



REGION 3
PHILADELPHIA, PA 19103

FILED

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**U.S. EPA REGION 3
HEARING CLERK**

In The Matter of:

City of Carbondale
1 North Main Street
Carbondale, Pennsylvania, 18407-2356

Respondent.

Proceeding Under Section 309(a) of the Clean
Water Act, 33 U.S.C. § 1319(a)

ADMINISTRATIVE ORDER ON CONSENT

U.S. EPA Docket No. CWA-03-2025-0047DN

NPDES PERMIT NO. PA132246

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency ("EPA") has made the following findings of fact and issues this Administrative Order on Consent ("AOC") pursuant to the authority vested in the Administrator of the EPA under Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(a). The Administrator delegated this authority to the Regional Administrator of EPA Region 3, who further delegated it to the Director of the Enforcement and Compliance Assurance Division, EPA Region 3.
2. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), provides, among other things, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any permit condition or limitation implementing certain sections of the CWA, in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342, he shall issue an order requiring such person to comply with such section or requirement.
3. EPA has jurisdiction over the above-captioned matter, as described in Paragraphs 1 and 2 above.
4. The City of Carbondale ("Respondent") has agreed to the issuance of this AOC.
5. The EPA has consulted with the Commonwealth of Pennsylvania Department of Environmental Protection ("PADEP") regarding this action, and subsequent to the Effective Date, the EPA will provide a copy of this fully executed AOC to the appropriate PADEP representative.

II. STATUTORY AND REGULATORY AUTHORITY

6. Section 301(a) of the CWA, 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 CWA, 33 U.S.C. § 1342.
7. Section 402 of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of the EPA, or a state upon approval by the 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.
8. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), the EPA authorized the Commonwealth of Pennsylvania (the Commonwealth) to issue NPDES permits in 1978. In 1991, EPA authorized the Commonwealth to issue General NPDES Permits.
9. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that, with some exceptions not relevant here, storm water discharges are "point sources" subject to NPDES permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).
10. 40 C.F.R. § 122.2 states, in relevant part: "Discharge of a pollutant means: a) any addition of any 'pollutant' or combination of pollutants to waters of the United States from any point source.... This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works..."
11. "Storm water" (or "stormwater") is defined as "storm water runoff, snow melt runoff and surface runoff and drainage." 40 C.F.R. § 122.26(b)(13).
12. 40 C.F.R. § 122.26(b)(8)(i) defines the term "municipal separate storm sewer system" or "MS4" as including, inter alia, "a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) 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."

13. 40 C.F.R. § 122.26(b)(16) defines the term "small municipal separate storm sewer system" as "all separate storm sewers that are: (i) Owned or operated by the United States, a State, city, town, borough ... or other public body (created by or pursuant to State law) having jurisdiction over disposal of ... storm water;[and] (ii) Not defined as 'large' or 'medium' municipal separate storm sewer systems."
14. 40 C.F.R. § 122.26(b)(17) defines the term "Small MS4" as "a small municipal separate storm sewer system."
15. Small MS4s are regulated pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p) and the regulations promulgated thereunder.
16. Pursuant to 40 C.F.R. § 122.26(a)(9)(i), small MS4s require an NPDES permit if they are required to be regulated pursuant to 40 C.F.R. § 122.32.
17. 40 C.F.R. § 122.32(a)(1) states: "(a) Unless you qualify for a waiver under paragraph (c) of this section, you are regulated if you operate a small MS4, including but not limited to systems operated by federal, State, Tribal, and local governments, including State departments of transportation; and: (1) Your small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated)."
18. 40 C.F.R. § 122.34(a) provides: "General requirements. For any permit issued to a regulated small MS4, the NPDES permitting authority must include permit terms and conditions to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Terms and conditions that satisfy the requirements of this section must be expressed in clear, specific, and measurable terms. Such terms and conditions may include narrative, numeric, or other types of requirements (e.g., implementation of specific tasks or best management practices (BMPs), BMP design requirements, performance requirements, adaptive management requirements, schedules for implementation and maintenance, and frequency of actions)."

