

6. The City of Chesapeake is located in southeastern Virginia and encompasses a total area of 353 square miles. Chesapeake is bordered on the north by the Cities of Norfolk and Portsmouth, on the east by the city of Virginia Beach, on the west by the city of Suffolk, and on the south by the State of North Carolina. According to the U.S. Census Bureau, as of 2010, the city's population was estimated at 222,209.
7. Stormwater from the City drains to a number of water bodies, including various branches of the Elizabeth River, the Dismal Swamp Canal, the Chesapeake and Albemarle Canal, and the North Landing River in addition to numerous small tributary creeks and streams, which are considered "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7); 40 C.F.R. § 232.2; 40 C.F.R. § 122.2.
8. 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.
9. 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.
10. "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.
11. "Storm water" is defined as "storm water runoff, snow melt runoff and surface runoff and drainage." 40 C.F.R. § 122.26(b)(13).
12. 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).
13. An NPDES permit is required for discharges from an MS4 serving a population of 100,000 or more, Section 402(p)(2)(c) of the Act, 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a), 40 C.F.R. § 122.21.
14. Respondent's MS4 serves a population of at least 100,000 people.

15. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Virginia Department of Environmental Quality (“VADEQ”) to issue NPDES permits on May 20, 1991. On December 30, 2004, EPA approved the Commonwealth of Virginia’s request to transfer the permitting program for construction and MS4 storm water discharges from VADEQ to the Virginia Department of Conservation and Recreation (“VADCR”).
16. The VADEQ issued to Respondent an NPDES MS4 Discharge Permit No. VA0088625 which became effective on March 8, 2001, (hereinafter the “MS4 Permit”).
17. The expiration date of the MS4 Permit was April 10, 2006; however, the City submitted a renewal application to VADCR, and the MS4 Permit has been administratively extended pending a final decision on the renewal application.
18. On June 16 and 17, 2010, a compliance inspection team comprised of EPA and authorized representatives of EPA inspected Respondent’s MS4 program (the “MS4 Inspection”).
19. The MS4 Inspection identified a number of violations of Respondent’s NPDES permit and the CWA as described below.

III. FINDINGS OF VIOLATION

Count I: Inadequate Inspection and Maintenance of Municipal Facilities

20. The allegations of Paragraphs 1 through 19 are realleged and incorporated herein by reference.
21. Respondent failed to properly inspect municipal facilities and ensure compliance with the MS4 Permit.
22. Pursuant to Part I.B.4 of the MS4 Permit, “[t]he permittee shall effectively prohibit non-storm water discharges into the municipal separate storm sewer system.”
23. Section 8.2, BMP 8.2.1 of the Respondent’s MS4 Program Plan states: “The purpose of this BMP is to implement a program to ensure that good housekeeping practices are used at City maintenance yards in order to reduce the potential for impacting storm water runoff to the MS4.”
24. In addition, the MS4 Program Plan requires the inspection of City yards on a quarterly basis using a checklist.
25. On June 16, 2010, EPA representatives accompanied the City’s Environmental Quality Manager (“EQM”) on a site visit to three industrial locations owned by the City of Chesapeake-the City Garage, Butts Station and the Traffic Operations Facility.
26. Following the inspection, a report was prepared by the City EQM and a copy was provided to EPA.

27. The EQM report did not cite all of the violations that were observed by the EPA inspection team, including oil staining and oil spill drying material on the ground at the City Garage, oil staining in the truck parking area and unprotected storm sewer inlets at Butts Station, and overall deficient housekeeping (uncovered dumpsters; discarded trash, paint trays and paint lids; and paint spills) at the Traffic Operations Facility.
28. EQM's failure to identify violations prevents Respondent from implementing BMPs necessary to prohibit non-storm water discharges into the MS4 and from implementing a program to ensure good housekeeping practices at City maintenance yards.
29. Therefore, by not conducting thorough inspections of municipal facilities, Respondent failed to comply with the requirement of Part I.B.4 of the MS4 Permit to effectively prohibit non-storm water discharges into the municipal separate storm sewer system.

