

**Application of Pennsylvania-American Water Company for Acquisition of Assets of
The Municipal Authority of the City of McKeesport
66 Pa. C.S. §1329
Application Filing Checklist – Water/Wastewater
Docket No. A-2017-_____**

20. Proof of Compliance. Provide proof of compliance with applicable design, construction and operation standards of DEP or of the county health department, or both, including:
- e. Provide documentation evidencing a 5-year compliance history with DEP with an explanation of each violation for the seller's utilities that have been providing service as well as provide a copy of any DEP-approved corrective action plans.

RESPONSE:

- e. The Municipal Authority of the City of McKeesport received one Notice of Violation ("NOV") and order dated November 14, 2014, from the Allegheny County Health Department ("ACHD") for dry weather overflows reported in 2014. ACHD alleged that MACM discharged sewage flows pursuant to its National Pollution Discharge Elimination System ("NPDES") permit during dry weather conditions in violation of the Pennsylvania Clean Streams Law and the NPDES permit. MACM appealed the November 2014 order and the parties have been engaged in settlement negotiations to resolve the matter by way of civil penalty assessment. See enclosed NOV and order dated November 14, 2014.

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

November 14, 2014

Municipal Authority of the City of McKeesport
100 Atlantic Avenue
McKeesport, PA 15132

ATTENTION: Dale McCall, Chairman
Charles Schultz, Superintendent

RE: Dry Weather Overflows at Multiple Regulators;
Bypass Pumping-Long Run Sewage Pump Station

Dear Sirs:

On October 31, 2014, representatives of the Allegheny County Health Department (ACHD) met with Municipal Authority of the City of McKeesport (MACM) personnel at the sewage treatment plant (STP) office to discuss dry weather overflows (DWO) reported in 2014. DWOs have occurred at multiple regulators. A list of the DWOs is attached. After reviewing that information, a field visit was conducted at CSO #024, SSO #003 and the Long Run Sewage Pump Station.

ACHD records indicated that overflows were discussed at an August 30, 2012 meeting at the MACM office, particularly those at the 28th Street Pump Station. Reasons for the 2012 overflows included bypassing for plant maintenance, bypass testing, pump failures and main plant shutdowns. At the 2012 meeting, MACM suggested that an extra laborer could be available during start-up events to check on the pumps periodically during the first week of start-ups and that the contractor would be responsible for any fines that might occur due to overflows. ACHD stated that they would like to see better oversight of the contractor.

KAREN A. HACKER, M.D., M.P.H., DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
955 RIVERMONT DRIVE • PITTSBURGH, PA 15207
PHONE (412) 687-ACHD (2243) • FAX (412) 578-8325 • WWW.ACHD.NET

A letter was sent to MACM on February 13, 2013 requesting details about the overflow events. The Authority responded in an undated letter that was received at ACHD on March 8, 2013, with more details about the volumes of the overflows. The letter also stated that the Long Run Sewage Pump Station would be complete within a month or two. To date, no additional work has been completed due to contractor issues.

At the October 31, 2014 meeting, MACM stated that bypass pumping had been the contractor's responsibility. In the past, a pump company would come to replace the pumps if there was a problem. Due to contractor issues, MACM took over the rental of the pumps in September 2014. Specific to CSO #024, it was later discussed in the field that the Telog meter has a sensor located just before the tide gate to measure direct overflow at CSO #024. During overflow conditions, the Telog meter sends out an email to both MACM and the office of a flow meter contractor. No one is notified during off work hours or on weekends.

On October 14, 2014, ACHD emailed a list of the reported 2014 DWOs to MACM and asked for clarification of the volumes originally submitted. MACM sent ACHD a list of the revised DWO volumes via email on October 22, 2014. Total DWO volume was 3.9 million gallons to date in 2014. The revised volumes were often very different from those originally submitted to ACHD. It was noted at the meeting that the crews gather the flow volume information in the field and then the volumes are corrected with the flow meter information.