III. GENERAL PROVISIONS

19. For the purpose of this proceeding only, Respondent admits each jurisdictional allegation set forth in this Order.
20. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution or enforcement of this Order.

21. The provisions of this Order shall apply to and be binding upon the Respondent and its officers, directors, employees, contractors, agents, trustees, successors and assigns of the Respondent.
22. Respondent shall bear its own costs and attorney's fees in connection with this proceeding and associated with the implementation or enforcement of this Order, including any costs related to resolution of any dispute arising regarding this Order.
23. Issuance of this Order is intended to address the violations described herein. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. The EPA also reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §§ 1251 – 1389, the regulations promulgated thereunder, and any other federal laws or regulations for which the EPA has jurisdiction.
24. This Order does not constitute a waiver or modification of the terms or conditions of any permit issued to Respondent. Nothing in this Order shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local laws and regulations, nor shall it restrict the 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 – 1389, or any regulations promulgated thereunder.
25. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
26. The EPA reserves all existing inspection authority otherwise available to the EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
27. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Order and to execute and legally bind the Respondent.
28. By signing this Order, Respondent acknowledges that this Order may be available to the public and represents that, to the best of Respondent's knowledge and belief, this Order does not contain any confidential business information or personally identifiable information from Respondent.

29. Respondent certifies that any information or representation it has supplied or made to the 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. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA, regarding matters relevant to this Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that the EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
30. Notwithstanding any other provisions of this Order, no action or decision by the EPA, including, without limitation, decisions of the Chief, Water Branch, Enforcement & Compliance Assurance Division ("ECAD"), or Director, ECAD, EPA, Region 3, shall constitute a final agency action giving rise to any right to judicial review prior to the EPA's initiation of judicial action to compel either, or both, Respondent's compliance with, or otherwise enforce, this Order.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

31. City of Carbondale (Respondent) is a "municipality" within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4). Respondent is therefore a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
32. At all times relevant to this Order, Respondent owned or operated a "municipal separate storm sewer system" or "MS4," as that term is defined at 40 C.F.R. § 122.26(b)(8)(i), located in the City of Carbondale, Lackawanna County, Pennsylvania.
33. At all times relevant to this Order, Respondent owned or operated a regulated "small municipal separate storm sewer system" or "small MS4", as those terms are defined at 40 C.F.R. § 122.26(b)(16) and (17), respectively, located in the City of Carbondale, Lackawanna County, Pennsylvania (Carbondale MS4).
34. The Carbondale MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census and is therefore regulated under 40 C.F.R. § 122.32.
35. The Carbondale MS4 includes all conveyances owned or operated by Respondent that are designed or used for collecting or conveying stormwater (with the exception of combined sewers and Publicly Owned Treatment Works). The Carbondale MS4 includes but is not necessarily limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains that discharge to waters of the United States.

36. At all times relevant to this Order, the Carbondale MS4 has discharged stormwater to Fall Brook, Racket Brook, and the Lackawanna River and their associated tributaries. Fall Brook, Racket Brook and the Lackawanna River are relatively permanent waters that connect to the Susquehanna River, portions of which are a traditional navigable water. Fall Brook, Racket Brook and the Lackawanna River all are a "water of the United States" (WOTUS), as that term is defined in Section 502 of the Act, 33 U.S.C. § 1362.
37. The Carbondale MS4 is a small MS4 located in and discharging to receiving watersheds draining to the Chesapeake Bay.
38. At all times relevant to this Order, the Carbondale MS4 has discharged stormwater to one or more bodies of water which are a "water of the United States," as that term is defined at Section 502 of the Act, 33 U.S.C. § 1362.
39. Pursuant to 40 C.F.R. § 122.33, Respondent is required to obtain and implement a NPDES permit regulating discharges from the Carbondale MS4.
40. By letter dated September 5, 2012, Respondent, through Respondent's consultant KBA Engineering, PC, submitted an application for a renewal NPDES MS4 Individual Permit (the 2012 NPDES MS4 Permit Renewal Application), seeking a renewal of a previously issued NPDES MS4 Individual Permit issued to Respondent by PADEP, Permit ID 132246.
41. By letter dated April 28, 2014, Respondent, through Respondent's consultant KBA Engineering, PC, submitted additional documents supporting the 2012 NPDES MS4 Permit Renewal Application, including a revised Stormwater Outfall Map and a revised table listing water bodies into which the regulated small MS4 discharge (the 2014 MS4 Permit Application Revisions).
42. In the 2014 MS4 Permit Application Revisions, Respondent identified the following three waterbodies as areas of "Stormwater Discharge:" Racket Brook, Fall Brook and Lackawanna River.
43. On June 15, 2015, PADEP issued the Respondent NPDES Permit No. PAI32246 (the 2015 MS4 NPDES Permit), which stated that it became effective on July 1, 2015, and would expire on June 30, 2020, or upon termination of the Permit in writing by PADEP.
44. The 2015 MS4 NPDES Permit authorized discharges of storm water from the Carbondale MS4, only in accordance with the conditions of the Permit.

