) of the CWA, 33 U.S.C. § 1362(4), to include, among other things, a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.
6. “Discharge of a pollutant” is defined by Section 502(12) of the CWA, 33 U.S.C. 1362(12), to include any addition of any pollutant to navigable waters from any point source.
7. “Pollutant” is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to include, among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge, and industrial, municipal, and agricultural waste discharged to water.
8. “Point source” is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14), to include, among other things, any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container.
9. “Navigable waters” are defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7), as “waters of the United States, including the territorial seas,” and “waters of the United States” is further defined at 40 C.F.R. 120.2(a) to include, among other things, relatively permanent tributaries of interstate waters and/or of waters used in interstate commerce.
10. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes the Administrator to, among other things, commence a civil action when any person is found to have violated Section 301 of the CWA § 1311, or violated any permit condition or limitation in a permit implementing Section 301 issued under Section 402 of the CWA, 33 U.S.C. § 1342.
11. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth the requirements for the discharge of stormwater, including discharges of stormwater from Municipal Separate Storm Sewer Systems (“MS4s”).

12. Section 402(p)(3)(B) of the CWA, 33 U.S.C. § 1242(p)(3)(B), requires that NPDES permits for discharges from an MS4 include a requirement to effectively prohibit non-stormwater discharges into the storm sewers and to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.
13. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), the EPA promulgated regulations at 40 C.F.R. § 122.26 setting forth the NPDES permit requirements for stormwater discharges, including the following:
  - a. 40 C.F.R. § 122.26(b)(8) defines an MS4 as a “conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a State, city, town, borough, county, parish, district association, or other public body (created by State law)... that discharges into waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works....”
  - b. 40 C.F.R. § 122.26(b)(7)(i) defines “medium [MS4],” in part, as being located in an incorporated place with a population of 100,000 or more but less than 250,000.
  - c. 40 C.F.R. § 122.26(b)(3) defines “incorporated place,” in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.
  - d. 40 C.F.R. §§ 122.26(a)(1)(iv) and 122.26(d) require the operator of a discharge from a medium MS4 to apply for a jurisdiction-wide or system-wide permit.
  - e. 40 C.F.R. § 122.26(b)(16) defines “small municipal separate storm sewer system,” in part, as being “[o]wned or operated by ... a State, city, town, borough, county, parish, district, association, or other public body” and that is “[n]ot defined as ‘large’ or ‘medium’ municipal separate storm sewer systems pursuant to paragraphs (b)(4) and (b)(7) of this section.”
14. Pursuant to 40 C.F.R. § 122.32(a)(1), all small MS4s located in an “urban area” (As determined by the latest Decennial Census by the Bureau of Census) are regulated as medium MS4s under 33 U.S.C. § 1342(p) and 40 C.F.R. § 122.26.
15. The terms “MS4 General Permit” or “Permit” mean the NJDEPS R9 Tier A Municipal Stormwater General Permit, NJ0141852. The current MS4 General Permit became effective on January 1, 2023, and will expire on December 31, 2027. The current MS4 General Permit was preceded by a previous version of the MS4 General Permit which became effective on January 1, 2018, and expired on December 31, 2022.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Greenwich Township (“Respondent” or the “Township”) is a municipal corporation chartered under the laws of the State of New Jersey, and as such, is a “person” as that term is defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2, and is an “incorporated place,” as that term is defined in 40 C.F.R. § 122.26(b)(3).
2. Respondent owns and operates the MS4 located in Greenwich Township, New Jersey, and is therefore an owner or operator within the meaning of 40 C.F.R. § 122.2.
3. Respondent discharges stormwater containing refuse, chemicals, oils, and dirt/sediment, which are “pollutants” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
4. Respondent discharges polluted stormwater via 14 MS4 outfall pipes, which are “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
5. Respondent discharges polluted stormwater from its MS4 to Clonmell Creek, Nehausey Brook, Still Run, London Branch, and Repaupo Creek, which are all relatively permanent tributaries that flow to the Delaware River, an interstate water used in interstate commerce, and are therefore waters of the United States pursuant to 40 C.F.R. 102(a) and navigable waters under Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
6. Based on the findings in Paragraphs III.1-5, above, Respondent discharges pollutants within the meaning of Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
7. Greenwich Township is located in Greenwich Township, New Jersey; it has a population of 4,917 and is within the Philadelphia, PA-NJ-DE-MD urban area, according to the latest Decennial Census by the Bureau of Census. Therefore, Respondent’s MS4 is a regulated small MS4 located in an urban area within the meaning of 40 C.F.R. § 122.26(b)(16)(ii) and 40 C.F.R. § 122.32(a)(1).
8. Respondent submitted a Request for Authorization (“RFA”) to the NJDEP and subsequently received authorization under the NJPDES MS4 General Permit (“Permit”) pursuant to permit identification number NJG0151009 and has been covered under the conditions and limitations in the Permit at all relevant times addressed by this Consent Agreement and Final Order.
9. The MS4 General Permit authorizes Respondent to discharge pollutants from MS4 outfalls to waters of the United States, under the conditions and limitations prescribed in the Permit.
10. On July 24, 2023, and July 25, 2023, EPA Region 2 and an EPA contractor conducted an offsite compliance evaluation of Respondent’s MS4 program, and on August 1, 2023, conducted associated field activities (together, the “Audit”).