Count II: Inadequate Inspection Program to Control Construction Site Non-sediment Pollutants

30. The allegations of Paragraphs 1 through 29 are realleged and incorporated herein by reference.
31. Respondent did not create a complete program to implement and maintain structural and non-structural BMPs to reduce pollutants in construction site storm water runoff, as required by the MS4 Permit.
32. Part I.A.1.d of the MS4 Permit requires "[a] program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites." In addition, Part I.A.1.d(1) requires the City to "continue to operate in accordance with, and continue enforcement of, the Subdivision Ordinance, the Erosion and Sediment Control Ordinance, the Storm Water Management Ordinance and the Chesapeake Bay Preservation Area Overlay District for land disturbing activities."
33. Section 26-342(f) of the City of Chesapeake Storm Water Management Ordinance, which was enacted as part of the City's Storm Water Management Program in accordance with Parts I.A and I.A.1.d(1) of the MS4 Permit, states that its purpose is to "prevent certain non-storm water discharges to, and improper disposal of substances in, storm water management facilities..."
34. Virginia Erosion and Sedimentation Control Regulations define the term pollutant to include "dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radiological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water."
35. The checklist which is utilized by City employees for erosion and sediment ("E&S") control inspections does not include a component for non-sediment pollutants.

36. On June 17, 2010, EPA representatives accompanied the City Storm Water Management E&S Inspectors on a site visit of an active construction site at Culpepper Landing.
37. Part I.B.1 of the MS4 Permit states that “The permittee shall comply at all times with the provisions of the VPDES Permit Regulation (9 VAC 25-31-10 *et seq.*)”
38. The Culpepper Landing construction site plan did not designate a location for a concrete washout area, a requirement of the Virginia Storm Water Management Program General Permit for Construction Activities, which is an authorization issued by the State Water Control Board in accordance with the VPDES Regulations referenced above.
39. Due to the absence of a designated concrete washout area at the site, concrete wash water was observed being actively released onto the ground surface. In addition, a sanitary toilet was observed in close proximity to a storm drain and was not secured to prevent its accidental tipping and the potential release of its contents.
40. Respondent failed to reduce pollutants in storm water runoff from construction sites by not considering non-sediment contaminants in its construction inspection program.
41. Respondent failed to implement a sufficient inspection program and failed to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites and was a violation of Part I.A.1.d of the MS4 Permit.

Count III: Inadequate Inspection and Enforcement of Erosion and Sediment Controls

42. The allegations of Paragraphs 1 through 41 are realleged and incorporated herein by reference.
43. Respondent failed to ensure, through enforcement, the proper installation and maintenance of E&S controls at the Culpepper Landing construction site, as required by the MS4 Permit.
44. Virginia Erosion and Sedimentation Control Regulations at 4VAC50-30-40 list the minimum standards and criteria for erosion and sediment control programs to be adopted by each municipality.
45. Pursuant to Part I.A.1.d(1) of the MS4 Permit, “[t]he permittee shall continue to operate in accordance with, and continue enforcement of, the Subdivision Ordinance, the Erosion and Sediment Control Ordinance, the Storm Water Management Ordinance and the Chesapeake Bay Preservation Area Overlay District for land disturbing activities.”
46. The City of Chesapeake Storm Water Management Ordinance states in Section 26-342(e) that the purpose of the article is to “prevent, to the maximum extent practicable, an increase in nonpoint source pollution.”

47. Section 6.3, BMP 6.3.1 of the Respondent's MS4 Program Plan requires that "Inspectors ensure proper construction methods and proper installation and maintenance of erosion and sediment controls."
48. During the June 17, 2010 site visit to the Culpepper Landing construction site, the EPA inspection team observed that the storm drains were not protected; significant sedimentation was evident throughout the site; large soil stockpiles were not stabilized; temporary stabilization was not maintained on portions of the site which were disturbed; and vehicular tracking of sediment on paved surfaces was evident.
49. The issues observed by EPA were identified in an early April 2010 routine inspection by the City of Chesapeake, and had not been corrected as of the June 17, 2010 site visit.
50. As stated in Part I.C.2.c of the MS4 Permit, "Every local government in the Commonwealth of Virginia is required to administer an Erosion and Sediment Control Program." The City of Chesapeake implements a Standard Operating Procedure (SOP) titled "Erosion and Sediment Control Minimum Standards, Inspection and Enforcement" as part of its local E&S program. The SOP states in Item A.5 on page 5 that if an E&S violation is noted during an inspection and identified on the inspection form, "the time to comply shall not exceed 72 hours" upon notice to the permittee of noncompliance.
51. Part I.C.2.c of the MS4 Permit further states that "the effectiveness of local erosion and sediment control programs is limited by the level of enforcement and compliance."
52. Respondent failed to ensure that known violations were corrected at the Culpepper Landing construction site. Allowing known violations to continue unabated is a violation of Part I.A.1.d(1) of the MS4 Permit.
53. Respondent failed to properly identify numerous E&S violations at the Culpepper Landing construction site. Performing inadequate inspections to prevent nonpoint pollution is a violation of the MS4 Permit, Virginia Erosion and Sediment Control Regulations and the Respondent's own local ordinance.