45. The 2015 MS4 NPDES Permit Condition No. 3 states that “[a]n application for renewal of coverage under this Individual Permit shall be received by DEP at least 180 days prior to the Expiration Date on the Approval of Individual Permit Coverage (unless written permission has been granted by DEP for submission at a later date). A request for renewal of coverage must be made using an application form provided by DEP.”
46. The 2015 MS4 NPDES Permit Condition No. 4 states that “[p]ermittees who submit a timely renewal application in accordance with paragraph 3 may continue to operate pursuant to the terms and conditions of this permit until the Approval of Coverage under the renewal permit becomes effective.”
47. The 2015 MS4 NPDES Permit provides that “To continue discharging after the expiration date for coverage under this individual permit, an administratively complete and acceptable application must be received by DEP no later than 180 days prior to the coverage expiration date.”
48. In accordance with the terms of the 2015 MS4 NPDES Permit, the Respondent was required to submit an administratively complete and acceptable renewal application no later than 180 days prior to the 2015 MS4 NPDES Permit coverage expiration date of June 30, 2020, or no later than January 2, 2020.
49. PADEP informed the EPA that, on January 23, 2020, PADEP received an application for a renewal of the NPDES MS4 Individual Permit (the 2020 NPDES MS4 Permit Renewal Application) from Respondent.
50. By letter dated April 17, 2020, PADEP denied the 2020 NPDES MS4 Permit Renewal Application, and outlined several deficiencies that rendered the 2020 NPDES MS4 Permit Renewal Application incomplete and requested submission of missing documentation.
51. On May 5, 2020, the EPA entered into an Administrative Compliance Order on Consent (the 2020 Carbondale MS4 AOC) with Respondent, whereby Respondent agreed to comply with the requirements of the 2015 MS4 NPDES Permit. The AOC identified failures to comply with the 2015 Permit such as, “Failure to Comply with the Permit Requirements Pertaining to Developing and Maintaining a Map of The MS4, Failure to Detect and Eliminate Illicit Discharges into the MS4, and Failure to Comply with Permit Requirements Pertaining to an Inventory of Post-Construction Stormwater Management Best Management Practices.”
52. On June 30, 2020, the 2015 MS4 NPDES Permit expired.
53. By letter dated December 22, 2020, the EPA notified Respondent that Respondent had failed to comply with the terms of the 2020 Carbondale MS4 AOC, due to Respondent’s failure to submit requisite documents to the EPA in accordance with the terms of the 2020 Carbondale MS4 AOC.