11. Based on the Audit findings, the EPA finds that Respondent failed to comply with numerous conditions and limitations contained in its Permit, by, among other things, failing to annually revise its Stormwater Pollution Prevention Plan as necessary, failing to implement a public education and outreach program, failing to label storm drain inlets, failing to have a formal process for ensuring adequate operation and maintenance of post-construction stormwater facilities owned by the Township and failing to inspect those facilities, failing to conduct monthly stormwater inspections of its Department of Public Works Yard, failing to maintain an inventory of all materials and machinery which could be a source of pollutants, failing to provide adequate signage near fuel operations, failing to cover roll-offs containing street sweeping debris and residential construction debris, failing to install runoff controls for a yard waste stockpile, failing to provide stormwater-related training to employees during 2020 and 2021, failing to provide records documenting that the Township municipal board and governing body members had taken the required stormwater training, failing to implement a stream scouring program, and failing to demonstrate that dry weather visual inspections are conducted at each of Respondent's MS4 outfalls at least once every five years.
12. Therefore, based upon the findings in Paragraphs III.1-11 above, EPA finds that Respondent has violated Section 301 of the CWA § 1311 by violating numerous conditions or limitations in a permit implementing Section 301 issued under Section 402 of the CWA, 33 U.S.C. § 1342.

#### **IV. TERMS OF SETTLEMENT**

1. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the nature of the violations and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of nine-thousand dollars (\$9,000).
2. Respondent agrees to pay a civil penalty in the amount of nine-thousand dollars (\$9,000) within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").
3. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.
4. When making a payment, Respondent shall:
  - a. Identify every payment with Respondent's name and the docket number of this Agreement, and
  - b. Concurrently with any payments or within 24 hours of any payment, Respondent shall serve proof of such payment to the following persons:

Justine Modigliani, P.E., Acting Manager  
Water Compliance Branch  
Enforcement and Compliance Assurance Division



U.S. Environmental Protection Agency, Region 2  
290 Broadway, 21st Floor  
New York, NY 10007-1866

and

Christopher Saporita, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
Saporita.chris@epa.gov  
290 Broadway, 21st Floor  
New York, NY 10007-1866

and

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16th Floor  
New York, NY 10007-1866

“Proof of payment” means, as applicable, a copy of the check, confirmation of credit or debit card payments, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

5. Interest, Charges, and Penalties on Late Payments. Pursuant to 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, EPA is authorized to recover, in addition to the amount of the unpaid Assessed Penalty, the following amounts.
  - a. Interest. Interest begins to accrue from the filing date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. To protect the interests of the United States the rate of interest is set at the IRS standard underpayment rate, any lower rate would fail to provide Respondent adequate incentive for timely payment.
  - b. Handling Charges. Respondent will be assessed monthly a charge to cover EPA’s costs of processing and handling overdue debts. If Respondent fails to pay the Assessed Penalty in accordance with this Agreement, EPA will assess a charge to cover the costs of handling any unpaid amounts for the first thirty (30) day period after the Filing Date. Additionally handling charges will be assessed every thirty (30) days, or any portion thereof, until the unpaid portion of the assessed penalty as well as any accrued interest, penalties, and other charges are paid in full.

