



Pennsylvania Department of Environmental Protection

FILE COPY

909 Elmerton Avenue
Harrisburg, PA 17110-8200

MAY 12 2005

Southcentral Regional Office

717-705-4707
FAX - 717-705-4760

CERTIFIED MAIL NO. 7002 2030 0007 9115 3666

Ms. Teresa Schnoor
Township of Antrim
10655 Antrim Church Road
PO Box 130
Greencastle, PA 17225

Re: MS4 Stormwater
Antrim Township MS4
NPDES Permit No. PAG 133705
APS ID No. 544032
Authorization No. 580521
Antrim, Franklin County

Dear Ms. Schnoor:

Your permit is enclosed. Read the permit and the special conditions carefully.

A MS4 Annual Report Form with instructions is enclosed. The Annual Report Form should be completed as instructed in the permit and the enclosed instructions. The Annual Report is due June 9 of each year.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.



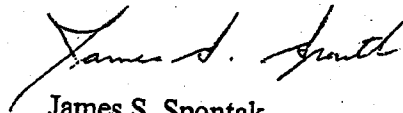
Ms. Teresa Schnoor

- 2 -

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

If you have any questions, please call Mr. Kirit Shah of the Permits Section at 717-705-6640.

Sincerely,



James S. Spontak
Program Manager
Water Management Program

Enclosures

cc: Martin and Martin, Inc.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATERSHED MANAGEMENT

APPROVAL OF COVERAGE

UNDER THE NPDES GENERAL PERMIT (PAG-13) STORMWATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)

NPDES PERMIT NO. PAG 133705

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act") and Pennsylvania's Clean Streams Law, *as amended*, 35 P.S. Section 691.1 *et seq.*, the Pennsylvania Department of Environmental Protection (DEP) hereby approves the Notice of Intent (NOI) submitted for coverage by:


APPLICANT(S) (NAME AND ADDRESS):	WATERSHED(S):
Teresa Schnoor	13-C (Conococheague-Antietam Creeks)
Township of Antrim	
10655 Antrim Church Road, PO Box 130	
Greencastle, PA 17225	

to discharge stormwater to surface waters of the Commonwealth.

The approval to discharge is made subject to DEP's enclosed NPDES General Permit for small MS4s (PAG-13), based, in part, on information the permittee provided in its Notice Of Intent (NOI). If there is a conflict between the permit and the NOI, the terms of the General Permit PAG-13 apply.

APPROVAL FOR COVERAGE TO DISCHARGE UNDER THE GENERAL NPDES PERMIT WILL COMMENCE, MAY 12 2005 AND WILL EXPIRE AT MIDNIGHT, MARCH 9, 2008 OR UPON EXPIRATION OF THIS GENERAL PERMIT IN WRITING BY DEP. TO CONTINUE DISCHARGING AFTER THE EXPIRATION DATE MENTIONED ABOVE, AN ADMINISTRATIVELY COMPLETE AND ACCEPTABLE NOI MUST BE SUBMITTED 180 DAYS PRIOR TO THE EXPIRATION DATE NOTED ABOVE.

Approval of the General Permit Coverage authorized by:


James S. Spontak, Water Management, Program Manager
Southcentral Field Office
Department of Environmental Protection



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT NO.

SEP 30 2009

Township Manager
Antrim Township
10655 Antrim Church Road
Greencastle, PA 17225-9577

RECEIVED

BY: _____

Re: Administrative Order and Information Request
Docket No. CWA-03-2009-0265DN

Dear Township Manager:

Through consultation with the Pennsylvania Department of Environmental Protection (PADEP), the United States Environmental Protection Agency (USEPA) has determined that Antrim Township ("Respondent"), has violated its Pennsylvania National Pollutant Discharge Elimination System Stormwater Discharges From Small Municipal Separate Storm Sewer Systems Permit, (Permit) and various provisions of the Clean Water Act, by not submitting all Annual Reports required by your permit to the PADEP.

