

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEWER AUTHORITY OF THE CITY OF
SCRANTON,

Defendant.

Civ. No. _____

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys on behalf of the Administrator of the United States Environmental Protection Agency (“EPA”), files this Complaint, and allege as follows:

NATURE OF ACTION

1. This is a civil action for injunctive relief and civil penalties brought against the Sewer Authority of the City of Scranton pursuant to Sections 309(b) and (d) of the Federal Clean Water Act (“CWA”), 33 U.S.C. §§ 1319(b) and (d), for permanent injunctive relief and assessment of civil penalties regarding the operation of a sewage treatment plant and collection system. The United States alleges that Defendant discharged, and continues to discharge, pollutants into waters of the United States in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), including discharges of raw sewage, storm water, and other wastewater (collectively, “combined sewage”) from at least 80 constructed combined sewer outfalls, and for violations of conditions established in the National Pollutant Discharge Elimination System (“NPDES”)

permits issued to Defendant by the Pennsylvania Department of Environmental Protection (“PaDEP”), as authorized by the EPA under Section 402(b) of the CWA, 33 U.S.C. § 1342(b).

2. Section 309(e) of the Clean Water Act states that when a municipality is a party to a civil action brought by the United States under Section 309 of the Clean Water Act, “the State in which the municipality is located shall be joined as a party.” 33 U.S.C. § 1319(e). The Commonwealth of Pennsylvania, through the PaDEP, has filed or will file a complaint alleging violations the Pennsylvania Clean Streams Law, Act of June 22, 1937, P.S. 1987 *as amended*, 35 P.S. §§ 691-1001, arising out of the same operative facts as are alleged in this complaint. The Commonwealth also has filed or will file, pursuant to Rule 24 of the Federal Rules of Civil Procedure, a motion to intervene in this case as a co-plaintiff.

JURISDICTION, VENUE, AUTHORITY AND NOTICE

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1331, 1345 and 1355.

4. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1391(b) and 1395(a) and Section 309(b) of the CWA, 33 U.S.C. § 1319(b), because it is the judicial district where Defendant is located, where a substantial part of the events or omissions giving rise to the claim occurred, and where the alleged violations occurred. Venue in this district is also proper under 28 U.S.C. § 1391(c).

5. Authority to bring this action is vested in the Attorney General of the United States under Section 506 of the CWA, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

DEFENDANT

6. Defendant is a municipal authority created under the Pennsylvania Municipal Authorities Act, 53 Pa. C.S.A. §§ 5601-23, and is known as “the Sewer Authority of the City of Scranton” or the “Scranton Sewer Authority” (“SSA”).

7. Defendant is located in Lackawanna County, Pennsylvania.
8. Defendant has the power to sue and be sued. 53 Pa. C.S.A. § 5607(d)(2).
9. Defendant is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and a “municipality” within the meaning of Section 502(4) of the CWA, 33 U.S.C. § 1362(4).
10. Defendant owns and operates a “treatment works” as that term is defined in Section 212(2) of the CWA, 33 U.S.C. § 1292, and a “publicly owned treatment works” (“POTW”) as that term is defined in EPA regulations implementing the CWA, 40 C.F.R. § 122.2 (cross-referencing the definition at 40 C.F.R. § 403.3(q)).

LEGAL BACKGROUND

11. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except as authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit issued by the EPA or an authorized State pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
12. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”
13. Section 502(7), 33 U.S.C. § 1362(7), defines “navigable waters” to be the “waters of the United States, including the territorial seas.”
14. Federal regulations promulgated pursuant to the CWA define the phrase “waters of the United States” to include, among other things, (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) all interstate waters; (iii) tributaries of waters of these waters; and (iv) wetlands adjacent to the foregoing. 40 C.F.R. § 122.2.

15. Section 502(6) of the CWA, 33 U.S.C. § 1362(6) includes “sewage” in the definition of “pollutant.”

16. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source” as “any discernable, confined and discrete conveyance . . . from which pollutants are or may be discharged.”

17. Under Section 402(a) of the CWA, 33 U.S.C. § 1342(a), the Administrator of the EPA may issue NPDES permits to authorize the discharge of pollutants into waters of the United States, subject to the conditions and limitations set forth in such permits.

18. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), provides that a state may establish its own permit program, and after receiving the EPA’s authorization of its program, may issue NPDES permits.

