



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

Timothy Keister, Chairman  
Brockway Area Sewer Authority  
501 Main Street  
Brockway, PA 15824

SEP 30 2011

Dear Mr. Keister:

Enclosed is an Information Request ("Request") issued this date by the U.S. Environmental Protection Agency ("EPA") Region III, pursuant to Section 308 and Section 309(a) of the Clean Water Act (the "Act"), as amended, 33 U.S.C. § 1318 and 1319(a). Please provide a signed written confirmation of your intention to comply with this request to Chad D. Harsh, EPA Region III, at the address provided in Section IV, within five (5) days of receipt of this Information Request.

Your responses to this request must be accompanied by a certificate that is signed and dated by you or the person who is authorized by you to respond to the Request within fifteen (15) days unless otherwise stated. The certification must state that the Response is complete and contains all information and documentation available to you pursuant to the request. Section IV, Paragraph 40 provides a Statement of Certification for this purpose.

You should carefully read the contents of the enclosed Request, and communicate to each responsible official, agent or employee the actions which each such person must take to ensure compliance with its terms. Failure to comply with the terms of the Request may result in further enforcement action being taken, including a civil suit for penalties and injunctive relief, or a criminal prosecution as appropriate.

If you require any information or assistance regarding this matter, please contact Chad D. Harsh, U.S. EPA Region III, NPDES Enforcement, at 215-814-2633.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Capacasa", is written over a circular stamp or seal.

Jon M. Capacasa, Director  
Water Protection Division  
U.S. Environmental Protection Agency, Region III

Enclosure

cc: Jeff Means, Executive Assistant  
Office of Field Operations, PADEP



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John Holden, Environmental Program Manager  
Water Management Northwest Regional Office  
PADEP



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

**IN THE MATTER OF:**

Brockway Area Sewer Authority  
501 Main Street  
Brockway, Pennsylvania 15824

Proceeding Under Section 308 of the

Clean Water Act, 33 U.S.C. § 1318

REQUEST FOR INFORMATION

Respondent

**I. STATUTORY AUTHORITY**

1. This Request for Information ("Request") is issued under the authority vested in the United States Environmental Protection Agency (hereinafter "EPA") by Section 308 of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1318. The Administrator of EPA has delegated this authority to the Regional Administrator of Region III, who in turn has delegated them to the Director of the Water Protection Division of Region III. EPA hereby requires Brockway Area Sewer Authority ("Respondent") to provide information specified below.

**II. STATUTORY AND REGULATORY BACKGROUND**

2. EPA is authorized under Section 308 of the CWA, 33 U.S.C. § 1318, to require owners and operators of point sources to establish records and make such reports as may be necessary to carry out the purpose of the Act, including but not limited to:
  - (a) Developing or assisting in the development of any effluent limitation, or other limitation, prohibition, effluent standard, pretreatment standard, or standard of performance under the CWA;
  - (b) Determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance;
  - (c) Any requirement under Section 308 of the CWA, 33 U.S.C. § 1318; or
  - (d) Carrying out Sections 305, 311, 402, 404, and 504 of the CWA, 33 U.S.C. §§ 1315, 1321, 1342, 1344, and 1364.

### **III. EPA FINDINGS AND ALLEGATIONS**

3. Respondent, at all times relevant to this Request, has owned and/or operated a publicly owned treatment works, as that term is defined by 40 C.F.R. § 403.3, located in Brockway, PA ("the Facility").
4. Respondent operates the Brockway POTW pursuant to NPDES Permit No. NPDES Permit No. PA0028428 ("Permit").
5. The Permit authorizes discharges from the Treatment Plant through one outfall to Little Toby Creek.
6. Upon information and belief, the Treatment Plant had been accepting oil and gas exploration and/or production wastewaters.
7. Respondent received a letter from PADEP dated March 18, 2011, requesting that respondent sample its effluent for total dissolved solids ("TDS"), pH, alkalinity, chloride, sulfate, bromide, Gross Alpha, Radium 226 and 228 and Uranium.
8. EPA conducted a NPDES file review in the Northwest and Southwest Regional Offices of Pennsylvania Department of Environmental Protection April 3-8, 2011.

### **IV. REQUEST FOR INFORMATION**

AND NOW, this 30<sup>th</sup> day of September, 2011, Respondent is hereby directed, pursuant to Section 308 of the Act, 33 U.S.C. Section 1318,, to provide the following information within fifteen (15) calendar days from receipt of this Request, unless otherwise specified.