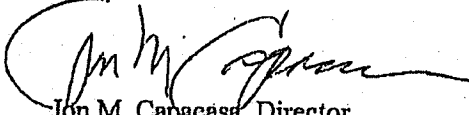
The enclosed document is entitled "Findings of Violation and Order for Compliance and Information request" (Order and Request) and issued this date pursuant to Section 309(a) and 308 of the Clean Water Act, ("the Act") as amended, 33 U.S.C. Section 1319(a).

The USEPA encourages you to read the contents of the enclosed Order and Request, and communicate to each responsible official, agent or employee the actions that each such person must take to ensure compliance with its terms. Failure to comply with the terms of the Order and Request may result in the USEPA taking further enforcement actions, including a civil suit for penalties and injunctive relief, or a criminal prosecution as appropriate.

Respondent may be required to disclose to the Securities and Exchange Commission ("SEC") the existence of certain administrative or judicial proceedings taken against the Respondent company under Federal, State or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" for more information about this requirement and to aid you in determining whether your company is subject to it.

Both the PADEP and USEPA encourage the Respondent to review its entire MS4 program for compliance with the Permit and immediately correct any deficiencies. If you require any information or assistance regarding this Order and Request, please contact Chuck Schadel of my staff at (215) 814-5761.

Sincerely,



Jon M. Capacasa, Director
Water Protection Division

Enclosures

cc: Scott Williamson, SC PADEP
Ken Murin, HQ PADEP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

RECEIVED
EPA REGION III PHILADELPHIA

2009 SEP 30 PM 6:09

IN THE MATTER OF :

Antrim Township
10655 Antrim Church Road
Greencastle, PA 17225-9577

Docket No. CWA-03-2009-0265DN
FINDINGS OF VIOLATION,
ORDER FOR COMPLIANCE
AND
INFORMATION REQUEST

Respondent

I. STATUTORY AUTHORITY

1. This Order for Compliance and Request for Information ("Order and Request") is issued under the authority vested in the Administrator of the Environmental Protection Agency (hereinafter "EPA") under Section 308 of the Clean Water Act (CWA or Act), 33 U.S.C. 1318 and Section 309(a) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. Section 1319(a). The Administrator has delegated this authority to the Regional Administrator of Region III, who in turn has delegated it to the Director of the Water Protection Division of Region III.

II. STATUTORY AND REGULATORY BACKGROUND

2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutants (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.
3. EPA is authorized under Section 308 of the Federal Water Pollution Control Act ("Clean Water Act" or "the Act"), 33 U.S.C. § 1318, to require owners and operators of point sources to establish records and make such reports as may be necessary to carry out the purpose of the Act, including but not limited to:
 - (a) Developing or assisting in the development of any effluent limitation, or other limitation, prohibition, effluent standard, pretreatment standard, or standard of performance under the Clean Water Act;
 - (b) Determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance;

- (c) Any requirement under Section 308 of the Clean Water Act; and
 - (d) Carrying out Sections 305, 311, 402, 404, and 504 of the Clean Water Act.
-
- 4. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of 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.
 - 5. "Discharge of a pollutant" includes "any addition of any pollutant or combination of pollutants to waters of the United States from any point source." 40 C.F.R. § 122.2.
 - 6. "Storm water" is defined as "storm water runoff, snow melt runoff and surface runoff and drainage." *Id.* § 122.26(b)(13).
 - 7. The term "municipal separate storm sewer system" (MS4) includes, "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States." 40 C.F.R. § 122.26(b)(8)(i).
 - 8. Pursuant to 40 CFR 122.26(a)(9)(i), small MS4s require an NPDES permit if they are required to be regulated pursuant to 40 CFR 122.32.
 - 9. Antrim Township is a small MS4 within the meaning of 40 CFR 122.26(b)(16).
 - 10. Antrim Township is a small MS4 located in an urbanized areas as determined by the latest Decennial Census by the Bureau of the Census, and accordingly requires an NPDES permit pursuant to 40 CFR part 122.32(a)(1).
 - 11. Pursuant to section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized Commonwealth of Pennsylvania ("PA") to issue NPDES permits in 1978. In 1991, EPA authorized PA to issue General NPDES Permits.

