STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
601 57th STREET SE
CHARLESTON, WV 25304-2345

GENERAL
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT

Permit No. WV0115924

Issue Date: December 5, 2012
Effective Date: January 4, 2013
Expiration Date: January 3, 2018

Subject: Stormwater Associated With Construction Activities

To Whom It May Concern:

This is to certify that any establishment with discharges composed entirely of stormwater associated with construction activities disturbing one acre or greater of land area (construction activities are land disturbing operations such as clearing, grubbing, grading, filling and excavation operations during site development for residential, commercial or industrial purposes) and agreeing to be regulated under the terms of this General Permit, except for;

1. Operations that result in the disturbance of less than one acre of total land area, which are not part of a larger common plan of development or sale.

2. Stormwater discharges associated with land disturbing activities that may reasonably be expected to be causing or contributing to a violation of a water quality standard as determined by the Director.

3. Land disturbing activities already governed by other Department of Environmental Protection NPDES permits. This includes Division of Mining and Reclamation permits for coal mining and non-metallic quarries.

4. Landfills, except in the preparation of a new landfill and/or clay borrow areas.

5. Other activities exempt from NPDES permitting requirements as set forth in 40CFR 122.3(e) and 47CSR 10-3.2.b.4 (NPDES Program).

6. Land disturbing activities related to oil and gas activities as required by the Energy Policy Act of 2005. These activities include but are not limited to

> construction of drilling sites, waste management pits, and access roads, as well as construction of the transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations. Construction activities that result in a discharge of a reportable quantity release or that contribute pollutants (other than non-contaminated sediments) to a violation of a water quality standard are still subject to permit coverage.

is hereby granted coverage under this General WV/NPDES Water Pollution Control Permit to allow stormwater discharges into the surface waters of the State. This General Permit is subject to the following terms and conditions:

> The information submitted on and with the site registration application form will hereby be made terms and conditions of the General Permit with like effect as if all such information were set forth herein, and other pertinent conditions set forth in Sections A, B, C, D, E, F, G, H, I and J.

Construction of single family residences by the homeowner or homeowner's contractor requiring land disturbances less than three acres in size are provided coverage under the General WV/NPDES Water Pollution Control Permit and do not require application for registration. This includes offsite borrow and waste sites. However, all other terms and conditions of the General WV/NPDES Water Pollution Control Permit still apply except for the Notice of Termination requirement. The WVDEP's Individual House Sample Sediment and Erosion Control must be used during the construction of the single family home.

Sites approved from January 1, 2011, thru November 5, 2012, are hereby granted coverage under General WV/NPDES Water Pollution Control Permit WV0115924. Sites approved prior to January 1, 2011, shall have until June 30, 2013, to have final stabilization completed. Final stabilization means disturbed areas shall be covered by the appropriate permanent protection. Final stabilization includes; pavement, buildings, stable waterways (riprap, concrete, grass or pipe), a healthy, vigorous stand of perennial grass that uniformly covers at least 70 percent of the ground, stable outlet channels with velocity dissipation which directs site runoff to a natural watercourse, and any other approved structure or material. Sites that are not stabilized by June 30, 2013, an application to receive permit coverage must be submitted to the Division of Water and Waste Management on or before, July 1, 2013.

Continuation of this general permit

If this general permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 47 CSR 10 and remain in force and effect. If you were authorized to discharge under this general permit prior to the expiration date, any discharges authorized under this permit will automatically remain covered by this general permit until the earliest of:

- Your authorization for coverage under a reissued general permit or a replacement of this general permit following your timely and appropriate submittal of a complete application requesting authorization to discharge

under the new general permit and compliance with the requirements of the new permit; or

- Your submittal of notification of termination that the facility has ceased operations; or
- Issuance or denial of an individual permit for the facility's discharge; or
- A formal permit decision by DWWM not to reissue this general permit, at which time DWWM will identify a reasonable time period of covered dischargers to seek coverage under an alternative general permit or individual permit. Coverage under this permit will cease at the end of this time period.

SECTION A. TERMS OF PERMIT

Discharges from sites covered under this General Permit shall not cause or contribute to a violation of 47CSR2 (Requirements Governing Water Quality Standards) and 46CSR12, (Requirements Governing Groundwater Standards) of the West Virginia Legislative Rules pursuant to Chapter 22, Article 11 and Article 12. Discharges that are not in compliance with these standards are not authorized.

SECTION B. SCHEDULE OF COMPLIANCE

Compliance with this General Permit, the approved Stormwater Pollution Prevention Plan and the Groundwater Protection Plan is required upon the beginning of the construction project.

SECTION C. MANAGEMENT CONDITIONS

C.1. Duty to Comply

C.1.a. The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the federal Clean Water Act (CWA) and State Act (Chapter 22, Article 11 or Article 12) and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or denial of a permit renewal application.

C.1.b. The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

C.2. Duty to Reapply

If the permittee seeks to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit or General Permit registration as detailed in permit reissuance.

