



US Army Corps of Engineers®

Pittsburgh District
Planning and Environmental Branch
William S. Moorhead Federal Building, Floor 22
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222
412-395-7100

Appendix 10 – NPDES Construction Stormwater General Permit Beaver County Conservation District Authorization Letter

Supplemental Environmental Assessment to the Upper Ohio Navigation Study for the purpose of the Temporary Conveyance Bridge and Associated Structures at Montgomery Locks and Dam



Beaver County Conservation District

156 Cowpath Road, Aliquippa, PA 15001
Phone: (724)-378-1701 Fax: (724)-857-1044
beavercountyconservationdistrict.org

April 14, 2023

Mr. Ryan Ferguson
US Army Corps of Engineers
1000 Liberty Avenue, Suite 2100
Pittsburgh, PA 15222

Re: PAG-02 NPDES General Permit Coverage Approval
Montgomery Locks and Dam - Concrete Batch Plant Site Development
NPDES Permit No. PAC040128
Potter Township, Beaver County

Dear Mr. Ferguson:

Under the authority of the federal Clean Water Act and Pennsylvania's Clean Streams Law, the Beaver County Conservation District (District) has approved your request for new coverage under the PAG-02 NPDES General Permit for Discharges of Stormwater Associated with Construction Activities ("PAG-02 General Permit"). The latest versions of the Notice of Intent (NOI) and all supporting documents, including the Erosion and Sediment Control (E&S) Plan and Post-Construction Stormwater Management (PCSM) Plan, are incorporated into this approval, including the following plan drawings:

- The E&S Plan drawings, for the Montgomery Locks and Dam - Concrete Batch Site Development, dated **December 2022** and last revised **February 2023**.
- The PCSM/Site Restoration Plan drawings for the Montgomery Locks and Dam - Concrete Batch Site Development, dated **December 2022**, and last revised **December 2022**.

Your coverage under the PAG-02 General Permit, which has been assigned NPDES Permit No. PAC040126, is effective on **April 14, 2023** and will expire on **December 7, 2024**. If stormwater discharges associated with construction activities are expected to continue beyond the expiration date of PAG-02 General Permit coverage, you must apply to renew your coverage at least 180 days prior to the expiration date, unless otherwise approved by the Department of Environmental Protection (DEP) or the District.

Please review the PAG-02 General Permit and the enclosed attachments carefully and contact this office if you have any questions. Please pay particular attention to the following requirements of the General Permit:

- In accordance with 25 Pa. Code § 102.5(h), operators who are not the permittee shall be co-permittees. An operator is a person who either has oversight responsibility of an earth disturbance activity on a project site who has the ability to make modifications to the E&S

Plan, PCSM Plan or site specifications, or has day to day operational control over an earth disturbance activity on a project site. Please be advised that after an operator (contractor) has been selected for the project, the operator must be made a co-permittee and enter into an agreement with the permittee. Please use the enclosed Co-Permittee Acknowledgement Form for Chapter 102 Permits form (3800-FM-BCW0271a) to add a co-permittee.

- A pre-construction meeting is required as specified in 25 Pa. Code § 102.5(e), unless otherwise notified in writing by this office. The purpose of this meeting is to review all aspects of the permit with the permittee, co-permittees, operators, consultants, inspectors and licensed professionals or their designees who will be responsible for the implementation of the critical stages of the approved PCSM Plan. You must provide at least seven days notice of the pre-construction meeting to all invited attendees.
- You must conduct inspections of all best management practices (BMPs) on a weekly basis and after each measurable stormwater event (i.e., precipitation in an amount of 0.25 inch or greater over a 24-hour period) to ensure effective and efficient operation. The Visual Site Inspection Report Form (3800-FM-BCW0271d) is enclosed along with instructions. This form (or an equivalent electronic form providing the same information) must be used to document the required site inspections.
- For any property containing a PCSM BMP, the permittee or co-permittee must record an instrument with the recorder of deeds which will assure disclosure of the PCSM BMP and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM BMP, provide for necessary access related to long-term operation and maintenance (O&M) for PCSM BMPs, and provide notice that the responsibility for long-term O&M of the PCSM BMP is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees. **You must record an instrument with the Recorder of Deeds within 45 days and provide proof of the recording at the time an application to transfer permit coverage is submitted, if applicable, and at the time a Notice of Termination (NOT) is submitted to this office.**
- If there are any changes to the PCSM BMPs or long-term operation and maintenance plan after the initial instrument recording and prior to permit termination, the permittee(s) will need to amend the initial recorded instrument at the recorder of deeds office prior to permit termination. Please note, most Recorder of Deeds Offices require that the land owner (at the time of actual recording) signs the instrument to be recorded. If the land owner changes and an amended instrument needs to be recorded, the Recorder of Deeds office will likely require the new land owner's signature on the amended instrument. It is recommended that for any sale or transfer of property to a new owner before this permit is terminated that the permittee seek legal counsel on how to structure the sale or transfer to allow the recorded instrument to be amended.
- The NOT form (3800-PM-BCW0229b) is also enclosed and must be completed and filed when construction activities have ceased and final stabilization has been achieved. The NOT must identify the responsible person(s) for the long-term O&M of the PCSM BMPs. Please be

advised that the permittee and any co-permittees remain responsible for all operational maintenance for this project site until the NOT has been filed and acknowledged. **It is important that you fulfill your obligations under the General Permit and submit a complete NOT to this office upon final stabilization of the site.**

Persons aggrieved by an action of a conservation district under 25 Pa. Code Chapter 102 may request an informal hearing with DEP within 30 days of publication of this notice in the *Pennsylvania Bulletin*, pursuant to 25 Pa. Code § 102.32(c). DEP will schedule this informal hearing within 30 days of the request. After this informal hearing, any final determination by DEP may be appealed to the Environmental Hearing Board.

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Environmental Hearing Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

If you have questions, please contact Rachel Galloway by e-mail at Rachel.galloway@bccdpa.us or by telephone at 724-378-1701 and refer to Permit No. PAC040126.

Sincerely,



Jeff Pflug
District Manager
Beaver County Conservation District

cc: Mr. Matthew Rother, US Army Corps of Engineers (approval letter and page 1 of General Permit only)
Ms. Dana Drake (approved NOI, approval letter, and page 1 of General Permit only)
Potter Township (approval letter and page 1 of General Permit only)

Enclosures: PAG-02 General Permit
Stamped Approved E&S Plan Drawings and E&S Module 1
Approved PCSM Plan Drawings and PCSM Module 2
Visual Site Inspection Report Form and Instructions
Co-Permittee Acknowledgement Form for Chapter 102 Permits and Instructions
Notice of Termination Form

bcc: File
DEP Bureau of Clean Water (approved NOI, approval letter and page 1 of General Permit)

RG:JP