III. EPA FINDINGS AND ALLEGATIONS

- 12. Antrim Township, PA (Respondent) is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

13. Respondent, at all times relevant to this Order, has owned and/or operated an MS4, located in the vicinity of Antrim, PA, known as the ("MS4").
14. An unnamed tributary of the Conocheague Creek, an unnamed tributary of Marsh Run, Marsh Run, and the West Branch, to which storm water flows and, at all times relevant to this Order, have flowed from the MS4, are each a "water of the United States" as that term is defined at 40 C.F.R. § 122.2.
15. Respondent signed and submitted a notice of intent ("NOI") for coverage under the General NPDES Permit for Stormwater Discharges Associated with Construction Activities ("Permit") to the Pennsylvania Department of Environmental Protection (PADEP) on January 28, 2005.
16. On May 12, 2005 the PADEP issued the Stormwater Discharges From Small MS4s PAG133705 ("Permit").
17. The Permit authorizes discharges of storm water from the MS4 to an unnamed tributary of the Conocheague Creek, an unnamed tributary of Marsh Run, Marsh Run, and the West Branch, but only in accordance with the conditions of the Permit.
18. The Permit, Part C, 2. Annual Report, requires the Respondent, among other things, to submit annual reports to DEP on stormwater management activities performed during the permit year.
19. On June 9, 2009 USEPA personnel conducted a review of MS4 annual reports at the PADEP office in Harrisburg, PA. No annual report was available for Antrim Township for the period 2008/2009, 2006/2007, 2005/2006, 2004/2005, 2003/2004.

III. VIOLATIONS

20. Respondent had failed to comply with the Permit by not submitting to PADEP a complete MS4 annual report for the periods 2008/2009, 2006/2007, 2005/2006, 2004/2005, 2003/2004.

IV. CONCLUSION OF LAW

21. By failing to comply with it's Permit, the Respondent discharged pollutants contained in storm water associated with an MS4, in violation of the Permit and section 301 of the CWA, 33 U.S.C §1311.

V. ORDER AND REQUEST

AND NOW, this 30 day of SEP, 2009, Respondent is hereby ORDERED AND REQUESTED, pursuant to Section 309(a) of the Act, 33 U.S.C. Section 1319(a) and Section 308 of the Act, 33 U.S.C. 1318, to do the following:

22. Within thirty (30) days of the effective date of this Order and Request, Respondent shall:

- a. Submit a complete annual report for periods 2008/2009, 2006/2007, 2005/2006, 2004/2005, 2003/2004 to:

Chuck Schadel, Enforcement Officer
U.S. EPA, Region III, (3WP42)
1650 Arch Street
Philadelphia, PA 19103-2029
(215) 814-5761

And

Scott R. Williamson, Environmental Group Manager
Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Ave
Harrisburg, PA 17110

- b. Provide the ordinances that were developed to comply with the Minimum Control Measure for Post-Construction Site Runoff Control
- c. Provide certification, signed by a responsible corporate officer, as defined in 40 CFR § 122.22, that reads as follows: *"I certify that the information contained in or accompanying this submission is true, accurate, and complete. As to the identified portion(s) of this submission for which I cannot personally verify its truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is 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."*