54. On December 21, 2021, the EPA issued a Unilateral Administrative Order to Respondent compelling Respondent to obtain a NPDES Permit regulating discharges from the Carbondale MS4.
55. By letter dated November 22, 2023, PADEP reminded Respondent that their 2015 MS4 NPDES Permit PA1132246 was effective on July 1, 2015, and expired on June 30th, 2020.
56. From December 12, 2023, though December 14, 2023, the EPA conducted an inspection of the Carbondale MS4 ("Inspection").
57. The City does not appear to have an inventory of connections to the system, as required under the Permit Minimum Control Measure No. 3. At the time of the Inspection, the EPA team witnessed discharges and/or potential to discharge from eight (8) outfalls and small pipe connections to WOTUS (Lackawanna River, Fall Brook, Racket Brook).
58. Dirt lots in the area have the potential to contribute sediment run off during precipitation events. It is unclear if the City has controls in place to account for this added sediment build up throughout the MS4 system. Several storm drains did not have controls mechanisms (e.g. filter socks) to catch debris that could enter the system. Pollution Prevention/Good Housekeeping for Municipal Operations is noted as Minimum Control Measure No. 3 and is required.
59. The City did not have an inventory of recent land developments such as the Geisinger Primary Care office building, located at 10 Dundaff Street in Carbondale, PA. Post-Construction BMPs are requirements of an active PADEP NPDES MS4 Permit, "Minimum Control Measure #5: Post-Construction Stormwater Management (PCSM) in New and Re-Development Activities."
60. It is unclear if the City is tracking and monitoring current development or redevelopment projects that may cause a land disturbance greater than or equal to one acre. This is required under "Minimum Control Measure #4: Construction Site Stormwater Runoff Control" in an active PADEP NPDES MS4 Permit.
61. The EPA team visited City controlled operations on December 13, 2023, including various parking lots, parks, and the City maintenance yard.
62. The maintenance yard/garage is located at 15 Enterprise Drive, Carbondale, PA 18407, and a variety of items were outside and uncovered (e.g. street filling materials, empty drums, chemicals, etc.) thus exposing them to stormwater.
63. Inside the City garage were stains and floor drains with no controls that drained outside to an unknown location.

64. The City did not have information regarding where inlet debris is taken when street cleaning occurs.
65. On February 12, 2024, the EPA finalized an inspection report for the 2023 inspection. A copy of the final inspection report was provided to the City on February 13, 2024.
66. On April 8, 2024, Respondent submitted an application to PADEP for an individual NPDES permit.
67. On April 29, 2024, PADEP notified Respondent that the application for an individual NPDES permit was deficient and listed a number of deficiencies to be addressed within 15 days of the letter.
68. On June 12, 2024, PADEP issued a second deficiency letter to Respondent, documenting an extension of 45 business days for Respondent to respond to the April 29, 2024, notification.
69. The June 12, 2024, PADEP second deficiency letter required Respondent to submit complete copies of: applicant's checklist, pollutant reduction plan, mapping, and parsing.
70. As of the effective date of this Order, Respondent has failed to submit to PADEP a complete application for a NPDES Individual Permit to Discharge Stormwater from an MS4, and therefore continues to operate without a permit.
71. According to Respondent's 2023 Annual MS4 Status Report, Respondent's MS4 has 66 total outfalls within the MS4.
72. The soils in the Lackawanna County, City of Carbondale Urbanized Area are of a gravelly sandy loam consistency according to the "Web Soil Survey" of the USDA National Resources Conservation Service. These types of soils are known to be keen to drainage allowing water to infiltrate readily, some of the soils in the City are classified as "well drained" or "somewhat excessive drained" for this reason. Based on the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Technical Release 55 titled "Urban Hydrology for Small Watersheds," for an area that is 85% impervious with a corresponding Soil Conservation Service (SCS) Previous Runoff Curve Number of 89 ([TR-55 Manual](#)), runoff will be generated in rain events equaling or greater than approximately 0.25 inches of rain.
73. According to the National Oceanic and Atmospheric Administration, precipitation at the Richmondale, PA station, located approximately 5 miles from 1 North Main Street Carbondale, Pennsylvania exceeded 0.25" 174 days between July 1, 2020, and August 21, 2024. Monthly total summaries exceeded 0.25 inches in every month from July 2020 – July 2024.

74. Discharges from the Carbondale MS4 constitute the “discharge(s)” of “pollutants” from a “point source” to “navigable waters” within the meaning of Sections 502(12), (6), (14), and (7) of the Act, 33 U.S.C. § 1362(12), (6), (14), and (7).
75. Respondent has discharged pollutants into Fall Brook, Racket Brook and the Lackawanna River and their associated tributaries without a permit issued pursuant to the NPDES program under Section 402 of the CWA, 33 U.S.C. § 1342, in violation of Section 301 of the CWA, 33 U.S.C. § 1311.