Count IV: Inadequate Construction Site Inspection Documentation and Compliance

54. The allegations of Paragraphs 1 through 53 are realleged and incorporated herein by reference.
55. Respondent violated the MS4 Permit by failing to properly document E&S inspections and failing to ensure that construction site operators return to compliance when an E&S violation was identified.
56. As stated in Part I.C.2.c of the MS4 Permit, "Every local government in the Commonwealth of Virginia is required to administer an Erosion and Sediment Control Program." The City of Chesapeake implements a Standard Operating Procedure (SOP) titled "Erosion and Sediment Control Minimum Standards, Inspection and Enforcement" as part of its local

E&S program. The SOP requires in Item A.4 on page 5 that “the inspector assigned to the project will conduct erosion and sediment control inspections at least once every two weeks and within 48 hours of a runoff producing storm event and complete Part I of the form.”

57. The SOP further states in Item A.5 on page 5 that if an erosion and sediment control violation is noted during an inspection and identified on the inspection form, “the time to comply shall not exceed 72 hours” upon notice to the permittee of noncompliance.
58. During the MS4 Inspection, it was determined that City Inspectors were not completing the documentation required by the City’s SOP.
59. Inspectors from both the Storm Water Management Department and the Department of Development and Permits stated that they do not complete Part I of the required form during all routine inspections.
60. As noted above, a review of the documentation for the Culpepper Landing construction site revealed that instances of noncompliance originally identified during an inspection conducted by City of Chesapeake inspectors in April 2010 had not been resolved as of the date of the EPA inspection, June 17, 2010.
61. Respondent failed to comply with Part I.C.2.c of the MS4 Permit and its own local erosion and sediment control program by not completing the required documentation and failing to ensure violators return to compliance in a timely manner.

Count V: Improper Construction Operator Education and Training

62. The allegations of Paragraphs 1 through 61 are realleged and incorporated herein by reference.
63. Respondent has not implemented an education and training program targeted to construction site operators, as required by the MS4 Permit.
64. Pursuant to Part I.A.1.d(2) of the MS4 Permit, Respondent “shall continue implementation of the education and training program for construction site operators.”
65. The MS4 Program Plan states in Section 3.1 that the City participates in HR STORM, a regional storm water education initiative coordinated by the Hampton Roads Planning District Commission. Furthermore, BMP 3.1.1 states that “during the permit period, HR STORM will work with VADCR to develop erosion and sediment control educational materials targeted at site contractors.”
66. A review of both the City and the HR STORM Annual Reports listed numerous educational programs; however, none of the programs were geared toward erosion and sediment control or targeted to construction site operators.
67. Respondent failed to comply with Part I.A.1.d(2) of the MS4 Permit by failing to conduct a formal education and training program for construction site operators.