C.3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

C.4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of a planned change or anticipated noncompliance, does not stay any permit condition.

C.5. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

C.6. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in 47CSR10-4.6. (NPDES Program). If an authorization becomes inaccurate because a different individual or position has responsibility for the overall operation of the project, a new authorization must be submitted to the Director prior to, or together with any reports, information, or applications to be signed by an authorized representative.

C.7. Transferability

This permit is not transferable to any person, except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

C.8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable specified time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to

determine compliance with this permit. This information may include water quality information as specified by the Director. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

C.9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall immediately submit such facts or information.

C.10. Inspections and Entry

The permittee shall allow the Director or an authorized representative upon the presentation of credentials and such other documents as may be required by law

C.10.a. To enter upon the permittee's premises at all responsible times in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;

C.10.b. To have access to and copy at reasonable times any records that must be kept under the conditions of this permit;

C.10.c. To inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit;

C.10.d. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.

C.11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22, Article 11 of the Code of West Virginia. Any permittee wishing to modify his coverage under this permit shall submit such request at least 45 days prior to the commencement of the proposed action for modification if no public notice period is required. A modification that requires a public notice period must be submitted at least 90 days prior to construction to allow for the public notice procedure.

C.12. Water Quality

Subject to 47 WV CSR 10.3.4.a, the effluent or effluents covered by this permit are to be of such quality so as not to cause a violation of applicable water quality standards.

C.13. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA.

C.14. Liabilities

C.14.a. Civil

Any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the CWA is subject to a civil penalty not to exceed $37,500 per day of such violation (40 CFR Part 19).

C.14.b. Criminal

Any person who negligently violates, among other sections, Section 301, 302, 306, 307, or 308 of the CWA, or any permit condition or limitation implementing any of such section in a permit is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than $50,000 per day, or by imprisonment of not more than 2 years, or both.

Any person who knowingly violates, among other section, Section 301, 302, 306, 307, or 308 of the CWA, or any permit condition or limitation implementing any such sections in a permit, is subject to a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment of not more than 3 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than $100,000, or by imprisonment for not more than 6 years, or both.

C.14.c. Nothing in C.14.a. and C.14.b. shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11 and State Groundwater Protection Act, Chapter 22, Article 12.

C.15 Outlet Markers

An outlet marker shall be posted during the term of General Permit coverage in accordance with Title 47, Series 11, Section 9 (Special Rules) of the West Virginia Legislative Rules.

SECTION D. OPERATION AND MAINTENANCE

D.1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.

D.2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D.3. Bypass

D.3.a. Definitions

D.3.a.1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and

D.3.a.2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

D.3.b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3.c. and D.3.d. of this permit.

D.3.c. Notification of bypass

D.3.c.1. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.

D.3.c.2. If the permittee does not know in advance of the need for bypass, notice shall be submitted as requires in F.2.a. of this permit.

D.3.d. Prohibition of bypass

D.3.d.1. Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for bypass, unless;

D.3.d.1.A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

D.3.d.1.B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance. This condition is not satisfied if the sediment and erosion control structures were not installed in the proper sequence; and

D.3.d.1.C. The permittee submitted notices as required under D.3.c. of this permit.

D.3.d.2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in D.3.d.1. of this permit.

D.4. Upset

D.4.a. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with the technology based permit effluent limits because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

D.4.b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based effluent limitation if the requirements of D.4.c. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

D.4.c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

D.4.c.1. An upset occurred and that the permittee can identify the cause(s) of the upset.

D.4.c.2. The permitted project was at the time being properly operated.

D.4.c.3. The permittee submitted notice of the upset as required in F.2.a. of this permit; and

D.4.c.4. The permittee complied with any remedial measures required under C.3. of this permit.

D.4.d. Burden of proof. In any enforcement proceedings the permittee seeking to establish the occurrence of an upset has the burden of proof.

D.5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permits by the Director, any solids, sludge, filter backwash or other pollutants (removed in the course of treatment or control of wastewater) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

SECTION E. MONITORING AND REPORTING AND DEFINITIONS

Monitoring of discharges is not required for construction activities unless directed by the Director.

E.1. Definitions

"Best management practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, other management practices and various structural practices such as but not limited to silt fence, sediment traps, seeding and mulching, and rip-rap used to prevent or reduce erosion and sediment runoff and the pollution of surface waters of the State. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Clearing" means the stage of development in which vegetation is cleared from land. Clearing does not include cutting and removing vegetation with chain saws, brush axes, brush hogs and other mechanical means where there is less than one acre or no soil disturbance.

"Clean Water Act" (CWA) (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 97-117 and Public Law 95-576; 33 U.S.C. 1251 et seq.

"Common plan of development" is a contiguous construction project where multiple separate and distinct construction activities may be taking place at different times on different schedules but under one plan. The "plan" is broadly defined as any announcement or piece of documentation or physical demarcation indicating construction activities may occur on a specific plot; included in this definition are most subdivisions.

"Control" is a best management practice such as erosion control or sediment control that will reduce sedimentation on a construction project.