V. ORDER FOR COMPLIANCE

Therefore, the Respondent is hereby **ORDERED**, and Respondent **CONSENTS**, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to do the following:

76. Respondent shall submit a timeline to complete each of the below BMPs within (14) days of the effective date of this order. EPA shall review and either approve or reject the timelines. Following approval, Respondent shall submit all design plans for the below BMPs to EPA and PADEP. All design plans shall be signed and sealed by a licensed Professional Engineer. If a timeline is rejected, Respondent shall provide an updated timeline within one (1) week of EPA’s rejection of timeline. Following completion of the BMPs, Respondent shall submit an updated Pollutant Reduction Plan (PRP) within thirty (30) days to PADEP and EPA for approval.
77. Respondent shall commit to install the following three below BMPs to meet the City’s Chesapeake Bay Pollutant Reduction Plan (PRP) Requirements:

Respondent shall install filter bags in at least 100 of Carbondale’s storm drain inlets as referenced in the April 8, 2024, PADEP permit application submittal. After installation, Respondent shall submit invoices and a map of the storm drains that have had filter bags installed. Respondent shall then submit a full sediment removal approximation to both PADEP and the EPA after completion of the installation. The filter bags that are installed shall meet PADEP’s “National Pollutant Discharge Elimination System (NPDES) Stormwater Discharges from Small Municipal Separate Storm Sewer System BMP Effectiveness Value Requirements.”

- a. Respondent shall implement a stream restoration project along the Racket Brook, Fall Brook or Lackawanna River within the City of Carbondale Urbanized Area. A proposed project is referenced in the April 8, 2024, PADEP permit application submittal. The stream restoration project shall meet the PADEP’s stream restoration criteria:
 - i. Document existing channel or streambank erosion and an actively enlarging or incising urban stream condition prior to restoration (describe an existing problem).
 - ii. Address at least 100 linear feet of stream channel Restoration, currently proposed as approximately 700 linear feet.

- iii. Treatment of upstream impervious areas to sufficiently address future peak flows that may exceed engineering design thresholds or compromise channel form and function.
 - iv. Projects must address both sides of the channel as applicable.
 - v. Include a comprehensive approach that employs a mix of techniques appropriate to each site, creating long-term stability of the streambed, streambanks and floodplain in the area.
 - vi. Streambank or streambed armoring may only be used where necessary to maintain channel stability, but the length of stream that is armored (such as with riprap and gabions) may not be included in the load reduction calculation.
 - vii. Projects should maximize floodplain reconnection, with a minimal channel invert elevation increase required to achieve this objective. Restoration bank height ratios must be 1.0 or less.
 - viii. A permanent 35 feet minimum riparian buffer zone from the centerline of watercourse is required on all projects. Factors including slope, soils, watershed and hydrology, can influence the effectiveness of a forest buffer.
 - ix. Comprehensive stream restoration projects shall include an Operation and Maintenance ("O&M") plan that identifies activities, frequencies, responsible parties, and other pertinent details.
- b. Respondent shall install either a rain garden or bioswale as an additional BMP if the combination of the stream restoration project and filter bags do not meet the PADEP's Chesapeake Bay Pollutant Reduction Plan Requirements. This BMP proposal shall address the total sediment reduction in both the pervious and impervious areas. Respondent shall submit all design plans of the project to the EPA as well as the PADEP.
78. Within forty-five (45) days from the approval of the PRP, the Respondent shall correct all deficiencies in the PADEP MS4 Renewal Permit Application. If the Respondent cannot correct all deficiencies within 45 days, Respondent shall notify the EPA of the reason for the delay and provide a timeline to correct all deficiencies.
79. Until Respondent receives authorization to discharge under an NPDES permit, Respondent shall submit monthly progress reports to the EPA by close of business on the 1st day of every month, concerning its progress on attaining new permit coverage or renewal of permit ID PA1132346.
80. Respondent shall provide proof of new permit coverage from PADEP within three (3) days after approval.
81. Following authorization to discharge under an active NPDES permit, Respondent shall submit quarterly reports documenting MS4 program implementation for three (3) years. Respondent shall also comply with all NPDES permit requirements specifically with the following:

- a. Update MS4 maps annually consistent with the requirements of 40 C.F.R. § 122.34(b)(3)(ii)(A) and the Permit, Appendix A, MCM #3. Respondent shall submit annual revised maps for the duration of this permit. The maps shall include: the entire storm sewer collection system, including the locations and name of each road, inlet, piping, swale, catch basin, channel, basin, and any other feature of the permittee's storm sewer system, including each municipal boundary and/or watershed boundary. The size of each existing inlet, swale, catch basin, channel or basin shall be clearly marked on any such revised map. The map shall also clearly state which sections of city owned properties are connected to the (1) Municipal Sanitary Sewage System, (2) Municipal Separate Storm Sewer Systems or (3) both. If a building is not connected to the Sanitary or Storm System, Respondent shall clarify where discharge the conveys to.
- b. Develop a written IDD&E Program consistent with the Permit, Appendix A, MCM #3 (Illicit Discharge Detection and Elimination), BMP #1. The City shall then submit this written IDD&E program to EPA and it shall be updated to include new practices of IDD&E control.
- c. Develop a Post-Construction Stormwater Management (PCSM) Inventory of BMPs. Submit to EPA the new or updated PCSM inventory. Implement and provide to EPA/PADEP a PCSM inspection schedule based upon PCSM BMP inventory. Provide a summary of PCSM BMP's inspected and the results of any maintenance performed to the BMP's. Provide PCSM inspection reports to EPA upon request.
- d. Update and implement a Pollution Prevention Plan/Good Housekeeping O&M plan and send record of implementation to EPA. The Pollution Prevention/Good Housekeeping O&M Plan shall include, but not be limited to, the following information:
 - i. An identification and documentation of all facilities that are owned or operated by Respondent and have the potential for generating stormwater runoff to the MS4, including an identification and documentation of the impact to the MS4 storm sewer system and the waterway to which the facility discharges,
 - ii. An identification and documentation of all types of municipal operations, activities and land uses that may contribute to stormwater runoff within areas of Respondent's municipal operations that discharge to the MS4 including an identification and documentation of the impact to the MS4 storm sewer system and the waterway(s) affected by such operation, activity or land use;
 - iii. For each identified facility, land use, activity or operation, an operations and maintenance program containing site-specific information and identifying specific pollution prevention and good housekeeping measures addressing the following areas:

1. Management practices, policies and procedures shall be developed and implemented to reduce or prevent the discharge of pollutants to the MS4s, including eliminating maintenance-area discharges from floor drains and other drains that have the potential to discharge to storm sewers.
 2. Maintenance activities, maintenance schedules, and inspection procedures to reduce the potential for pollutants to reach your regulated small MS4s, including procedures for maintaining any stormwater BMPs.
 3. Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, and salt / sand (anti-skid) storage locations and snow disposal areas.
 4. Procedures for the proper disposal of waste removed from the MS4s and any municipal operations, including dredge spoil, accumulated sediments, trash, household hazardous waste, used motor oil, and other debris.
82. The April 2024 Permit Application notes that there is an oil-water separator located inside of the City Maintenance Garage. It is unclear as to the discharge point of the oil-water separator. Within forty-five (45) days of the Effective Date of this AOC, Respondent shall provide a map detailing where the oil-water separator discharges to. In addition, Respondent shall also submit two (2) invoices/manifests annually from the year 2021 – present for the duration of the order. Additional manifests may be requested from EPA. Respondent shall submit most updated design schematic, a manual, and pictures of all chambers of the separator. Respondent shall also submit invoices/manifests of waste oil and/or antifreeze upon request.
83. Within forty-five (45) days of the Effective Date of this AOC, the Respondent shall provide to the 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 completion of each of the following by Respondent:
- a. Implementation of BMPs to minimize and prevent potential sediment-laden stormwater flowing into street inlets. BMPs may include, but are not limited to: compost filter socks, green space (e.g. riparian buffers), subsurface infiltration beds, grading, etc.
 - 1) Respondent shall submit to the EPA a list of all proposed BMPs for approval and shall submit a map listing where BMPs will be located throughout municipality boundaries. BMPs shall be strategically placed based on areas that generate the highest flows of stormwater (e.g. areas up-gradient).

