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

SEP 30 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mayor Sheila Dixon
City of Baltimore
City Hall, Room 250
100 N. Holliday Street
Baltimore, Maryland 21202

Re: Municipal Separate Storm Sewer System Inspection Report
and Administrative Order (CWA-03-2009-0312DN)

Dear Mayor Dixon:

On April 7-9, 2009, 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 Baltimore City'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 indentified during the 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 this 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 April 7-9, 2009 inspection, and invites you to visit the Region 3 office in Philadelphia to discuss the inspection report in its entirety and what corrective actions Baltimore City will undertake to achieve compliance. You may also use this opportunity to provide any information you wish to EPA to consider in the development of a civil penalty, which EPA routinely assesses pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319.

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If you require any information or assistance regarding this Order, or to arrange a meeting, please contact Andrew Dinsmore at (215) 814-2788 or Allison Graham at 215-814-2373.

Sincerely,

Jon M. Capacasa, Director
Water Protection Division

Enclosure

cc: Ray Bahr, MDE
Carol Coates, MDE
William Stack, DPW-WQMS

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In The Matter of: Baltimore City, Maryland Respondent.	Proceeding Under Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) Docket No. CWA-03-2009-0312DN 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, among other entities, a large or medium municipal separate storm sewer system, 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. Baltimore City, 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 General Services, and Department of Transportation (DOT), operates a municipal separate storm sewer system (MS4) located in Baltimore City, MD. Respondent's MS4 management programs include: storm water management, stormwater management best management practice (BMP) inspections, erosion and sediment control, illicit discharge detection and elimination, city property management, road construction and maintenance, and public education.

10. The Maryland Department of the Environment (MDE) issued to Respondent an NPDES MS4 Discharge Permit No. MD0068292 on January 3, 2005, hereinafter referred to as the "MS4 Permit." The MS4 Permit is set to expire on January 3, 2010.

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 2004, Respondent identified multiple 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 April 7 - 9, 2009, 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 City Property Management program, required by Part III, Section E(5) of the MS4 Permit, which is administered by the Respondent's DPW.

14. Part III, Section E(5) of the MS4 Permit requires that the Respondent identify all City-owned facilities requiring NPDES stormwater general permit coverage and submit

Notices of Intent (NOI) to MDE for each, and annually submit documentation of the status of development and implementation of pollution prevention plans.

15. In the Respondent's 2007 Annual NPDES Report, the Respondent identified two wastewater treatment plants that have obtained NPDES permits, as well as seven landfills and nine sub-stations 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 owns and operates all wastewater treatment plants, landfills, and sub-stations identified in it's 2007 Annual NPDES Report.

17. On April 8, 2009, EPA and EPA representatives inspected two of the nine sub-stations identified in the Respondent's 2007 Annual NPDES Report. The facilities included: Central Repair Garage located at 3800 East Biddle Street, Baltimore, MD 21213 (Site 1), and Northwest Transfer Station located at 5030 Reisterstown Road, Baltimore, MD 21215 (Site 2).

18. Respondent failed to submit a Notice of Intent (NOI) for permit coverage for Site 1.

19. Storm water discharges from Site 2 must meet the requirements of Discharge Permit No. 02-SW-1307. Storm water from Site 2 drains to several on-site inlets throughout the facility and enters the storm drain system.

20. Several violations of NPDES Permit No. 02-SW-1307 were found throughout Site 2 during the inspection, including a petroleum spill resulting in a sheen on flowing water in a downstream storm drain; a second smaller spill for which an employee had attempted to clean up with deicing salt; a failure to implement BMPs, especially good housekeeping (e.g., sediment and debris from the tire, metal and electronics recycling area) resulting in sediment and debris in storm drains; a failure to maintain adequate secondary containment for three waste oil tanks resulting in stormwater containing oily substances to overtop the berm and flow to on-site storm drains.

21. Respondent failed to ensure that a SWPPP was developed and pollutants minimized for Site 2 in accordance with the requirements of NPDES Permit No. 02-SW-1307.

22. By variously failing to submit an NOI and track the status of the pollution prevention plan development and implementation, including maintenance of storm water controls and applying best management practices, at the inspected Sites 1 and 2, Respondent has violated Part III.E.5 of the MS4 Permit, and Section 301 of the Act, 33 U.S.C. § 1311.

III. ORDER FOR COMPLIANCE

23. Therefore, this 30TH day of September, 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:

24. Within thirty (30) days upon receipt of this Order, Respondent shall come into compliance with all requirements of the MS4 Permit for all City-owned facilities identified in the Respondent's 2007 Annual NPDES Report.

25. Within thirty (30) days upon receipt of this Order, Respondent shall ensure all City-owned 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).

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

IV. GENERAL PROVISIONS

27. 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.

28. 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.

29. 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

V. EFFECTIVE DATE

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

Date: 9/30/2009

Jon M. Capacasa, Director
Water Protection Division