"Construction Activity" means land disturbance operations such as clearing, grubbing, grading, filling, and excavating during site development for residential, commercial or industrial purposes. This includes, but is not limited to, access roads, borrow and spoil areas.

"Director" means the Director of the Division of Water and Waste Management, Department of Environmental Protection, or her designated representative.

"Disturbed area" is the total area of land disturbing activity that will take place during all phases of a construction project, including, but not limited to, all waste and borrow sites, utility installation, road building, mass grading, and site development.

"Diversion" means a berm or excavated channel or combination berm and channel constructed across sloping land on a predetermined grade. This includes but is not limited to protecting work areas from upslope runoff and reducing the size of the drainage going to sediment trapping structures (clean water diversion), transporting runoff across a project to minimize erosion and diverting sediment-laden water to an appropriate sediment-trapping structure.

"Erosion" means the displacement of solids (soil, mud, rock, and other particles) by the agents of wind, water, and ice in response to gravity.

"Establishment" means an industrial establishment, mill, factory, tannery, paper and pulp mill, mine, colliery, breaker or mineral processing operation, quarry, refinery, well and each and every industry or plant or works in the operation or process of which industrial wastes, sewage or other wastes are produced.

"Estimate" means to be based on a technical evaluation of the sources contributing to the discharge.

"Excavating" means to engage in digging, hollowing out, or removing, accomplished usually with heavy machinery.

"Final stabilization" means disturbed areas shall be covered by permanent protection. Final stabilization includes pavement, buildings, stable waterways (riprap, concrete, grass or pipe), a healthy, vigorous stand of perennial grass that uniformly covers at least 70 percent of the ground, stable outlet channels with velocity dissipation that directs site runoff to a natural watercourse, and any other approved structure or material.

"Grading" means changing surface contours by removing soil and stone from one place and building it up in another.

"Groundwater" means the water occurring in the zone of saturation beneath the seasonal high water table or any perched water zones.

"Groundwater Protection Plan" (GPP) means groundwater protection practices developed and implemented in accordance with WV Legislative Rules, 47CSR58 (Groundwater Protection Rule).

"Grubbing" means physically removing vegetative stumps and roots from the ground and disturbing the earth, usually by heavy machinery.

"Minor construction activity" means an activity which disturbs one acre or more, but less than three acres.

"National Pollutant Discharge Elimination System" (NPDES) means the national program for issuing, denying, modifying, revoking and reissuing, suspending, revoking, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Section 307, 318, 402, and 405 of CWA, including any approved state program.

"Natural vegetative buffer" is an area of undisturbed vegetation that occurs spontaneously without regular maintenance or management and is adjacent to or surrounds streams or other waters.

"Notice of Intent" (NOI) is the form to be submitted by the applicant to register a small construction project (one that disturbs one to less than three acres) under the Construction Stormwater General Permit. A project that disturbs one to less than three acres but will have construction activities one year or longer must file a Site Registration Application Form.

"Notice of Termination" (NOT) is the form to be submitted by the permittee to terminate coverage under the Construction General Stormwater Permit, after final stabilization has been completed. See Final Stabilization.

"Point source" is any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, and container from which pollutants are or may be discharged to surface waters of the state.

"Pollutant" means industrial waste, sewage or other wastes.

"Post-development" means the anticipated final conditions of the project, including rooftops, parking lots, streets, drainage systems, vegetation, and any other structure planned. For subdivisions and speculative developments, it will be assumed that all lots are developed.

"Pre-development" means the condition of the land, the amount and health of the ground cover and vegetation prior to development.

"Secretary" means the Secretary of the Department of Environmental Protection, or his/her designated representative.

"Sediment" means any particulate matter that can be transported by fluid flow and which eventually is deposited as a layer of solid particles on the bed or bottom of a body of water or other liquid.

"Sedimentation" means the deposition by settling of a suspended material.

"Sediment trap" means a temporary ponding area formed by constructing an embankment or excavation and embankment that will trap the flow of sediment-laden runoff. Sediment traps have a properly stabilized outlet/weir or riser and pipe to detain sediment-laden runoff from disturbed areas of five acres or less. Outlets must be designed to extend the detention time and allow the majority of the sediment to settle out.

"Sediment basin" means a temporary structure consisting of an earthen embankment, or embankment and excavated area, located in a suitable area to capture sediment-laden runoff from a construction site. A sediment basin reduces the energy of the water through extended detention (48 to 72 hours) to settle out the majority of the suspended solids and sediment and prevent sedimentation in waterways, culverts, streams and rivers. Sediment basins have both wet and dry storage space to enhance the trapping efficiency and are appropriate in drainage areas of five acres and greater.

"Sinkhole" means a depression in the land surface formed by solution or collapse that directs surface runoff into subsurface or to an underground drainage flow.

"Site Registration Application forms" means the forms designed by the Director for the purpose of registering for coverage under a General Permit. Under the General Permit there will be two separate forms, one for one to less than three acres (Notice of Intent) and the Site Registration Application form for projects that disturb three acres and greater. A project that disturbs one to less than three acres but will have construction activities one year or longer must file a Site Registration Application form.

"Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

"Stormwater Pollution Prevention Plan" (SWPPP) means the erosion and sediment control plan and the post development plan submitted as part of the Site Registration Application form.

"Tier 3 Waters" means waters as otherwise identified in 47CSR2-4.1.c. (Requirements Governing Water Quality Standards).

"Trout Streams" means any waters which meet the definition of 47CSR2-2.19. (Requirements Governing Water Quality Standards).

"1-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in one year.

"25-year, 24-hour precipitation" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years.

SECTION F. OTHER REPORTING

F.1. Reporting Spill and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to 47CSR11-2. (Special Rules) of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

F.2. Immediate Reporting

F.2.a. The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Department's designated spill alert telephone number ((800) 642-3074). A written submission shall be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and time, and if, the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

SECTION G. EFFLUENT LIMITATIONS AND OTHER REQUIREMENTS

G.1. Requiring an Individual Permit or an Alternative General Permit.

G.1.a. The Director may require any person authorized by this permit to apply for and obtain either an individual NPDES permit or an alternative NPDES General Permit. Any interested person may petition the Director to take action under this paragraph. The Director may require any owner or operator authorized by this permit to apply for an individual NPDES permit only if the owner or operator has been notified in writing that such a permit application is required.

G.2. Prohibition of Non-Stormwater Discharges

All discharges authorized by this permit shall be composed entirely of stormwater. Discharges of material other than stormwater are not authorized by this permit except as follows.

The following non-stormwater discharges are authorized by this permit: discharges from emergency firefighting activities, fire hydrant flushing; waters used to wash vehicles, provided there is no discharge of soaps, solvents, or detergents used for that purpose: waters used to control dust; potable water sources, including uncontaminated waterline flushing; landscape irrigation; lawn watering; routine external building washdown which does not use detergents; pavement washwater provided spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used. You are prohibited from directing pavement wash waters directly into any surface water,

storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control: uncontaminated air conditioning condensate; uncontaminated, non-turbid discharges o groundwater or springs; foundation or footing drains where flows are not contaminated with process materials such as solvents that are combined with stormwater discharges associated with industrial activity; other construction dewatering activities that are treated by an appropriate control.

This permit does not authorize the conveyance, diversion, channeling, directing or otherwise allowing the discharge of stormwater into a sinkhole without an Underground Injection Control Permit.

G.3. Releases in Excess of Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40CFR117 and 40CFR302. The discharge of hazardous substances in the stormwater discharge(s) from a project is not authorized by this General Permit, and in no case shall the discharge(s) contain a hazardous substance.

G.4. Stormwater Pollution Prevention Plans and Groundwater Protection Plans (SWPPP/GPP)

A Stormwater Pollution Plan and a Groundwater Protection Plan shall be developed for each project covered by this permit. These two plans may be combined into one plan if all of the requirements for both plans are met. Alternatively, they may be developed and maintained as separate stand-alone documents.

Stormwater Pollution Prevention Plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges associated with construction activity. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction activity and to assure compliance with the terms and conditions of this permit.

Groundwater Protection Plans (GPP) shall be prepared in accordance with the requirements of 47CSR58-4.11. et seq (Groundwater Protection Regulations). The GPP shall identify all operations that may reasonably be expected to contaminate the groundwater resources with an indication of the potential for soil and groundwater contamination from those operations. In addition the GPP shall provide a thorough and detailed description of procedures designed to protect groundwater from the identified potential contamination sources. The GPP is not required to be submitted to the Division of Water and Waste Management for review. Guidance in the completion of a GPP is available from the Division of Water and Waste Management.

G.4.a. The SWPPP and the GPP shall be signed in accordance with Section C.6. and retained onsite.

G.4.b. The application and SWPPP shall be submitted to the Division of Water and Waste Management at least 60 days before construction is to begin, except as noted in G.4.b.3. and G.4.b.4. Prospective permittees should submit applications for review prior to accepting construction bids on the project. As the plans are evaluated by the Director or authorized representative, the Director or authorized representative may notify the permittee during the 60 day review period that the plan does not meet one or more of the minimum requirements of this section. After such notification from the Director or authorized representative, the permittee shall make changes to the plan in accordance with the time frames established below, and shall submit to the Director a written certification that the requested changes have been made.

G.4.b.1. Except as provided in G.4.b.2., the permittee shall have 30 days after such notification to make the changes necessary.

G.4.b.2. The permittee shall have 24 hours after such notification to make changes relating to sediment and erosion controls to prevent loss of sediment from an active construction site, unless additional time is provided by the Director or an authorized representative.

G.4.b.3.Projects disturbing less than three acres and that do not discharge to or upstream of Tier 3 waters shall submit only the Notice of Intent Form (NOI) 15 days prior to initiating construction. A project that disturbs one to less than three acres but will have construction activities one year or longer must file a Site Registration Application form.