- 2) Respondent shall develop standard operating procedures (SOPs) for maintenance of the installed BMPs placed throughout municipality, and the SOPs shall be made readily accessible to employees and/or contractors of Respondent. SOPs shall include a description on the design aspects of each BMP.
 - 3) Respondent shall provide adequate training to employees and/or contractors, at least on a quarterly basis, regarding the use and care of each new BMP that has been installed since the last training. The first training shall address maintenance to all current BMPs in place throughout the City. Records of such training shall be maintained and provided to the EPA within ten (10) days of each training.
- b. Creation of an inventory of post-construction management BMPs for development and redevelopment for projects that have been authorized for construction, since March 10th, 2003, as required by the expired Permit.
 - c. Completion of a new catch basin channel designed to withstand current and future climate conditions (i.e. it should be designed to at least double of the 2023 maximum annual rainfall) at the 6th Avenue Bridge area, including providing engineering plans to the EPA. The catch basin should continually be maintained and evaluated annually.
 - d. Changes to Maintenance Garage Facility Located at 15 Enterprise Drive, Carbondale, PA 18407:
 - 1) Store all chemical materials under cover at the maintenance garage and associated facilities;
 - 2) Install drip/spill containment measures beneath vehicles (e.g. pans) and spill containment kits with absorbent and clean up materials for potential spills;
 - 3) Provide standard operating procedures for addressing spills, requiring at a minimum that spills shall be addressed and cleaned within 24 hours of occurrence;
 - 4) Respondent shall notify the EPA and PADEP immediately if any spills enter the MS4 system that could cause or threaten pollution to the state's waterways.
 - 5) Install berms or other types of control measure to prevent red ash from spilling out of red ash storage buildings at the Maintenance Garage Facility; and

- 6) Submit a map noting all of Respondent's owned and leased properties including, floor drain connections. All Maintenance Garage floor drain connections should be included in this map. The map shall note whether connections convey to the Municipal Separate Storm Sewer System, Sanitary Sewer, or if they lead out of the building. If the drains lead out of the building, the location shall be noted as to where the floor drains discharge to.
 - e. Development of SOPs for removal and disposal of all MS4 inlet debris collected by the Respondent. Frequency for cleaning of the inlets should be at least monthly. Respondent shall submit a summary of the number of inlets cleaned. The summary shall include where the debris is transported to and if has potential to discharge into the MS4 system. Respondent shall submit manifests/invoices upon request to the EPA.
84. The corrective actions identified in the CAP must be completed within twelve (12) months from the date of EPA's approval of the CAP.
 85. The EPA will review the CAP and procedures and make a determination of completeness and adequacy. If the EPA determines that the CAP or procedures are not complete or adequate, the EPA shall notify Respondent in writing and Respondent shall resubmit an updated CAP or procedures within fourteen (14) days of Respondent's receipt of the EPA's notice. Upon a determination of completeness as provided in writing by the EPA to the Respondent, Respondent will implement the CAP in full and commence implementation of the procedures.
 86. Respondent shall submit a notice to the EPA within thirty (30) days after all work as identified in and required by the CAP has been completed.

VI. PROCEDURES FOR SUBMISSIONS

87. 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 C.F.R. § 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.