The ACHD has several areas of concern regarding the Long Run Sewage Pump Station, its bypass pumping arrangement, and the reporting of and responsibility for the past and possible future DWOs:

- A. The pump station currently has a temporary 6" bypass pump set up at a manhole prior to the wet well. It pumps flows from the manhole, via temporary piping, to an open wet well that conveys flows to the Interceptor. This "temporary" system has been in place for over two and one-half (2-1/2) years. Several safety issues were noted:
 - a) The main gate is locked but easily entered by anyone.
 - b) The wet well is not covered.
 - c) The temporary pipe is outside of the fencing.
 - d) The fence near the bypass pump has been cut and is open to public access.
- B. Revised overflow volumes were often very different from those originally reported to ACHD. ACHD understands that meters are located on 27 of the 28 overflow structures.
- C. Telemetering of overflow information is not monitored after hours or on the weekends
- D. The temporary bypass pumping is not monitored after hours or on weekends

Please be advised that these discharges of sewage during dry weather constitute violations of the Pennsylvania Clean Streams Law, Act 394, approved June 22, 1937, P.L. 1987, Sections 201 and 202, as amended; of ACHD Rules and Regulations, Article XIV, "Sewage Management", Sections 1404.1 and 1404.2; and Part C (C) (2)(ii)(c) of the NPDES Permit No. PA 0026913 issued to the MACM on April 22, 2008.

In addition, these discharges constitute health hazards as determined by this Department. Under the authority vested in the Department by Section 12 of the Local Health Administration Law, Act 315 of 1951, as amended, MACM is hereby **ORDERED** to:

By January 9, 2015 provide the following information in writing to this Department:

1. A detailed explanation as to how the DWO volumes are collected and reported and why the volumes changed from those originally submitted to ACHD.
2. A plan and schedule which shall include how the MACM will prevent dry weather discharges from the MACM Conveyance System.
3. A plan and schedule as to how the MACM will address the safety concerns noted above at the Long Run Sewage Pump Station.
4. An explanation as to how the MACM will ensure that telemetering and bypass pumping are monitored 24 hours a day, 7 days a week.
5. A plan and schedule for the elimination of the temporary bypass pump arrangement at the Long Run Pump Station. This plan shall include a specific construction schedule for the completion of the Long Run Pump Station.

Pursuant to Article XI, entitled "Hearings and Appeals", any person aggrieved by this action of the Department and who has a direct interest in such action may file a Notice of Appeal. The Notice of Appeal shall be filed in the Office of the Director, 955 Rivermont Drive, Pittsburgh, PA 15207 within thirty (30) days from the date of this letter. In the event that an appeal is not filed within thirty (30) days from the date of this letter, the within action shall become final.

Please be advised that the MACM is subject to civil penalty liability in accordance with the provisions of the ACHD's Rules and Regulations, Article XVI, "Environmental Health Civil Penalties", for the violations noted in this letter.

It is the intention of ACHD to pursue a civil penalty through a Consent Assessment of Civil Penalty process. The Consent Assessment of Civil Penalty agreement will be sent within the next several weeks to the Municipal Authority of the City of McKeesport for your review and consideration.

If you have any questions or require additional information, please contact me at 412-578-8189 or at gbutia@achd.net.

Sincerely,

A handwritten signature in cursive script that reads "Michael Shue (for)".

Geoffrey M. Butia, Chief
Public Drinking Water & Waste Management
Allegheny County Health Department
3901 Penn Avenue, Building #5
Pittsburgh Pennsylvania 15224-1318
Phone: 412-578-8040
FAX: 412-578-8053

