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

JUL 1 0 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anne Arundel County, Maryland
c/o Ginger Ellis, Planning Administrator
2662 Riva Road
Third Floor / MS 7301
Annapolis, MD 21401

Re: Municipal Separate Storm Sewer System Inspection Report
and Administrative Order (CWA-03-2009-0165DN)

Dear Ms. Ellis:

On December 9-10, 2008, the U.S. Environmental Protection Agency, Region III (EPA) conducted an inspection to investigate compliance with the National Pollutant Discharge Elimination System permit issued for operation of Anne Arundel County's Municipal Separate Storm Sewer System (MS4). Enclosed is a copy of the report documenting that inspection.

Also enclosed is an Administrative Order (Order) issued this date pursuant to Section 309(a) of the Clean Water Act (the "Act"), as amended, 33 U.S.C. § 1319(a). The Order addresses violations identified during inspection. You should carefully read the contents of the enclosed Order, and communicate to each responsible official, agent, or employee the actions which each such person must take to ensure compliance with its terms. Failure to comply with the terms of the Order constitutes a violation of Section 309 of the Act, 33 U.S.C. § 1319, and may result in further enforcement action involving civil or criminal penalties. Please note that, as indicated by its terms, the Order is effective upon receipt.

EPA may take additional action to address findings from the December 9-10, 2008 inspection, and invites you to visit the Region 3 office in Philadelphia to discuss the inspection report in its entirety and what corrective action Anne Arundel County will undertake to achieve compliance. You may also use this opportunity to provide any information you wish EPA to consider in the development of a civil penalty, which EPA routinely assesses pursuant to

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Section 309(g) of the Act, 33 U.W. C. § 1319. To arrange a meeting, please contact Andy Dinsmore at (215) 814-2788 or Allison Graham at (215) 814-2373.

Sincerely,

for Jon M. Capacasa, Director
Water Protection Division

Enclosures (2)

cc: Brian Clevenger, MDE
Carol Coates, MDE

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

In The Matter of: Anne Arundel County, Maryland 2662 Riva Road Annapolis, MD 21401 Respondent.	Proceeding Under Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) Docket No. CWA-03-2009-0165DN FINDINGS OF VIOLATION AND ORDER FOR COMPLIANCE

I. STATUTORY AUTHORITY

1. The following Findings of Violation and Order for Compliance (Order) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) (CWA or the "Act"). The Administrator has delegated this authority to the Regional Administrator of EPA Region III who in turn has delegated it to the Director of the Water Protection Division.

II. FINDINGS OF VIOLATION

2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant 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, and 40 C.F.R. Part 122, or other specific authorization.

3. 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.

4. An NPDES permit is required for discharges from a "municipal separate storm sewer system" serving a population of 250,000 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.

5. The term "municipal separate storm sewer system" 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).

6. "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.

7. "Storm water" is defined as "storm water runoff, snow melt runoff and surface runoff and drainage." 40 C.F.R. § 122.26(b)(13).

8. Anne Arundel County, Maryland (Respondent) is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

9. Respondent owns, and through its Department of Public Works (DPW), Department of Inspections and Permits (I&P), and Office of Planning and Zoning (OPZ), operates a municipal separate storm sewer system (MS4) located in Anne Arundel County, MD. Respondent's MS4 management programs include: storm water management, erosion and sediment control, illicit discharge detection and elimination, county property management, road maintenance, and public education.

10. The Maryland Department of the Environment (MDE) issued to Respondent an NPDES MS4 Discharge Permit No. MD0068306 on November 8, 2004, hereinafter referred to as the "MS4 Permit." The MS4 Permit is set to expire on November 8, 2009.

11. Part III, Section C(1) of the MS4 Permit requires the Respondent to annually submit a catalogue of it's storm drain system, in geographic information system (GIS) format, including major outfalls, inlets, and associated drainage areas.

12. In 2008, Respondent identified twelve major drainage basins, all of which contain or would flow to "waters of the United States" as that term is defined at 40 C.F.R. § 122.2.

13. On December 9 - 10, 2008, EPA and authorized representatives of EPA reviewed several of the Respondent's MS4 management programs. During this inspection, EPA and EPA representatives evaluated the Respondent's County Property Management program, required by Part III, Section E(4) of the permit, which is administered by the Respondent's DPW.

14. Part III, Section E(4) of the MS4 Permit requires that the Respondent identify all County-owned and municipal facilities requiring NPDES storm water general permit coverage, submit Notices of Intent (NOI) to MDE for each, and annually submit documentation of the status of the development and implementation of pollution prevention plans.

15. In the Respondent's 2007 Annual NPDES Report, the Respondent identified seven water reclamation facilities that have obtained NPDES permits, as well as three landfills and eight vehicle maintenance facilities that have obtained permit coverage under MDE's General NPDES Permit for Storm Water Associated with Industrial Activity (Discharge Permit No. 02-SW).

16. Respondent's DPW owns and operates all water reclamation facilities, landfills, and vehicle maintenance facilities identified in it's 2007 Annual NPDES Report.