G.4.b.4 Projects disturbing less than three acres that will discharge upstream of Tier 3 waters shall submit the NOI and the SWPPP for review 60 days prior to initiating construction.

G.4.b.5. Projects that are expected to discharge to Tier 3 waters or that are expected to disturb 100 or more acres, or that the grading phase of construction is expected to last for more than one year, shall submit the application and SWPPP at least 100 days prior to construction to allow for the public notice procedure.

G.4.b.6. Projects discharging to waters with approved total maximum daily loads (TMDL) that have acreage limits for Stormwater Construction General Permit Registrations will have registrations issued for one (1) year. If TMDL acreage limits for the receiving water have been met at the time of application, effluent limits shall be set and discharge monitoring required. Registration issuance will not be limited to one (1) year when discharge monitoring is required. Projects with registrations issued for one year that are not completed at the time of registration expiration and do not meet stabilization requirements in Section J, shall reapply for General Permit coverage.

G.4.b.7. If you are conducting earth-disturbing activities in response to a public emergency *e.g., natural disaster, widespread disruption in essential public services)*, and the

related work requires immediate authorization to avoid imminent endangerment to human health, public safety, or the environment, or to reestablish essential public services, you are authorized to discharge on the condition that a complete and accurate NOI or application and SWPPP is submitted within 30 calendar days after commencing earth-disturbing activities establishing that you are eligible under this permit. You are also required to provide documentation in your SWPPP to substantiate the occurrence of the public emergency.

G.4.b.8. Within 24 hours of filing an NOI (one to less than three acres) or a Site Registration Application (three acres or more) with DWWM, all projects shall display a sign for the duration of the construction project near the entrance of the project or, for linear projects, at a location near an active part of the project that is accessible by the public, which contains the following information using the template found in the instructions: 1) the registrant's name or the name of a contact person along with a telephone number; 2) A brief description of the project; 3) a statement indicating that the NOI or SWPPP, as applicable, has been filed with the DWWM; 4) the address and telephone number of the agency where the NOI or SWPPP is maintained; and 5) That any person may obtain a copy of the NOI or SWPPP by contacting the DWWM at (800) 654-5227. The sign shall be a minimum of two feet by two feet and at least three feet above ground level, clearly visible and legible from a public roadway or right-of-way. If it is not feasible to display a sign at or near the project, the registrant, with prior approval from the DWWM, may post a notice containing the foregoing information at a local public building, including, but not limited to, a town hall or public library.

G.4.c. The permittee shall modify, using forms provided by DWWM, the SWPPP whenever there is a change in design, construction, scope of operation, or maintenance, which has the potential to adversely impact the surface waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activities. Should conditions warrant, the Director, or the Director's representative, may request changes to the SWPPP during a field inspection. The Director may review changes or modifications to the SWPPP in the same manner as above.

The permittee shall amend the GPP whenever there is a change in design, construction, operation, or maintenance which could reasonably be expected to have an impact on the potential contamination of groundwater.

G.4.d. In addition to the requirements of G.4.e, the SWPPP shall also include, at a minimum, the following items:

G.4.d.1. General management controls

G.4.d.1.A. Preventive maintenance – A preventive maintenance program shall involve inspection and maintenance of sediment and erosion control best management practices to identify and address conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

G.4.d.1.B. Good housekeeping – Good housekeeping requires the maintenance of a clean and orderly project. This includes minimizing the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater.

G.4.d.1.C. Spill prevention and response procedures – Areas where potential spills may occur, and their accompanying drainage points, shall be identified clearly in the SWPPP/GPP. Where appropriate, specify material handling procedures and storage requirements in the SWPPP/GPP. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a cleanup shall be available to personnel, including spill kits.

G.4.d.2. Consistency with other plans

Stormwater Pollution Prevention Plans may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the CWA or any Best Management Practices (BMP) and Groundwater Protection Plans (GPP) pursuant to 47CSR58 (Groundwater Protection Rule) or otherwise required by an NPDES permit and may incorporate any part of such plans into the Stormwater Pollution Prevention Plan by reference.

G.4.e. Requirements for construction activities – Operations that discharge stormwater associated with construction activity disturbing one or more acres are not only subject to the requirements of Section G.4.d. of this permit, but are also subject to the following requirements. The SWPPP shall include, as a minimum, the following items.

G.4.e.1. Site description – Each plan shall, at a minimum, provide a description of the following:

G.4.e.1.A. A description of the nature of the construction activity, including a proposed timetable for major activities;

G.4.e.1.B. Estimates of the following: total area of the site, the part of the site that is expected to undergo excavation or grading, and the total amount of excavation by cut and fill;

G.4.e.1.C. For each discharge design point, the pre-construction peak discharge from a one year, 24-hour storm in cubic feet per second and an the post-development peak discharge from a one year, 24-hour storm in cubic feet per second shall be calculated. The design procedures shall follow professionally accepted engineering and hydrologic methodologies. This requirement may be waived by the WVDEP for projects that are expected to have no increase in peak discharges.