19. At all times relevant to this Complaint, the Commonwealth of Pennsylvania has been authorized by the EPA to administer an NPDES program for regulating the discharges of pollutants into navigable waters within the Commonwealth’s jurisdiction. The EPA authorized the PaDEP to administer an NPDES program on July 1, 1978.

20. The EPA retains concurrent enforcement authority pursuant to Section 402(i) of the Act, 33 U.S.C. § 1342(i).

21. Section 402(q) of the Act, 33 U.S.C. § 1342(q), provides that each permit, order, or decree issued after December 21, 2000, for discharges from a municipal combined sewer system shall conform to the EPA’s Combined Sewer Overflow Policy (“CSO Policy”), 59 Fed. Reg. 18688 (May 19, 1994).

22. Section 309(b) of the CWA, 33 U.S.C. § 1319(b), authorizes the Administrator of the EPA to commence a civil action to obtain appropriate relief, including a permanent or

temporary injunction, when any person: discharges without a permit in violation of Section 301 of the CWA, 33 U.S.C. § 1311; violates any permit condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342; or violates any order issued by the Administrator of the EPA.

23. Pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), the court may impose civil penalties not to exceed \$25,000 per day for each day in which such violation occurs on or before January 30, 1997, \$27,500 per day for each day of violation after January 30, 1997 (Pub. L. 104-134, 61 Fed. Reg. 69360 (Dec. 31, 1996), \$32,500 per day for each day in which such violation occurred after March 15, 2004, (69 Fed. Reg. 7121 (Feb. 13, 2004), and \$37,500 for each day in which such violation occurred on or after January 12, 2009 (*see* 73 Fed. Reg. 75340, 75345 (Dec. 11, 2008).

GENERAL ALLEGATIONS

24. Defendant provides sewage collection and wastewater treatment services to residences and places of business covering a 16-square-mile area that includes parts of the City of Scranton and portions of the Boroughs of Dunmore, Taylor, Dickson City and Moosic.

25. At all relevant times, Defendant has owned and/or operated a wastewater treatment facility (“WWTP”) and an associated collection system (collectively referred to hereafter as “publicly owned treatment works” or “POTW”), including sanitary sewage conveyances and combined sewage and storm water conveyances which receive and treat wastewater and storm water runoff from residential, commercial, industrial and combined sewage sources.

26. Defendant's collection system includes approximately 275 miles of sewers, approximately 172 miles of which consists of combined sewers that carry both sewage and storm water.

27. During certain rainfall events, the volume of waste water entering Defendant's combined sewer system exceeds the hydraulic capacity of the sewers and/or the treatment plant. In those circumstances, Defendant's collection system will discharge untreated waste water from certain designated outfalls, known as combined sewer outfalls.

28. When wastewater discharges from a combined sewer outfall, the event is known as a combined sewer overflow ("CSO").

29. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the PaDEP issued NPDES permit no. PA-0026492 for Defendant's WWTP with an effective date of November 5, 1996 (the "1996 NPDES Permit").

30. The 1996 NPDES Permit identified, and authorized discharges from, one WWTP outfall and 69 combined sewer outfalls.

31. Pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), the EPA issued an Order for Compliance to Defendant which became effective on December 4, 2002 (the "2002 Order"). The 2002 Order is attached hereto as Appendix B.

32. The PaDEP reissued NPDES permit no. PA-0026492 to Defendant with modified terms on July 1, 2003 (the "2003 NPDES Permit").

33. The 2003 NPDES Permit identified, and authorized discharges from, one WWTP outfall and 78 combined sewer outfalls.

34. The PaDEP reissued NPDES permit no. PA-0026492 to Defendant with modified terms on April 1, 2008 (the "2008 NPDES Permit").

35. The 2008 NPDES Permit identified, and authorized discharges from, one WWTP outfall and 80 combined sewer outfalls.

36. Defendant appealed certain terms of the 2008 NPDES Permit.

37. The PaDEP reissued NPDES permit no. PA-0026492 to Defendant with modified terms on September 21, 2009 (the “2009 NPDES Permit”), to become effective on October 1, 2009.

38. At all relevant times, Defendant’s NPDES Permit has authorized Defendant to discharge pollutants only from specified point sources (identified in the permit as one or more numbered “outfalls”) to specified waters of the United States and/or the Commonwealth, subject to limitations and conditions set forth in the NPDES permits.