Cc: Kevin Halloran – DEP
Jim Vanek - DEP
City of McKeesport

2014 Dry Weather Overflows for the Municipal Authority of the City of McKeesport (MACM)

Date of Occurrence	Date Notified	Municipality	SSO ID Dry/Wet Weather	CSO ID Dry Weather	CSO ID Wet Weather	Street Name	Amount of Overflow (Gal)	Revised Amount of Overflow per MACM 3/17/14	Est Time of Overflow (Hrs)	Receiving Waters	Reason for Overflow
3/17/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #12		4th Avenue	84,000	84,000	6	Youghiogheny River	Plant Shut down due to construction
3/11/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #13		5th Avenue	111,000	111,000	6	Youghiogheny River	Plant Shut down due to construction
3/11/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #14		6th Street	109,000	109,000	6	Youghiogheny River	Plant Shut down due to construction
3/17/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #18		9th Avenue				Youghiogheny River	Plant Shut down due to construction
3/18/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #18		9th Avenue				Youghiogheny River	Plant Shut down due to construction
3/19/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #18		9th Avenue				Youghiogheny River	Plant Shut down due to construction
3/20/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #18		9th Avenue				Youghiogheny River	Plant Shut down due to construction
3/17/14 - 3/20/14	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #18		9th Avenue	2,172,000	1,048,000	48	Youghiogheny River	Plant Shut down due to construction
3/17/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #21		12th Street	339,000	339,000	9	Youghiogheny River	Plant Shut down due to construction
3/17/2014	3/24/2014	Municipal Authority City of McKeesport (MACM)		CSO #22		13th Street	215,000	215,000	10	Youghiogheny River	Plant Shut down due to construction
Total 3/15 to 3/17/14		Municipal Authority City of McKeesport (MACM)		CSO #24		Eden Park Blvd	870,000	1,460,000	45.5	Youghiogheny River	Construction Pump bad
4/6/2014	4/8/2014	Municipal Authority City of McKeesport (MACM)		CSO #24		Eden Park Blvd	17,000	17,000	6.5	Youghiogheny River	Diesel pump intake clogged with rags
6/15/2014	6/17/2014	Municipal Authority City of McKeesport (MACM)	CSO 003 Long Run			Long Run near the Pump Station		9,000	4	Youghiogheny River	Pumps during construction clogged
6/17/2014	6/17/2014	Municipal Authority City of McKeesport (MACM)	CSO 003 Long Run			Long Run near the Pump Station		6,000	1	Youghiogheny River	Pumps during construction clogged
	6/17/2014					Sub-total 6/15 to 6/17/14	100,000				
8/26/2014	8/26/2014	Municipal Authority City of McKeesport (MACM)		CSO #008			20	1,864	8	storm sewer to Monongahela River	clogged gate (debris)
9/4/2014 to 9/8/14	9/8/2014	Municipal Authority City of McKeesport (MACM)		CSO #009		Windsor Street	80,000	36,770	96	Monongahela River	Other blockage
9/9/2014	9/10/2014	Municipal Authority City of McKeesport (MACM)		CSO #024		Eden Park Blvd	183	183,000	1.5	Youghiogheny River	Pump malfunction
9/17/2014	9/17/2014	Municipal Authority City of McKeesport (MACM)		CSO #024		Eden Park Blvd	380	61,000	1.25	Youghiogheny River	clogged pump - switched pumps
9/23/2014	9/29/2014	Municipal Authority City of McKeesport (MACM)		CSO #029		Center Street	65	6,000	4	Monongahela River	chain off gate - fixed ok
10/5/2014	10/9/2014	Municipal Authority City of McKeesport (MACM)		CSO #024		Eden Park Blvd	297,000	159,000	16	Youghiogheny River	clogged pump
10/6/2014		Municipal Authority City of McKeesport (MACM)		CSO #024		Eden Park Blvd		138,000		Youghiogheny River	clogged pump
10/12/2014	10/15/2014	Municipal Authority City of McKeesport (MACM)		???			209,000		25.5	Youghiogheny River	Main & Back-up pump malfunction
Total 2014							4,605,648	3,923,634			

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CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between OWNER or ENGINEER and any such subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any Subcontractor, Supplier or other person or organization.

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The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or delineating the Work to be performed by any specific trade.

All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to all terms and conditions of the Contract Documents.