VI. GENERAL PROVISIONS

23. Issuance of this Order and Request shall not be deemed an election by EPA to forego any administrative, civil, or criminal action to seek penalties, fines, or any other appropriate relief under the Act for the violations cited herein. EPA reserves the right to seek any remedy available under the law that it deems appropriate for the violations cited. Failure to comply and/or respond to this Order and Request, or providing misleading or false information, may subject you to civil and/or criminal sanctions pursuant to, 33 U.S.C. § 1319, and/or a civil judicial action initiated by the U.S. Department of Justice. If EPA initiates such an action, Respondent may be subject to civil penalties of up to \$37,500 per day of violation pursuant to 33 U.S.C. § 1319 and 40 C.F.R. Part 19.
24. If a criminal judicial action is initiated, and Respondent is convicted of a criminal offense under Section 309 of the Act, Respondent may be subject to a monetary fine and/or imprisonment, and may become ineligible for certain contracts, grants, or loans under Section 508 of the Act.
25. Respondent shall permit EPA or its authorized representative to inspect any site at reasonable times to confirm that Respondent is in compliance with this Order and Request, and with any applicable permit. EPA reserves all existing inspection authority.
26. This Order and Request does not constitute a waiver or modification of the terms or conditions of any NPDES permit. Compliance with the terms and conditions of this Order and Request does not relieve the Respondent of its obligations to comply with any applicable federal, state, or local law or regulation.
27. Violation of the terms and conditions of this Order and Request constitutes an additional violation of the Act, and may result in a civil action for injunctive relief and/or a penalty not to exceed \$37,500 per day of such violation, pursuant to Sections 309(b) and (d) of the Act, 33 U.S.C. Section 1319(b) and (d). In addition, Section 309 provides criminal sanctions for knowing or negligent violations of the Act including imprisonment and fines of up to \$50,000 per day of violation.

VII. EFFECTIVE DATE

This ORDER AND REQUEST is effective upon receipt.

Date: SEP 30 2009



Jon M. Capacasa, Director
Water Protection Division
EPA, Region III

CERTIFICATE OF SERVICE

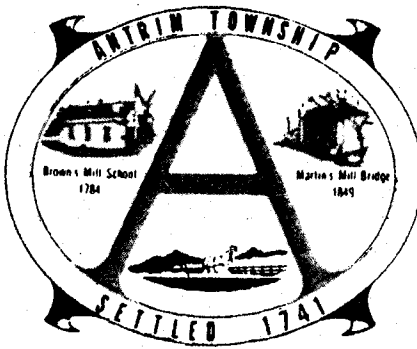
I hereby certify that on October 29, 2009, true copies of the Petition and Exhibits were served upon Jon M. Capacasa of United States Environmental Protection Agency Region III as follows:

Jon M. Capacasa, Director
Water Protection Division
United States Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Attn: Scott R. Williamson
Pennsylvania Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110

Attn: Chuck Schadel
U.S. E.P.A., Region III, (3WP42)
1650 Arch Street
Philadelphia, PA 19103-2029


Jessica Shull

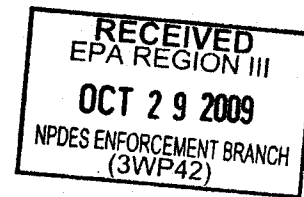


P.O. Box 130
Greencastle, Pennsylvania 17225

October 28, 2009

Attn: Chuck Schadel
U.S.EPA, Region III, (3WP42)
1650 Arch Street
Philadelphia, PA 19103-2029

Phone: (717) 597-3818
Fax: (717) 597-4257
www.twp.antrim.pa.us



Dear Mr. Schadel,

Antrim Township is in receipt of the Administrative Order and Information Request, Docket No. CWA-03-2009-0265DN dated September 30, 2009. In response Antrim has generated and enclosed the items requested to the best of our ability. We also want to provide a brief history on the events leading up to this point.