39. Defendant’s collection system includes an interceptor pipe that, if well maintained, is capable of conveying sewage to the WWTP at a rate of 99 million gallons per day.

40. Defendant’s wastewater treatment plant was designed to treat only 20 million gallons of wastewater per day.

41. If the interceptor conveys wastewater to the WWTP at a rate that exceeds the capacity of the WWTP, Defendant’s NPDES permit authorizes it to discharge untreated wastewater from Outfall 003, but only if wastewater flows into the WWTP at a rate of more than 39 million gallons per day for one hour and continues to flow into the WWTP at a rate of more than 25 million gallons per day.

42. In 2008, Defendant discharged in excess of 1 billion gallons of untreated wastewater from Outfall 003 and more than 100 million gallons of untreated wastewater from its other combined sewer outfalls.

43. Defendant's WWTP outfall, known as Outfall 001, discharges treated wastewater into the Lackawanna River.

44. The Lackawanna River is a perennial tributary of the Susquehanna River, which is in turn a perennial tributary of the Chesapeake Bay.

45. Defendant's combined sewer outfalls discharge untreated combined sewage into the Lackawanna River, Roaring Brook, Meadow Brook, Keyser Creek, Stafford Meadow Brook, Little Roaring Brook, and Leggetts Creek.

46. Roaring Brook, Meadow Brook, Keyser Creek, Stafford Meadow Brook, Little Roaring Brook, and Leggetts Creek are all perennial tributaries of the Lackawanna River.

47. For portions of the Lackawanna River and its tributaries affected by discharges from Defendant's POTW and identified as waters of the Commonwealth, Pennsylvania has adopted water quality standards and designated beneficial water uses of recreation, drinking water as well as the aquatic life uses "Cold Water Fishery" and/or "Trout Stocking Fishery." 25 PA Code § 93.9.

48. The Lackawanna River, Roaring Brook, Meadow Brook, Keyser Creek, Stafford Meadow Brook, Little Roaring Brook, Leggett Creek, the Susquehanna River, and the Chesapeake Bay are "waters of the United States" within the meaning of the Clean Water Act.

49. The combined sewage that Defendant sometimes discharges from its combined sewer outfalls contains raw sewage, commercial and industrial waste from industrial users of the system, and storm water runoff.

50. Raw sewage and combined sewage contain viruses, bacteria and protozoa as well as other pathogens.

51. Infection with organisms contained in raw sewage can cause a number of adverse

health effects ranging from minor illnesses such as sore throats and mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

52. Children, the elderly, people with weakened immune systems, and pregnant women are at more risk for adverse consequences from such infections than the general population.

53. When raw sewage and combined sewage are discharged into waterways, bacteria consume organic matter in the sewage and consume oxygen dissolved in the water. When large amounts of sewage are discharged, dissolved oxygen levels can become severely depleted, resulting in the suffocation of oxygen-dependent aquatic life forms including fish, mollusks, and crustaceans.

54. Raw sewage and combined sewage contains high levels of nutrients such as nitrogen and phosphorous. When such nutrients enter water ways in large amounts, they can fuel algal blooms that block the penetration of light through the water and thereby threaten aquatic plants that rely on photosynthesis for energy. When algae decays, it can consume dissolved oxygen in the same manner as the decomposition of sewage.

FIRST CLAIM FOR RELIEF
(Failure to Submit an Adequate Long Term Control Plan)

55. Paragraphs 1-54 are re-alleged and incorporated herein by reference.

56. The EPA's CSO Policy requires the submission of a "Long Term Control Plan" to describe how the POTW will minimize or prevent CSOs. CSO Policy, 59 Fed. Reg. 18691-94 (April 19, 1994).

57. Defendant's 1996 NPDES Permit required in part C.1.SIX that Defendant submit an adequate Long Term Control Plan and a schedule for implementing the plan by November 5, 1999.

58. Defendant submitted a Long Term Control Plan in 1998 but did not submit a schedule for implementing the plan.

59. The EPA has determined that the Long Term Control Plan submitted in 1998 did not satisfy the requirements of the EPA's CSO Policy.

60. The 2002 Order directed Respondents to submit a revised Long Term Control Plan and a schedule for implementation consistent with EPA guidance by December 4, 2005.

61. The 2003 NPDES Permit directed SSA to develop and implement a Long Term Control Plan by the deadlines identified in the 2002 Order.