Signature:

Printed Name:

Title:

Date:

88. Any submission or communication relating to this Order shall be submitted (via electronic transmission) to:

Johannah Jacobson
Enforcement Inspector
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3
Philadelphia, PA 19103
jacobson.johannah@epa.gov

AND

R3_ORC_mailbox@epa.gov

ATTN: Lauren Zarrillo
Assistant Regional Counsel (3RC40)
U.S. EPA, Region 3
Philadelphia, PA 19103

89. For each submission required pursuant to this Order, the EPA will review the submission. If the EPA comments on a submission, Respondent agrees to respond in writing via email within fourteen (14) calendar days.
90. Respondent may assert a business confidentiality claim covering part or all of the information which this Order requires it to submit to the 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. Information which is effluent data or a standard or limitation is not eligible for confidential treatment pursuant to 40 C.F.R. § 2.302(e). If Respondent does not assert a confidentiality claim, the EPA may make the submitted information available to the public without further notice to Respondent.

VII. CERTIFICATION OF COMPLIANCE AND REQUEST FOR TERMINATION OF AOC

91. Upon completion of all Compliance Order items required pursuant to this AOC and determination of completeness of each item required by Section V of the AOC (Order for Compliance), Respondent 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 Respondent has maintained compliance with this AOC for the term of this AOC; and
 - b. All necessary documentation, including photo documentation as appropriate, to support a finding that Respondent has complied with Section V (Compliance Order) of this AOC.
92. If, following review of any Certification of Compliance and Request for Termination of this Order, the EPA determines that any requirement has not been completed and implemented in accordance with this Order, the EPA will notify Respondent in writing, provide a written summary of such deficiencies, and require Respondent to modify its actions as appropriate to correct such deficiencies. If so required, the EPA may also require Respondent to submit a revised Certification of Compliance and Request for Termination of this Order.
93. If, following review of any Certification of Compliance and Request for Termination of this AOC, the EPA agrees that Respondent has adequately complied with all requirements of this AOC, then the EPA may, in its unreviewable discretion, provide written notification of termination of this AOC.
94. EPA, at all times, reserves the right to unilaterally terminate this Order in its unreviewable discretion.

VIII. AOC MODIFICATIONS

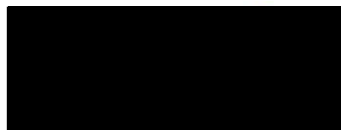
95. Any request to modify the terms of, or parties to, this AOC shall be submitted, in writing, by Respondent to the EPA and shall be subject to review and approval by the EPA, in its sole and unreviewable discretion. Respondent's submission of a written request for modification of this AOC shall not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

IX. EFFECTIVE DATE

96. The effective date of this Order shall be the date of receipt of the executed document by Respondent of a fully executed copy of this Order.

ON BEHALF OF RESPONDENT CITY OF CARBONDALE

Date: 12-18-24



Name: Michele Bannon
Title: Mayor City of Carbondale

ON BEHALF OF THE COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

Melvin, Karen

Digitally signed by Melvin,
Karen
Date: 2025.01.15 07:48:53
-05'00'

Karen Melvin, Director
[digitally signed and dated]
Enforcement and Compliance Assurance Division
U.S. EPA, Region 3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In The Matter of:

City of Carbondale
1 North Main Street
Carbondale, Pennsylvania, 18407-2356

Respondent.

Proceeding Under Section 309(a) of the Clean
Water Act, 33 U.S.C. § 1319(a)

ADMINISTRATIVE ORDER ON CONSENT

U.S. EPA Docket No. CWA-03-2025-0047DN

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Order on Consent was filed with the EPA Region 3 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 Administrative Order on Consent to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email via UPS and email to:

Michele Bannon, Mayor
City of Carbondale
1 North Main Street
Carbondale, Pennsylvania, 18407-2356
[REDACTED]

Frederick Moase, Jr., Esq.
Cipriani & Werner, P.C.
415 Wyoming Avenue
Scranton, Pennsylvania 18503
FMoase@c-wlaw.com

Copies served via email to:

Lauren J. Zarrillo
Assistant Regional Counsel
U.S. EPA, Region 3
zarrillo.lauren@epa.gov

Johannah Jacobson
Enforcement Inspector
U.S. EPA, Region 3
jacobson.johannah@epa.gov

BEVIN
ESPOSITO

Digitally signed by BEVIN ESPOSITO
Date: 2025.01.15 08:37:27 -0500

[Digital Signature and Date]

Bevin Esposito
Regional Hearing Clerk
U.S. EPA, Region 3