9. Respondent shall begin composite sampling, of a minimum of 8-hour duration, of its effluent for the analysis for TDS, chloride, bromide, sulfate, Gross Alpha, Radium 226 and 228 and Uranium upon receipt of this Request and biweekly thereafter. Samples should be analyzed by an accredited laboratory using EPA-approved methods. Respondent shall submit their effluent monitoring data along with its monthly DMRs to EPA and PADEP.
10. Respondent will not be required to perform the sampling and analysis prescribed in Paragraph 9 above, if, within five (5) calendar days of receipt of this Request, Respondent certifies that it will not accept any oil and gas exploration and/or production wastewater. To meet the requirements of this paragraph, Respondent must sign and return to EPA the attached certification (Attachment A).
11. Respondent shall provide EPA with an electronic spreadsheet that summarizes the information recorded in the Facility's monthly DMRs for the years 2006-2011.
12. Respondent shall provide EPA with the day, month, and year when oil and gas

exploration and/or production wastewater was first accepted at the Facility.

13. Respondent shall provide to EPA the notification given to PADEP regarding the acceptance of oil and gas exploration and/or production wastewater referenced in Paragraph 12.
14. Respondent shall provide EPA with documentation of PADEP's authorization for the acceptance of oil and gas exploration and/or production wastewater referenced in Paragraph 12.
15. Respondent shall provide to EPA all characterization evaluations of incoming wastes with source identification since the date referenced in Paragraph 12.
16. Respondent shall provide EPA with copies of all permit amendment applications including, but not limited to, applications submitted to notify the permitting authority of a proposed change in the type wastes received at the Facility since the date referenced in Paragraph 12.
17. Respondent shall provide EPA with the Facility's standard operating procedures for sampling the hauled wastewater at the truck unloading zone.
18. Respondent shall provide EPA with the Facility's method for whether or not to accept hauled oil and gas exploration and/or production wastewater based on the sampling procedure referenced in Paragraph 17.
19. Within five (5) calendar days of the effective date of this Request, Respondent shall submit to EPA a certification, signed by a responsible official, of Respondent's intent to comply with this Request.
20. Unless otherwise stated, Respondent shall provide to EPA all submissions pursuant to this Request within fifteen (15) calendar days of receipt of this Request. All submissions pursuant to this Request shall be signed, and dated by a responsible official of the Respondent, and include the following certification:

*"I certify that the information contained in or accompanying this submission is true, accurate, and complete.*

*As to the identified portion(s) of this submission for which I cannot personally verify its truth and accuracy, I certify as the responsible official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.*

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)



\_\_\_\_\_  
(Date)

The submission and certification shall be submitted to:

Chad D. Harsh  
NPDES Enforcement Branch  
Mail Code 3WP42  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

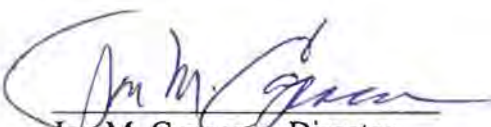
#### **V. GENERAL PROVISIONS**

21. Failure to respond as directed to a CWA Section 308 request is punishable under the civil and criminal provisions of Section 309 of the CWA, which provide for the assessment of penalties, injunctive relief and imprisonment. Providing misleading or false information may subject you to civil and criminal sanctions. The information you provide may be used by EPA in administrative, civil or criminal proceedings.
22. You may, if you desire, assert a business confidentiality claim covering all or part of the information requested herein in the manner described in 40 C.F.R. Part 2 Subsection B. Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information requested herein when it is received by EPA, it may be made available to the public by EPA without further notice. You may not withhold any information from EPA on the grounds that it is confidential business information. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act 44 U.S.C. Chapter 35. (See 5 C.F.R. Section 1320.3(c)).

#### **VI. EFFECTIVE DATE**

This REQUEST is effective upon receipt.

Date: 9/30/11

  
Jon M. Capacasa, Director  
Water Protection Division  
EPA, Region III

I certify that Brockway Area Sewer Authority, which operates under NPDES Permit No. PA0095443 will not accept any oil and gas exploration and/or production wastewaters at this facility. For the purpose of this certification, oil and gas exploration and/or production wastewaters includes, but is not limited to: ground water produced from coal seams, shale formation ground water, well drilling fluids, fracturing fluids, shale gas produced water, water produced from conventional and unconventional wells, pit water, containment pond water, and storage pond water.

If Brockway Area Sewer Authority desires to accept oil and gas exploration and/or production wastewater after signing this certification, Brockway Area Sewer Authority will, prior to acceptance: notify EPA Region III and PADEP of its intent, take all actions necessary to comply with the Clean Water Act (CWA) and receive all necessary approvals from EPA and PADEP.

As a managing official, I certify that this statement is true and correct. I am aware that violations of CWA are punishable under the civil and criminal provisions of Section 309 of the CWA, which provide for the assessment of penalties, injunctive relief and imprisonment.

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)