62. From at least December 4, 2005 and continuing to the present, Defendant has failed to submit a Long Term Control Plan and schedule for implementation consistent with the EPA's CSO Policy as required by the 2002 Order and the 2003 NPDES Permit.

63. Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), provide that any person who violates any condition or limitation which implements § 301 of the Clean Water Act, including permit conditions and limitations, shall be subject to injunctive relief and a civil penalty. The statutory maximum civil penalty amounts that may be awarded per day for each violation are set forth in Paragraph 23.

64. Unless enjoined by an order of the Court, Defendant will continue to violate Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by failing to submit a Long Term Control Plan consistent with the requirements of Section 402(q) of the CWA and the EPA's CSO Policy.

SECOND CLAIM FOR RELIEF
(Failure To Implement Nine Minimum Controls)

65. Paragraph 1-64 are re-alleged and incorporated herein by reference.

66. The EPA's CSO Policy requires implementation of Nine Minimum Controls (NMC) for CSOs by January 1, 1997.

67. The Nine Minimum Controls are best management practices that serve as technology-based effluent limits in permits that authorize discharges from CSOs.

68. The EPA described the NMCs in detail in the guidance document, "Guidance for Nine Minimum Control Measures" (EPA No. 832-R-94-002) (the "NMC Guidance")

69. The NMCs including the following:

- a. (#1) Proper operation and regular maintenance programs for the sewer system and combined sewer outfalls;
- b. (#2) Maximum use of the collection system for storage;
- c. (#3) Review and modification of the pretreatment requirements to ensure that CSO impacts are minimized;
- d. (#4) Maximization of flow to the WWTP for treatment;
- e. (#5) Elimination of CSOs during dry weather;
- f. (#6) Control of solids and floatable materials in CSOs;
- g. (#7) Pollution prevention programs to reduce contaminants in CSOs;
- h. (#8) Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts; and
- i. (#9) Monitoring to effectively characterize CSO impacts and the efficacy of CSO controls.

70. Defendant's 1996 NPDES Permit required in Part C.1.SIX.II that Defendant

demonstrate implementation of, and compliance with, the nine minimum controls as described in the NMC Guidance.

71. Pursuant to the requirements of the 1996 NPDES Permit, Defendant submitted a plan for implementing the nine minimum controls on November 10, 1998 (the “1998 NCM Plan”).

72. The EPA determined in the 2002 Order that Defendant failed to implement several portions of the 1998 NMC Plan.

73. In February 2003, Defendant submitted another plan for implementing the NMCs (the “2003 NMC Plan”).

74. The 2003 NPDES Permit required Defendants to implement the 2003 NMC Plan and demonstrate compliance with the NMCs.

75. Part C.I.Nine.II of Defendant’s 2008 NPDES permit requires Defendant to “demonstrate system wide compliance with the NMCs.”

76. Defendant has failed and continues to fail to properly operate and regularly maintain its POTW (NMC #1) in at least the following respects:

- a. Defendant has failed and continues to fail to perform operation and maintenance work that is common in the industry and that, if performed, would improve its ability to use its collection system for storage and maximize flow to and through the WWTP;
- b. Defendant lacks an operations and maintenance (O&M) manual for the collection system;
- c. Defendant lacks written standard operating procedures (SOPs) for conducting maintenance and inspection activities in the collection system;
- d. Defendant has an SOP for operating only one of its 80 CSO outfalls;

- e. Defendant lacks a list of facilities critical to the performance of the collection system and wastewater treatment plant;
- f. Defendant does not have a system for scheduling preventive maintenance tasks such as pipe or line cleaning;
- g. Upon information and belief, Defendant has a backlog of approximately 100 identified corrective maintenance activities, some of which have been on the backlog list for more than two years; and
- j. Defendant lacks formal training manuals or records of training for its employees.