G.4.e.1.D. Site maps indicating, with a minimum of five-foot contours, drainage patterns and slopes prior to construction and anticipated conditions after grading activities, topsoil

stockpiles, waste areas, borrow sites, locations of sediment control structures identified in the narrative, the location of impervious areas after construction is complete, final stormwater conveyance including all ditches and pipe systems, property boundaries and easements, nearest receiving stream, springs, surface water, access roads, a legend and any other information necessary to describe the project in detail.

G.4.e.1.E. A description and detail of the proposed construction entrance(s). Each site shall have stone access entrance and exit drives and parking areas to reduce the tracking of sediment onto public or private roads. Except for haul roads, all unpaved roads on the site carrying more than 25 vehicles per day shall be graveled.

G.4.e.2. Controls – Each construction operation covered by this permit shall develop a description of controls appropriate for the project and implement such controls. The description of these controls shall address the following minimum components, including a schedule for implementing such controls.

G.4.e.2.A. Erosion and sediment controls

G.4.e.2.A.i. Vegetative practices – A description of interim and permanent stabilization practices, including site specific implementation schedules of the practices shall be provided. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized as rapidly as possible. Efforts should also be made to limit disturbance on steep slopes, minimize soil compaction, and preserve topsoil where feasible. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Also include in the plan seedbed preparation requirements and the type and amount of soil amendments necessary to establish a healthy stand of vegetation. A record of the dates when major grading activities will occur, and when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures will be initiated shall be included in the plan. Except as noted below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has permanently ceased.

G.4.e.2.A.i.a. Where the initiation of stabilization measures by the seventh day after construction activity temporarily or permanently ceases is precluded by natural causes, stabilization measures shall be initiated as soon as conditions allow.

G.4.e.2.A.i.b. Where construction activity will resume on a portion of the site within 14 days from when activities ceased, (e.g., the total time period that construction activity is temporarily halted is less than 14 days) then stabilization measures do not have to be initiated on that portion of the site by the seventh day after construction activities have temporarily ceased.

G.4.e.2.A.i.c. Areas where the seed has failed to germinate adequately (uniform perennial vegetative cover with a density of 70%) within 30 days after seeding and mulching must be reseeded immediately, or as soon as weather conditions allow.

G.4.e.2.A.i.d. Clean water diversions must be stabilized prior to becoming functional.

G.4.e.2.A.i.e. A natural vegetative buffer shall be provided adjacent to receiving streams or other waters on or the project site. Vegetative buffers should be a minimum of 50 feet, however, a minimum of 100 feet is required if intended as a stand-alone erosion and sediment control practice. Vegetative buffers strips are not required if:

A natural vegetative buffer does not exist in pre-construction conditions, such as when the buffer has already been removed by existing development or agricultural activities; or

The receiving water is a man-made stormwater conveyance or storage structure, such as a ditch or storm water pond; or

In project locations where activities within waters have been approved under a CWA Section 404 permit and Section 401 water quality certification; or

In project locations where the vegetative buffer must be encroached to construct necessary infrastructure, such as a utility line or an access road. Justification for any encroachment must be provided by the applicant; or

Linear projects where right-of-way acquisition or area is limited.

G.4.e.2.A.ii. Structural practices – A description of the structural practices to be used to divert flows around exposed soils, storm flows or otherwise limit runoff from exposed areas and eliminate sediment-laden runoff from the site. Such practices may include but are not limited to silt fences, earth dikes and berms, land grading, diversions, drainage swales, check dams subsurface drains, pipe slope drains, storm drain inlet protection, rock outlet protection, reinforced soil retention systems and geotextiles, gabions and riprap, and permanent and temporary sediment traps/basins.

G.4.e.2.A.ii.a. For locations on a site that have a drainage area of five acres or less, a sediment trap which provides a storage volume equal to 3,600 cubic feet per acre of drainage area shall be installed. Half of the volume of the trap shall be in a permanent pool and half will be dry storage.

G.4.e.2.A.ii.b. For drainage areas of greater than five acres, a sediment basin providing 3,600 cubic feet per drainage acre shall be installed. Half of the volume of the basin shall be in a permanent pool and half shall be dry storage. Sediment basins must be able to dewater the dry storage volume in 48 to 72 hours, however this requirement may be

waived at the discretion of the WVDEP when skimmer devices are used. Dewatering structures must withdraw from the surface, unless infeasible. A sediment basin must be able to pass through the spillway(s) a 25-year, 24-hour storm event, and still maintain at least one foot of freeboard.

G.4.e.2.A.ii.c. The inlet(s) and outlet(s) for a sediment trapping structure must be protected against erosion by appropriate material such as riprap or other similar media.

G.4.e.2.A.ii.d. If necessary, diversions will be used to direct runoff to the trapping structure. Diversions to trapping structures may need to be stabilized prior to becoming functional.