Antrim Township obtained a NPDES General Permit number 133705 on May 12, 2005. Upon approval of our NPDES permit we adopted the MS4 model stormwater ordinance on December 12, 2006. The following year we began the process for completing the items outlined for compliance with the program and submitted our first stormwater annual report on July 28, 2008. Reports before this date are not available since we did not have the program. Once we completed our first report it became apparent that the requirements did not pertain to Antrim Township because we do not have a municipal storm sewer. All of our runoff is infiltrated on site. There is not one single point source discharge within the Township. All of our developments infiltrate within the development and all our road run off goes into stormwater basins that infiltrate. Even if we experienced a storm event significant enough to use the emergency spillway the water would sheet flow across the ground. Even then we would still not discharge into surface waters. Antrim believes we qualify for the exemption and began gathering the necessary documents to apply for the exemption. Upon speaking with Kirit Shaw of DEP we were made aware that the NOI needed to accompany the exemption request was under review and not available for use and the old form was not acceptable. We did not know how to address obtaining an exemption because we did not have the new NOI forms, the permit could not be resubmitted, and the annual report was due at the same time. We want to move forward obtaining the exemption, but realize the need to comply with your Order.

Section V entitled Order and Request of the Administrative Order and Information Request, Docket No. CWA-03-2009-0265DN 22(a) requires the submission of complete annual reports for the periods 2008/2009, 2006/2007, 2005/2006, 2004/2005, and 2003/2004.

Section V entitled Order and Request of the Administrative Order and Information Request, Docket No. CWA-03-2009-0265DN 22(a) requires the submission of complete annual reports for the periods 2008/2009, 2006/2007, 2005/2006, 2004/2005, and 2003/2004.

The annual report for 2008/2009 is enclosed. The annual report for 2007/2008 was originally submitted to DEP on July 28, 2008 and is included. The reports for 2006/2007, 2005/2006, 2004/2005, and 2003/2004 do not exist because we did not adopt the program until December 12, 2006. It was our understanding that the reports started with the following full reporting year, which would have been the first report submitted for 2007/2008.

Section V entitled Order and Request of the Administrative Order and Information Request, Docket No. CWA-03-2009-0265DN 22(b) requires providing the ordinances that were developed to comply with the Minimum Control Measure for Post-Construction Site Runoff Control.

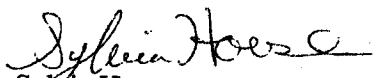
Antrim Township adopted the model DEP ordinance in effect at that time. Enclosed is a copy of Chapter 126 entitled "Stormwater Management" adopted by Ordinance No. 305 of the Antrim Township Board of Supervisors on December 12, 2009.

Section V entitled Order and Request of the Administrative Order and Information Request, Docket No. CWA-03-2009-0265DN 22(c) requires a certification, signed by a responsible corporate officer, as defined in 40 CFR§122.22.

Antrim Township has attached a certification signed by the Antrim Township Administrator, Bradley Graham.

Antrim Township hopes to resolves all the outstanding issues and is willing to cooperate as reasonably possible. We also would like to pursue the exemption request as well. Any guidance or advise for pursuing the exemption would be greatly appreciated. Thank you for your time and attention.

Sincerely,



Sylvia House

Zoning Officer/ Code Enforcement Officer

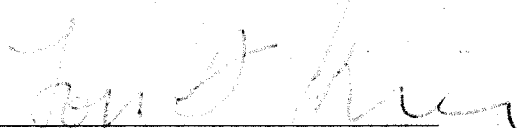
CC: Summer Lee Kunkel, DEP Environmental Compliance Specialist w/ enclosures
Ken Murin, HQ PADEP w/ enclosures
John Lisko, Township Solicitor w/o enclosures
Linus Fenicle, Township Special Council w/o enclosures
Bradley Graham, Township Administrator w/o enclosures

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below I filed the original and five copies of the foregoing Motion to Dismiss and Memorandum in Support Thereof with the Clerk of the Environmental Appeals Board by facsimile and U.S. mail. Moreover, I hereby certify that on the same date I sent a copy of the foregoing document to the party below First Class certified mail, return receipt requested:

Linus E. Fenicle, Esq.
Wayne S. Martin, Esq.
Reager & Adler, P.C.
2331 Market Street
Camp Hill, PA 17011

Dated: 3/10/09


Lori G. Kier
Senior Assistant Regional Counsel
EPA Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103
(215) 814-2656