77. Defendant has failed and continues to fail to maximize its use of the collection system for storage (NMC #2) in at least the following respects:

- a. Defendant has failed and continues to fail to use its collection system to store wastewater during periods of high inflow rates;
- b. Defendant has failed and continues to fail to gather adequate information to use its collection system for storage, such as a map of the location of sanitary sewer lines and combined sewer lines and data regarding the rates of flow within the collection system during rain events;
- c. Defendant has failed and continues to fail to adjust the positions of its weirs to maximize storage and in response to changes in wastewater flows in the service area;
- d. Defendant has failed and continues to fail to minimize infiltration of water and grit into the collection from structural defects in the pipes;
- e. Defendant has failed and continues to fail to prevent river water from flowing into the collection system at combined sewer outfalls 015 and 035;

f. Defendant has failed and continues to fail to clean accumulated grit and sediment from the collection system on a regular basis, reducing the capacity of the collection system; and

g. Defendant has failed and continues to fail to conduct an evaluation of inflow and infiltration in the separate sanitary sewer system component of the collection system.

78. Defendant has failed and continues to fail to conduct an adequate or complete program of reviewing and modifying pretreatment requirements (NMC #3) in at least the following respects:

a. Defendant has failed and continues to fail to update its map of the location of significant industrial users of the collection system since 2003;

b. Defendant has failed and continues to fail to conduct a formal, written evaluation of the impact of non-domestic discharges on CSOs; and

c. Because Defendant does not have data regarding rates of flow within the collection system, it has failed and continues to fail to adequately assess the potential and actual impacts from significant industrial users of the collection system.

79. Defendant has failed and continues to fail to maximize the flow of wastewater to the WWTP (NMC #4) in at least the following respects:

a. Defendant has failed and continues to fail to adjust weir heights to maximize flow to the WWTP;

b. Because Defendant does not have data regarding rates of flow within the collection system, it cannot adjust weir heights to maximize flow to the WWTP without risking sewage backups into home or businesses or localized flooding;

c. Defendant has failed and continues to fail to take adequate steps to control

grit, which limits the ability of WWTP to treat wastewater;

d. Defendant has failed and continues to fail to consistently use its primary clarifiers to store flows to the WWTP;

e. Because Defendant does not have a list of critical equipment and does not perform adequate operation and maintenance, Defendant has failed and continues to fail to maximize flow to the WWTP; and

f. Defendant has failed and continues to fail to schedule maintenance activities in a way that maximizes flow to and through the WWTP.

80. Defendant has failed and continues to fail to comply with the minimum control of eliminating discharges from CSO outfalls during dry weather (NMC #5) in at least the following respects:

a. Defendant has discharged wastewater from CSO outfalls during dry weather, not as a result of precipitation;

b. Defendant does not have formal training manuals or records of training for its employees on procedures for inspecting CSO outfalls to determine whether a dry weather overflow has occurred;

c. Signs posted by Defendant at CSO outfalls are not placed in such a way as to provide sufficient information for a citizen to identify and report the occurrence of a dry weather overflow;

d. Defendant does not know the precise location of one CSO outfall, and therefore cannot determine whether dry weather overflows have occurred there; and

e. Defendant does not know whether two discharge pipes located in the Lackawanna River adjacent to the collection system are CSO outfalls.

81. Defendant has failed and continues to fail to adequately control solids and floatables materials in the CSOs (NMC #6) in at least the following respects:

a. Defendant has installed baffles to prevent solids and floatables from being discharged in only 3 of its 80 combined sewer outfall locations;

b. Defendant has not installed effective means of preventing solids and floatables from being discharged during combined sewer overflows, and, as a result, Defendant's employees manually pick up solids and other debris from areas surrounding combined sewer outfalls after rain events;

c. Defendant purchased a street sweeper that could help reduce the discharges of solids and floatable during CSOs, but Defendant does not have a schedule or program for street sweeping activities and has not yet begun using the sweeper; and

d. Defendant does not know how many catch basins are included in its collection system, nor how many are connected to combined sewer outfalls, and therefore has failed and continues to fail to implement an effective program of cleaning them.

82. Defendant has failed and continues to fail to comply with the minimum control of pollution prevention (NMC #7) in at least the following respects:

a. Defendant has purchased a street sweeper, but does not yet use it;

b. Defendant has not obtained permission from the City of Scranton to sweep its streets; and

c. Defendant has failed and continues to fail to minimize grit entering the collection system from structural defects in pipes.

83. Defendant has failed and continues to fail to comply with the minimum control of public notification (NMC #8) in at least the following respects:

a. Signs posted by Defendant to mark the location of combined sewer outfalls are not visible from the water in some locations or have become overgrown by vegetation;

b. Because Defendant does not know the location of combined sewer outfall 054, it cannot post signs at that precise location; and

c. Defendant does not notify the public of the occurrence of overflow events that occur in areas that are not permitted combined sewer outfalls.