G.4.e.2.A.ii.e. For locations served by a common drainage where a sediment basin providing 3,600 cubic feet of storage is not attainable or dewatering structures that withdraw from the surface are not feasible, additional sediment and erosion controls within the project area are required in lieu of the required sized sediment basin. Justification and a narrative description of the additional measures proposed must be provided for use of any practice(s) other than sediment basins or traps.

G.4.e.2.A.ii.f. Fill slopes must be protected by measures used to divert runoff away from fill slopes to conveyance measures such as pipe slope drains or stable channels.

G.4.e.2.A.ii.g. Sediment trapping structures shall be eliminated and the area properly reclaimed and stabilized when the contributing drainage area is stabilized and the structures are no longer needed, unless the structure is converted into a permanent stormwater control structure. This must be accomplished before the Notice of Termination is submitted.

G.4.e.2.A.ii.h. All trapped sediments shall be disposed on an upland area where there is no chance of entering nearby streams.

G.4.e.2.A.ii.i. Breaching the embankment to dewater the structure is not permitted. Dewatering and structure removal shall not cause a violation of water quality standards. Provide a description of the procedures that shall be used in removing these structures and the time frame.

G.4.e.2.A.ii.j. No sediment-laden water shall be allowed to leave the site without going through an appropriate best management practice.

G.4.e.2.A.ii.k. Hay or straw bales are not acceptable BMPs.

G.4.e.2.A.ii.j. Use of Treatment Chemicals - Polymers, flocculants, or other treatment chemicals may be used only in accordance with good engineering practices and specifications for use by the chemical provider/supplier. Documentation of proposed practices and specifications for the use of treatment chemicals shall be provided in the SWPPP. The use of cationic treatment chemicals is prohibited.

G.4.e.2.A.iii. Presumptive conditions for discharges to Tier 3 waters

Construction activities discharging to Tier 3 waters shall go through the Tier 3.0 antidegradation review process.

G.4.e.2.B. Stormwater control plan

A description of measures that shall be installed during construction to control pollutants in stormwater discharges when the project is completed shall be included in the SWPPP. The completed project shall convey stormwater runoff in a manner that shall protect both the site and the receiving stream from post-construction erosion. All surface waters and other runoff conveyance structures shall be permanently stabilized as appropriate for expected flows. In developing structural practices for stormwater control, the permittee shall consider the use of, but not limited to: infiltration of runoff onsite; flow attenuation by use of open vegetated swales and natural depressions; stormwater retention structures and stormwater detention structures. A combination of practices may be utilized. The permittee should consider low impact development (LID) in the design of the site and the best management practices. This will allow the site to retain its natural hydrology and infiltrate stormwater within the boundary of the site. The use of impervious surfaces for stabilization should be avoided. Velocity dissipation devices shall be placed at the outlet of all detention or retention structures and along the length of any outlet channel as necessary to provide a non-erosive velocity flow from the structure to a water course.

Projects located in areas that have local government requirements and/or criteria for post development stormwater management are subject to meeting those requirements and/or criteria. Compliance with this General Permit does not assure compliance with local codes regulations, or ordinances.

The permittee shall submit all calculations, watershed mapping, design drawings, and any other information necessary to explain the technical basis for the stormwater management plan. Design procedures shall follow professionally accepted engineering and hydrologic methodologies. Permanent stormwater control structures that will impound water (detention/retention basins or similar structures) shall be designed and certified by a registered professional engineer.

G.4.e.2.C Other controls

G.4.e.2.C.i. Waste disposal –All solid waste and construction/demolition material must be disposed of in accordance with the Code of West Virginia and Legislative Rule Title 33 Series 1, (Solid Waste Management Rule).

G.4.e.2.C.ii. Provisions must be made to control fugitive dust.

G.4.e.2.C.iii. Groundwater Protection Plan (GPP) – The applicant shall prepare a GPP that shall satisfy the 47CSR58-4.11. et seq. Groundwater must be protected in accordance

with the Code of West Virginia and Legislative Rule Title 47 Series 58 (Groundwater Protection Rule).

G.4.e.2.C.iv. Employee training – Employee training programs shall inform on-site personnel who are directly involved with construction activities at all levels of responsibility of the components and goals of the SWPPP. Training should address topics such as spill response, good housekeeping and routine inspection. Training shall be on a quarterly basis while construction activities subject to this General Permit are occurring and records of the training shall be maintained on site for review by the Director or the Director's representative.

G.4.e.2.C.v. Visual inspection – Company personnel shall be identified to inspect as set forth under G.4.e.2.D. A tracking procedure shall be used to ensure that adequate corrective actions have been taken in response to deficiencies identified during an inspection. Records of inspections shall be maintained onsite for review by the Director or the Director's representative.

G.4.e.2.C.vi. Recordkeeping and internal reporting procedures – Incidents such as spills, leaks and improper dumping, along with other information describing the quality and quantity of stormwater discharges should be included in the records. Inspection and maintenance records must be kept onsite for review by the Director or the Director's representative.