- c. Late Payment Penalty. A late payment penalty of six percent (6%) per annum, will be assessed monthly on all debts, including any unpaid portion of the Assessed Penalty, interest, penalties, and other charges, that remain delinquent more than ninety (90) days. Any such amounts will accrue from the Filing Date.
- 6. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:
  - a. Refer the debt to a credit reporting agency or collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
  - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
  - c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
  - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
- 7. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
- 8. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

## **V. OTHER TERMS AND CONDITIONS**

- 1. For the purposes of this proceeding, Respondent:
  - a. Admits the jurisdictional allegations of this Consent Agreement and Final Order;
  - b. Neither admits nor denies the factual allegations contained in Paragraph III.11, above;
  - c. Waives its right to: contest the allegations, a judicial or administrative hearing, or to appeal this Consent Agreement and Final Order; and



- d. For purposes of settlement, Respondent consents to the issuance of this Consent Agreement and consents to the payment of the civil penalty cited in Paragraph IV above.
2. Respondent knowingly and explicitly waives its right under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), to request or to seek any Hearing on or Judicial Review of the Complaints consolidated herein or on any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law set forth herein, or the accompanying Final Order.
3. Failure by Respondent to comply with any of the terms of this Agreement shall constitute a breach of the Agreement and may result in referral of the matter to the United States Department of Justice for enforcement of the Agreement and for such other relief as may be appropriate.
4. Nothing in this Agreement shall be construed as a waiver by Complainant of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of the Agreement.
5. By signing this Consent Agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Consent Agreement.
6. This Consent Agreement and Final Order shall apply to and be binding upon Respondent, as well as applying to and binding upon the Respondent's officers, directors, and employees, in their capacities as representatives of Respondent as well as on the Respondent's successors and assigns, including, but not limited to, Respondent's subsequent purchasers.
7. This Agreement resolves Respondent's liability for federal civil or administrative penalties under Section 309(d) and 309(g) of the Act, 33 U.S.C. § 1319(d) and (g), for the violations alleged in this Agreement up to the date the Final Order becomes effective. This Agreement shall not in any case affect EPA's right to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law whether or not alleged in the Agreement. This Agreement shall not affect Respondent's right to assert any defense in any action by EPA to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.
8. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law, nor waiver of any defense, objection or response the Respondent may assert in response to any claim that the Agreement is violated. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state

or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal state or local permit.

9. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.
10. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
11. Upon execution by the parties, this Agreement shall be subject to a public comment period of not less than thirty (30) days, pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A) and 40 C.F.R. § 22.45. EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations indicating that the Agreement is inappropriate, improper, or inadequate.
12. If comments received during the public comment period do not require modification or withdrawal by the EPA from this Agreement, the parties agree to submit this Agreement to the Director of the Enforcement and Compliance Assurance Division ten (10) days after closure of the public comment period, with a request that it be incorporated into a Final Order.
13. This Agreement, upon incorporation into a final order by the Director of the Enforcement and Compliance Assurance Division, and full satisfaction by the Parties, shall be a complete, full, and final settlement of the civil penalty owed for violations alleged in this Agreement.
14. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement and Final Order.
15. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

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Kathleen Anderson, Director  
Enforcement and Compliance Assurance Division  
United States Environmental Protection Agency, Region 2

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*Vincent Giovannitti*  
Vince Giovannitti, Mayor  
Greenwich Township, New Jersey

Greenwich Township MS4 (NJG0151009)  
Docket No. CWA-02-2025-3309

## **FINAL ORDER**

Pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of EPA's Consolidated Rules of Practice, the following Combined Complaint and Consent Agreement ("Agreement"), resolving the above matter is hereby approved and incorporated by reference into this Final Order. Respondent is hereby **ORDERED** to comply with all of the terms of the Agreement effective immediately upon receipt by Respondent of this Agreement and Final Order.

**SO ORDERED**

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Kathleen Anderson, Director  
Enforcement and Compliance Assurance Division  
United States Environmental Protection Agency, Region 2