84. Defendant has failed and continues to fail to comply with the minimum control of monitoring to effectively characterize CSO impacts and the efficacy of CSO controls (NMC #9) in at least the following respects:

a. Defendant does not have a map of the locations of sanitary sewer lines and combined sewer lines;

b. Defendant cannot monitor combined sewer outfall 054 because Defendant does not know its location;

c. Defendant does not know whether two pipes that discharge to the Lackawanna River were CSO Outfalls; and

d. Defendant does not have written procedures for CSO inspections and does not document CSOs in a standardized fashion.

85. Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), provide that any person who violates any condition or limitation which implements § 301 of the Clean Water Act, including permit conditions and limitations, shall be subject to injunctive relief and a civil penalty. The statutory maximum civil penalty amounts that may be awarded per day for each violation are set forth in Paragraph 23.

86. Unless enjoined by an order of the Court, Defendant will continue to violate Section 301 of the CWA, 33 U.S.C. § 1311, by failing to comply with the conditions of its NPDES permit regarding the nine minimum controls.

THIRD CLAIM FOR RELIEF
(Unpermitted Discharges from CSO Outfalls to Waters of the United States)

87. Paragraphs 1-86 are re-alleged and incorporated herein by reference.

88. The 2003 NPDES Permit, the 2008 NPDES Permit, and the 2009 NPDES Permit authorize Defendant to discharge combined sewage from its combined sewer outfalls only when necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and /or the treatment plant.

89. The 2003 NPDES Permit, the 2008 NPDES Permit, and the 2009 NPDES Permit authorize Defendant to discharge combined sewage from Outfall 003 only during wet weather and only when flows to the WWTP have exceed 39 million gallons per day for more than one hour in a 24-hour period, and continue to exceed 25 million gallons per day thereafter.

90. The 2003 NPDES Permit, the 2008 NPDES Permit, and the 2009 NPDES Permit state that dry weather overflows are prohibited.

91. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except as authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit issued by the EPA or an authorized State pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

92. Defendant has repeatedly discharged combined sewage from combined sewer outfalls during dry weather.

93. Defendant has repeatedly discharged combined sewage from combined sewer outfalls during storm events where the hydraulic capacity of the sewers and /or the treatment

plant has not been exceeded due to precipitation.

94. Defendant has repeatedly discharged combined sewage from Outfall 003 without meeting the flow requirements described in paragraph 89.

95. Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), provide that any person who violates any condition or limitation which implements Section 301 of the Clean Water Act, including permit conditions and limitations, shall be subject to injunctive relief and a civil penalty. The statutory maximum civil penalty amounts that may be awarded per day for each violation are set forth in Paragraph 23.

96. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from its combined sewer outfalls in violation of its NPDES permit and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

**FOURTH CLAIM FOR RELIEF
(Discharges in Excess of Permit Limits)**

97. Paragraphs 1-96 are re-alleged and incorporated herein by reference

98. Defendant's NPDES permits contain limits on the concentrations of certain pollutants likely to be present in the treated effluent from the WWTP, including total suspended solids, ammonia nitrogen, carbonaceous biochemical oxygen demand, fecal coliform, and total residual chlorine.

99. Appendix A , incorporated herein by reference, provides a table of currently known occasions on which Defendant discharged pollutants from its WWTP at concentrations that violated its permit.

100. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except as authorized by a National Pollutant Discharge Elimination

System (“NPDES”) permit issued by the EPA or an authorized State pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

101. Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), provide that any person who violates any condition or limitation which implements Section 301 of the Clean Water Act, including permit conditions and limitations, shall be subject to injunctive relief and a civil penalty. The statutory maximum civil penalty amounts that may be awarded per day for each violation are set forth in Paragraph 23.

102. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants in excess of its permit limits in violation of the NPDES permits and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

FIFTH CLAIM FOR RELIEF
(Violation of the Proper Operation and Maintenance Condition
in Permits)

103. Paragraphs 1-102 are re-alleged and incorporated herein by reference.

104. The 2003 NPDES Permit, the 2008 NPDES Permit, and the 2009 NPDES Permit state that Defendant 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 Defendant to achieve compliance with the terms and conditions of the permits (the “Proper Operation and Maintenance Conditions”).