G.4.e.2.D Maintenance

The SWPP shall include a description of procedures to maintain in good and effective condition and promptly repair or restore all grade surfaces, walls, dams and structures, vegetation, erosion and sediment control measures and other protective devices identified in the site plan. Procedures in a plan shall provide that all erosion and sediment controls on the site are inspected at least once every seven calendar days and within 24 hours after any storm event of greater than 0.5 inches of rain per 24-hour period. Inspections are not required in areas that, at the time of inspection, are considered unsafe for inspection personnel.

G.4.e.2.D.i. All public and private roads adjacent to a construction entrance must be inspected and cleaned of debris originating from the construction site.

G.4.f. All Stormwater Pollution Prevention Plans and Groundwater Protection Plans required under this permit are considered reports that shall be available for review to the public under Section 308(b) of the CWA. The owner or operator of a project with stormwater discharges covered by this permit shall make plans available to members of the public upon request. However, the permittee may claim any portion of a Stormwater Pollution Plan or Groundwater Protection Plan as confidential in to the extent permissible by 47 CSR10-12.7. (NPDES Program).

G.4.g. Compliance with other laws and statutes

Nothing in this General Permit shall be construed as excusing the permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G.5. Discharges to Impaired Waters

This permit does not authorize new sources or new discharges of constituents of concern to impaired waters unless consistent with the approved total maximum daily load (TMDL) and applicable state law. Impaired waters are those that do not meet applicable water quality standards and are listed on the Clean Water Act Section 303(d) list. Sites that discharge into a receiving water that has been listed on the Clean Water Act 303(d) list of impaired waters, and with discharges that contain the pollutant(s) for which the water body is impaired, must document in the SWPPP how the BMPs will control the discharge of the pollutant(s) of concern. Pollutants of concern are those constituents for which the water body is listed as impaired.

Discharges of pollutants of concern to impaired waterbodies for which there is an approved TMDL are not eligible for coverage under this permit unless they are consistent with the approved TMDL as determined by the WVDEP. TMDL's that have established acreage limits for Stormwater Construction General Permit Registrations require no special conditions provided the acreage cap has not been met for the receiving stream other than the registration only being issued for one (1) year . If the acreage cap has been reached, additional area may be permitted if effluent limitations and monitoring is required consistent with limits established by the TMDL. Within six months of a new TMDL approval, permittees must incorporate any limitations, conditions or requirements applicable to their discharges necessary for compliance with the TMDL, including any monitoring or reporting required by DWWM rules, into their SWPPP in order to be eligible for coverage under this General Permit. The Director may elect to set effluent limitations and require discharge monitoring and public notice for any project within TMDL acreage limited areas.

G.6. Endangered and Threatened Species and State Historic Preservation Officer

If a site discharges to a stream where a federally endangered or threatened species or its habitats are present, the applicant must contact the U.S. Fish and Wildlife Service to ensure that requirements of the federal Endangered Species Act, 16 U.S.C. 1531 et. seq. are met.

For those projects that may impact historic preservation sites, the permittee shall coordinate the project with the State Historic Preservation Officer.

H. Reopener Clause

If there is evidence indicating potential or realized impacts on water quality due to any stormwater discharge authorized by this General Permit, the owner or operator of such discharge may be required to obtain an individual permit or alternative General Permit in accordance with Section G.1. of this General Permit or the General Permit may be modified to include different limitations and/or requirements.

I. The conditions, standards, and limitations of this General Permit shall be reviewed at the time of reissuance for possible revisions that may lead to more or less stringent conditions, standards, and limitations.

J. Permit coverage for construction activities encompassed by this permit expires upon satisfactory stabilization of the site. Satisfactory stabilization means **ALL** disturbed areas shall be covered by some permanent protection. Stabilize includes pavement, buildings, waterways (riprap, concrete, grass, or pipe), a healthy, vigorous stand of grass or native vegetation that uniformly covers more than 70 percent of the ground, stable outlet channels with velocity dissipation which directs site runoff to a natural watercourse, and any other approved structure or material. The permittee shall request a final inspection by sending in the Notice of Termination. Sites not stabilized shall continue to have coverage under this permit and shall be assessed an annual permit fee as promulgated by the West Virginia Legislature. Sites shall be assessed a prorated annual fee based upon the completion date and proper stabilization. The Notice of Termination must be submitted within 30 days after final stabilization is achieved.

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The herein-described activity is to be constructed or installed and operated, used and maintained strictly in accordance with the terms and conditions of this General Permit with any plans, specifications, and information submitted with the individual site registration application form, with any plan of maintenance and method of operation thereof submitted and with any applicable rules and regulations promulgated by the Environmental Quality Board and the Secretary of the Department of Environmental Protection.

Failure to comply with the terms and conditions of this General Permit, with any plans, specifications and information submitted, and with any plan of maintenance and method of operation thereof submitted shall constitute grounds for the revocation or suspension of this permit to any individual establishment or other person and for the invocation of all the enforcement procedures set forth in Chapter 22, Articles 11 and 12 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Chapter 22, Article 11 of the Code of West Virginia.

Scott G. Mandirola

BY: _____

Director