IV. PROPOSED CIVIL PENALTY

68. Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), provides that any person who has violated any NPDES permit condition or limitation is liable for an administrative penalty not to exceed \$10,000 per day for each such violation, up to a total penalty amount of \$125,000.
69. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19 (effective January 12, 2009), any person who has violated any NPDES permit condition or limitation after March 15, 2004, is liable for an administrative penalty not to exceed \$11,000 per day for each such violation occurring after March 15, 2004 through January 11, 2009), up to a total penalty amount of \$177,500.
70. Pursuant to the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19 (effective January 12, 2009), any person who has violated any NPDES permit condition or limitation after January 12, 2009 is liable for an administrative penalty not to exceed \$16,000 per day for each such violation occurring after January 12, 2009, up to a total penalty amount of \$177,500.
71. Based upon the foregoing allegations, and pursuant to the authority of Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and in accordance with the Part 22 Procedural Rules, Complainant hereby proposes to issue a Final Order Assessing Administrative Penalties to the Respondent in the amount of seventy seven thousand dollars (\$77,000) for the violations alleged herein. This does not constitute a "demand" as that term is defined in the Equal Access to Justice Act, 28 U.S.C. § 2412.
72. The proposed penalty was determined after taking into account the nature, circumstances, extent and gravity of the violation, Respondent's prior compliance history, ability to pay the penalty, the degree of culpability for the cited violations, and any economic benefit or savings to Respondent because of the violations. 33 U.S.C. § 1319(g)(3). In addition, to the extent that facts or circumstances unknown to Complainant or EPA at the time of issuance of this Complaint become known after issuance of this Complaint, such facts or circumstances may also be considered as a basis for adjusting the proposed administrative penalty.
73. EPA may issue the Final Order Assessing Administrative Penalties after a thirty (30) day comment period unless Respondent either responds to the allegations in the Complaint and requests a hearing according to the terms of Section V, below, or pays the civil penalty in accordance with Section VI herein (Quick Resolution).
74. If warranted, EPA may adjust the proposed civil penalty assessed in this Complaint. In so doing, the Agency will consider any number of factors in making this adjustment, including Respondent's ability to pay. However, the burden of raising the issue of an inability to pay and demonstrating this fact rests with the Respondent.

75. Neither assessment nor payment of an administrative civil penalty pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, shall affect Respondent's continuing obligation to comply with the Clean Water Act, any other Federal or State laws, and/or with any separate Compliance Order issued under Section 309 of the Act, 33 U.S.C. § 1319, for the violations alleged herein.

V. ANSWER TO COMPLAINT AND OPPORTUNITY TO REQUEST HEARING

76. Respondent must file an Answer to this Complaint; failure to file an Answer may result in entry of a Default Judgment against Respondent. Respondent's default constitutes a binding admission of all allegations made in the Complaint and waiver of Respondent's right to a Hearing under the CWA. The civil penalty proposed herein shall then become due and payable upon issuance of the Default Order.

77. Upon issuance of a Default Judgment, the civil penalty proposed herein shall become due and payable.

78. Respondent's failure to pay the entire penalty assessed by the Default Order by its due date will result in a civil action to collect the assessed penalty, plus interest, attorney's fees, costs, and an additional quarterly nonpayment penalty pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9). In addition, a Default Penalty is subject to the provisions relating to imposition of interest, penalty and handling charges set forth in the Federal Claims Collection Act at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717.

79. Any Answer must clearly and directly admit, deny, and/or explain each of the factual allegations contained in the Complaint with respect to which the Respondent has any knowledge, or clearly and directly state that the Respondent has no knowledge as to particular factual allegations in the Complaint.

- a. The Answer shall also indicate the following:
- b. Specific factual and legal circumstances or arguments which are alleged to constitute any grounds of defense;
- c. Specific facts that Respondent disputes;
- d. Respondent's basis for opposing the proposed penalty; and
- e. Whether Respondent requests a hearing.

Failure to admit, deny or explain any of the factual allegations in the Complaint constitutes admission of the undenied allegations.

80. Pursuant to Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), Respondent may request a hearing on the proposed civil penalty within thirty (30) days of receiving this Complaint.
81. EPA is obligated, pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), to give members of the public notice of and an opportunity to comment on this proposed penalty assessment.
82. If Respondent requests a hearing on this proposed penalty assessment, members of the public who submitted timely comments on this proposed penalty assessment will have a right under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B), to not only be notified of the hearing but also to be heard and to present evidence at the hearing on the appropriateness of this proposed penalty assessment.
83. If Respondent does not request a hearing, EPA will issue a Final Order Assessing Administrative Penalties, and only members of the public who submit timely comments on this proposal will have an additional thirty (30) days to petition EPA to set aside the Final Order Assessing Administrative Penalties and to hold a hearing thereon. 33 U.S.C. § 1319(g)(4)(C). EPA will grant the petition and will hold a hearing if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order Assessing Administrative Penalties.
84. Any hearing that Respondent requests will be held and conducted in accordance with the Part 22 Procedural Rules.
85. At such a hearing, Respondent may contest any material fact contained in the Factual and Legal Allegations listed in Section II above, the Findings listed in Section III, above, and the appropriateness of the amount of the proposed civil penalty in Section IV, above.
86. Any Answer to this Complaint, and any Request for Hearing, must be filed within thirty (30) days of receiving this Complaint with the following:

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

87. Copies of the Answer and any Request for Hearing, along with any and all other documents filed in this action, shall also be sent to the following:

Douglas Frankenthaler, Esq.
Assistant Regional Counsel (3RC20)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

88. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. Failure to deny any of the factual allegations in this Complaint constitutes admission of the undenied allegations. The Answer and any subsequent documents filed in this action should be sent to:

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

VI. QUICK RESOLUTION

89. In accordance with 40 C.F.R. § 22.18(a), and subject to the limitations in 40 C.F.R. § 22.45, Respondent may resolve this proceeding at any time by paying the specific penalty proposed in this Complaint.

90. If Respondent pays the specific penalty proposed in this Complaint within forty (40) days of receiving this Complaint, then, pursuant to 40 C.F.R. § 22.18(a)(1), no Answer need be filed.

91. If Respondent wishes to resolve this proceeding by paying the penalty proposed in this Complaint instead of filing an Answer, but needs additional time to pay the penalty, pursuant to 40 C.F.R. § 22.18(a)(2), Respondent may file a written statement with the Regional Hearing Clerk within 40 days after receiving this Complaint stating that Respondent agrees to pay the proposed penalty in accordance with 40 C.F.R. § 22.18(a)(1). Such written statement need not contain any response to, or admission of, the allegations in the Complaint. Such statement shall be filed with the following:

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

and a copy shall be provided to:

Douglas Frankenthaler, Esq.
Assistant Regional Counsel (3RC20)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

If Respondent files such a written statement with the Regional Hearing Clerk within 40 days after receiving this Complaint, Respondent shall pay the full amount of the proposed penalty within 60 days of receiving the Complaint. Failure to make such payment within 60 days of receipt of the Complaint may subject the Respondent to default pursuant to 40 C.F.R. § 22.17.

92. Upon receipt of payment in full, in accordance with 40 C.F.R. § 22.18(a)(3), the Regional Judicial Officer or Regional Administrator shall issue a final order. Payment by Respondent shall constitute a waiver of Respondent's rights to contest the allegations and to appeal the final order.
93. Payment of the penalty shall be made by one of the following methods below. Payment by respondent shall reference Respondent's name and address, and the EPA Docket Number of this Complaint.

Payment by check to "United States Treasury"

- a. If sent via first-class mail, to:

U.S. EPA, Region III
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000

- b. If sent via UPS, Federal Express, or Overnight Mail, to:

U.S. Bank
Government Lockbox 979077
US EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

- c. Via wire transfer, sent to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Attn: "D 68010727 Environmental Protection Agency"

- d. Via ACH (Automated Clearing House) for receiving U.S. currency, sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Finance Center Contacts:

- 1) Jesse White: 301-887-6548
- 2) John Schmid: 202-874-7026
- 3) REX (Remittance Express) 866-234-5681

94. At the same time payment is made, copies of the check and/or proof of payment via wire transfer or ACH shall be mailed to:

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

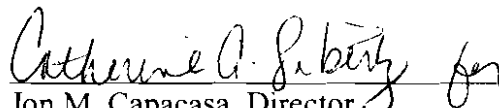
and to:

Douglas Frankenthaler, Esq. (3RC20)
Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

VII. SEPARATION OF FUNCTIONS AND *EX PARTE* COMMUNICATIONS

95. The following Agency offices, and the staffs thereof, are designated as the trial staff to represent the Agency as a party in this case: the Region III Office of Regional Counsel, the Region III Water Protection Division, the Office of the EPA Assistant Administrator for the Office of Water, and the EPA Assistant Administrator for Enforcement and Compliance Assurance. From the date of this Complaint until the final agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor the Regional Judicial Officer, may have an *ex parte* communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Part 22 Procedural Rules prohibit any unilateral discussion or *ex parte* communication of the merits of a case with the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, or the Regional Judicial Officer after issuance of a Complaint.

Date: JUN 13 2014


Jon M. Capacasa, Director
Water Protection Division
U.S. Environmental Protection
Agency, Region III