105. Defendant has failed to comply with the Proper Operation and Maintenance Conditions in at least the respects identified in Paragraph 76.

106. Many illegal discharges, including those alleged in Paragraphs 92 and 94, resulted, in whole or in part, from Defendant’s failure to comply with the Proper Operation and Maintenance Conditions.

107. Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), provide that

any person who violates any condition or limitation that implements Section 301 of the Clean Water Act, including permit conditions and limitations, shall be subject to injunctive relief and a civil penalty. The statutory maximum civil penalty amounts that may be awarded per day for each violation are set forth in Paragraph 23.

108. Unless enjoined by an order of the Court, Defendant will continue to violate Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by failing to comply with the Proper Operation and Maintenance Conditions of its NPDES Permit.

**SIXTH CLAIM FOR RELIEF
(Violation of Reporting Requirements in Permits)**

109. Paragraphs 1-108 are re-alleged and incorporated herein by reference

110. The 2003 NPDES Permit, the 2008 NPDES Permit, and the 2009 NPDES Permit each state that Defendant “shall give advance notice to [PaDEP] of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.”

111. Since 2006, Defendant has, on several occasions, made physical changes to the WWTP that made it temporarily unable, or unlikely to be able, to comply with its permit limits, including but not limited to the following:

a. For a period of time in 2009, Defendant took offline several sewage pumps at the headworks of the WWTP. During that time period, Defendant used three temporary pumps with a total combined pumping capacity of 18 million gallons per day. While these pumps were in service, and the regular pumps were not, Defendant was unable to comply with the permit condition described in Paragraph 89.

b. For a period of time in 2009, Defendant took one of its two grit chambers offline. The grit chamber remaining in service during that time period had a flow capacity of

approximately 30 million gallons per day, making it impossible for Defendant to comply with the permit conditions described in Paragraph 89.

112. Defendant failed to report the circumstances described in Paragraph 111, above, to the PaDEP.

113. The 2003 NPDES Permit, the 2008 NPDES Permit, and the 2009 NPDES Permit state that Defendant “shall report [to the PaDEP] any noncompliance which may endanger health or the environment.”

114. At various times from 2002 until the present, Defendant has discharged untreated wastewater containing raw sewage from manholes, sewer pipes and other conveyances into buildings, public areas, homes, and streams.

115. Upon information and belief, Defendant did not report all such discharges to the PaDEP.

116. Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), provide that any person who violates any condition or limitation which implements Section 301 of the Clean Water Act, including reporting requirements in an NPDES permit, shall be subject to injunctive relief and a civil penalty. The statutory maximum civil penalty amounts that may be awarded per day for each violation are set forth in Paragraph 23.

117. Unless enjoined by an order of the Court, Defendant will continue to violate Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by failing to report anticipated and unanticipated non-compliance with its NPDES Permit.

**SEVENTH CLAIM FOR RELIEF
(Failure to Comply with EPA Administrative Order)**

118. Paragraphs 1-117 are re-alleged and incorporated herein by reference.

119. The 2002 Order found that Defendant had numerous violations of the CWA and

CSO policy including, but not limited to, failure to implement the Nine Minimum Controls and failure to submit a revised Long Term Control Plan and schedule for implementation consistent with the CSO Policy.

120. The 2002 Order required Defendant to conduct the activities identified in paragraphs 81-123 of the 2002 Order, attached hereto as Appendix B.

121. Upon information and belief, Defendant did not perform many of the tasks described in the order by the provided deadline, including but not limited to:

a. Defendant failed to identify all discharge points to PaDEP within 45 days of the effective date of the 2002 Order, as required by paragraph 82 of the 2002 Order;

b. Defendant did not timely submit a plan and schedule for eliminating discharge points from the combined sewer system as required by paragraph 95 of the 2002 Order;

c. Defendant failed to submit to EPA various plans, reports, and other documentation related to its pretreatment program, as required by paragraphs 102-08 of the 2002 Order;

d. Defendant failed to submit to EPA within 180 days of the effective date of the 2002 Order, a re-evaluation of local limits, as required by paragraph 109 of the 2002 Order;

e. Defendant failed to certify to EPA, within 30 days of the effective date of the 2002 order, the status of repairs related to deficiencies identified during an inspection of outfalls 201 and 202 conducted on or about May 21, 2002, as required by paragraph 113 of the 2002 order;

f. Defendant did not timely install, operate and collect data from monitoring devices at fifteen (15) CSO discharge points that are representative of the combined sewer relief

discharge points listed in the Permit as discharge points 003-071 as required by paragraph 114 of the 2002 Order;

g. Defendant has failed, with respect to various items submitted pursuant to the 2002 Order, to correct deficiencies in such submissions in accordance with EPA's comments and resubmit such submissions with 45 days of receiving comments from EPA, as required by paragraph 117 of the 2002 Order; and

h. Defendant has failed to meet schedules included in various items submitted pursuant to the 2002 Order, in violation of paragraph 118 of the 2002 order.