E6.6 Indemnity

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CONTRACTOR agrees to protect, defend, indemnify, exonerate and hold OWNER and ENGINEER harmless from and against any and all suits, claims, liability, losses, liens and demands, fines, costs, criminal and civil penalties, cause of action or any other obligations arising out of or in any manner connected with incidents involved in bodily injury, death, property damage or any violation or alleged violation of any federal, state, provincial or local law or regulation, except as solely caused by the OWNER and/or ENGINEER.

E6.7 Permits

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Unless otherwise provided in the Supplemental Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids.

E6.8 Laws and Regulations

CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

Chuck Schultz

From: Parker, Michael <Michael.Parker@AlleghenyCounty.US>
Sent: Tuesday, May 31, 2016 3:47 PM
To: Deb42357@aol.com; Chuck Schultz
Cc: Butia, Geoff; Scheer, Michael
Subject: Municipal Authority of the City of McKeesport

Dear George:

The ACHD is in receipt of your request for a meeting to discuss MACM's civil penalty liability. The ACHD is amenable to such a meeting. I am currently reaching out to my clients for potential dates and times and will get back to you as soon as I am able.

Michael Parker
ACHD Solicitor
412-578-8102

From: Deb42357@aol.com [mailto:Deb42357@aol.com]
Sent: Friday, May 27, 2016 1:01 PM
To: Parker, Michael; cschultz@mck-macm.org
Subject:

LAW OFFICE OF GEORGE S. GOBEL, ESQUIRE
502 FIFTH AVENUE, SUITE 305, MCKEESPORT, PA 15132
(412) 672-2311 FAX (412) 672-8237

VIA E-MAIL (mparker@achd.net)

May 27, 2016

Allegheny County Health Department
ATTN: Michael Parker

RE: NOTICE OF APPEAL OF THE MUNICIPAL AUTHORITY OF THE CITY OF MCKEESPORT (MACM) FOR ALLEGED VIOLATIONS OF PENNSYLVANIA CLEAN STREAMS LAW, ACT 394, APPROVED JUNE 22, 1937, P.L. 1987, SECTION 201 AND 2012, AS AMENDED; ALLEGHENY COUNTY HEALTH DEPARTMENT RULES AND REGULATIONS, ARTICLE XIV, "SEWAGE MANAGEMENT", SECTIONS 1404.1 AND 1404.2; AND PART C(C) (2) (ii) (c) OF NPDES PERMIT NO. PA 0026913 ISSUED TO MACM ON APRIL 22, 2008, CONTAINED IN CORRESPONDENCE FROM ALLEGHENY COUNTY HEALTH DEPARTMENT DATED NOVEMBER 14, 2014

Dear Mr. Parker:

As a follow-up to recent telephone conversations which I have been told were held between Austin Davis of County Executive Fitzgerald's office and your Director, Karen Hacker, with regard to the above-referenced matter, conversations to which I was not privy, I would request, on behalf of The Municipal Authority of the City of McKeesport, that we schedule another meeting between representatives of your office

and The Municipal Authority of the City of McKeesport to hopefully amicably resolve the current dispute between the parties relating to the amount of the Civil Penalty, if any, The Municipal Authority of the City of McKeesport would have to pay to the Allegheny County Health Department to resolve the dispute so that both parties can avoid the unnecessary time and expense of proceeding to a Hearing before an Administrative Hearing Officer.

Hopefully your office will honor this request for a subsequent meeting between the parties and, if so, please advise me of your dates of availability in the months of June and July 2016 when you and your representatives would be available for the meeting in your offices. I know that, because of everybody's prearranged summer vacation schedules, it may be difficult to get all necessary parties together at the same time but, as soon as I receive your available dates, I will do my utmost to make sure that one of those dates is convenient for representatives of The Municipal Authority of the City of McKeesport.

Please feel free to contact me if you have any questions or require any further information in this matter.

Sincerely yours,
George S. Gobel, Esquire
Solicitor, MACM

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