17. On December 10, 2008, EPA and EPA representatives inspected two of the eight vehicle maintenance facilities and one of the three landfills identified in the Respondent's 2007 Annual NPDES Report. The facilities included: Central District Roads - Crownsville Yard located at 1847 Crownsville Road, Annapolis, MD 21401 (Site 1), Central District Roads - Odenton Yard located at 1427 Duckens Street, Odenton, MD 21401 (Site 2), and Millersville Landfill and Resource Recovery Facility located at 389 Burns Crossing Road, Severn, MD 21144 (Site 3).

18. Storm water discharges from Site 1 must meet the requirements of NPDES Permit No. 02-SW-1179. NPDES Permit No. 02-SW-1179 was set to expire on November 30, 2007; however, it has been administratively extended until 60 days after a new permit is issued by MDE. Inspectors observed two storm water discharge points into a County ditch at this site. The discharge points are located on the southwest corner of the property and from the storm water management pond overflow located on the southeast corner of the property.

19. Site 1 developed a storm water pollution prevention plan (SWPPP) dated December 5, 2008, in accordance with the requirements of NPDES Permit No. 02-SW-1179. As of the date of the inspection, the SWPPP developed for this site failed to meet the requirements of NPDES Permit No. 02-SW-1179. The SWPPP did not contain documentation of past inspections, employee training, and monitoring. Additionally, inspectors observed the trench drain on-site had collected debris and sediment, and the storm water management pond had sediment accumulation in the gravel inlet as well as trees growing inside of the pond.

20. Storm water discharges from Site 2 must meet the requirements of NPDES Permit No. 02-SW-1177. NPDES Permit No. 02-SW-1177 was set to expire on November 30, 2007; however, it has been administratively extended until 60 days after a

new permit is issued by MDE. Storm water from Site 2 drains to an on-site storm water management pond by way of several storm drains throughout the facility.

21. Site 2 developed a SWPPP dated December 5, 2008, in accordance with the requirements of NPDES Permit No. 02-SW-1177. As of the date of the inspection, the SWPPP developed for this site failed to meet the requirements of NPDES Permit No. 02-SW-1177. The SWPPP did not contain documentation of past inspections, employee training, and monitoring. Additionally, inspectors observed uncovered stockpiles located adjacent to storm drains, the drainage valve to the secondary containment surrounding the calcium chloride tank was open, and trash and debris had accumulated in the on-site dewatering gravel pit.

22. Storm water discharges from Site 3 must meet the requirements of NPDES Permit No. 02-SW-0298. NPDES Permit No. 02-SW-0298 was set to expire on November 30, 2007; however, it has been administratively extended until 60 days after a new permit is issued by MDE. Storm water from Site 3 drains to tributaries of Severn Run by way of several storm water management ponds located at the facility and overland flow.

23. Site 3 developed a SWPPP, last updated in October 2004, in accordance with the requirements of NPDES Permit No. 02-SW-0298. As of the date of the inspection, the SWPPP developed for Site 3 failed to meet the requirements of NPDES Permit No. 02-SW-0298. The SWPPP did not contain a certifying signature and employee training records.

24. By failing to ensure the proper development and implementation of pollution prevention plans, including maintenance of storm water controls and applying best management practices at Sites 1, 2, and 3, Respondent has violated Part III, Section E(4) of its MS4 Permit, and Section 301 of the Act, 33 U.S.C. § 1311.

III. ORDER FOR COMPLIANCE

Therefore, this JUL 1 0 2009 day of July, 2009, Respondent is hereby ORDERED, pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), to conduct the following activities:

25. Within thirty (30) days upon receipt of this Order, Respondent shall come into compliance with all County Property Management requirements of the NPDES MS4 Permit with respect to all County-owned and municipal facilities identified in the Respondent's 2007 Annual NPDES Report.

26. Within thirty (30) days upon receipt of this Order, Respondent shall ensure all County-owned and municipal facilities identified in the Respondent's 2007 Annual NPDES

Report come into compliance with all requirements of the General NPDES Permit for Storm Water Associated with Industrial Activity (NPDES Permit No. 02-SW).

27. Within thirty (30) days upon receipt of this Order, Respondent shall submit a written report detailing the specific actions taken to correct the violations cited herein to the following individual:

Allison Graham
NPDES Enforcement Branch (3WP42)
United States Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

IV. GENERAL PROVISIONS

28. Issuance of this Order shall not be deemed an election by the 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.

29. Respondents' compliance with the terms of this Order shall not constitute compliance with the Clean Water Act or any other Federal, State or local law or regulation. Nor does this Order constitute a waiver or modification of the terms or conditions of any issued permit.

30. Violation of the terms and conditions of this Order 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. §1319 (b) and (d). In addition, Section 309(c) provides criminal sanctions for knowing or negligent violations of the Act including imprisonment and fines of up to $50,000 per day of violation.

V. EFFECTIVE DATE

31. The effective date of this Order shall be the date it is received by the Respondent.

Date: 7/10/09

for Jon M. Capacasa, Director
Water Protection Division