122. Upon information and belief, Defendant has not yet completed many of the tasks described in the order by the provided deadline, including but not limited to:

a. Defendant has failed and continues to fail to implement the specific operating protocols described in paragraph 86 and the monitoring protocol described in subparagraph 86.a of the 2002 Order;

b. Defendant has failed and continues to fail to cease the discharge of pollutants into waters of the United States except in compliance with Permit No. PA-0026492 and Sections 301 and 402 of the Act as required by paragraph 81 of the 2002 Order;

c. Defendant has failed and continues to fail to submit to EPA a hydraulic model of the combined sewer system as required by paragraph 98 of the 2002 Order;

d. Defendant has failed and continues to fail to complete and submit to PaDEP and EPA a revised Long Term Control Plan and a schedule for implementation of the Long Term Control Plan in conformance with EPA's Combined Sewer Overflow (CSO) Control Policy, 59 Fed. Reg. 18688 (April 19, 1994) (codified at 33 U.S.C. § 1342(q)) and EPA's

Combined Sewer Overflows: Guidance for Long Term Control Plan (1995) as required by paragraph 99 of the 2002 Order; and

e. Defendant has failed and continues to fail to fully implement various items submitted pursuant to the 2002 Order, as required by paragraph 118 of the 2002 Order.

123. Sections 309(b) and (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d), provide that any person who violates an order issued by the EPA Administrator under Section 309(a), 33 U.S.C. § 1319(a), shall be subject to injunctive relief and a civil penalty. The statutory maximum civil penalty amounts that may be awarded per day for each violation are set forth in paragraph 23.

124. Unless enjoined by an order of the Court, Defendant will continue to violate the 2002 Order.

**EIGHTH CLAIM FOR RELIEF
(Imminent and Substantial Endangerment to Human Health)**

125. Paragraphs 1-124 are re-alleged and incorporated herein by reference.

126. On at least 60 occasions between at least January 2009 and August 2009, and upon information and belief occurring regularly at all times relevant to this complaint, Defendant has discharged untreated wastewater containing raw sewage and other pollutants from various point sources in its collection system onto public and private property including, without limitation, streets, buildings, and homes located in the City of Scranton and surrounding areas, where persons have or may have come into contact with such sewage.

127. Defendant's POTW is a "pollution source or combination of sources" as that phrase is used in Section 504(a) of the CWA, 33 U.S.C. § 1364(a).

128. Defendant, as the owner and operator of the POTW, is a “person causing or contributing to the alleged pollution” within the meaning of Section 504 of the CWA, 33 U.S.C. § 1364.

129. Upon information and belief, Defendant’s discharges of raw sewage and wastewater containing raw sewage will continue unless enjoined by this Court.

130. The risk of future discharges of raw sewage and wastewater containing raw sewage is presenting an “imminent and substantial endangerment to the health of persons” within the meaning of Section 504 of the CWA, 33 U.S.C. § 1364.

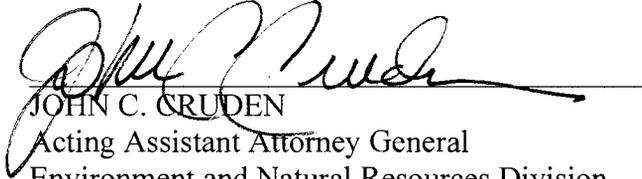
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests that this Court provide the following relief:

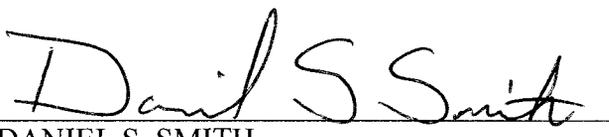
1. A permanent injunction enjoining Defendant from any and all ongoing and future violations of the CWA by ordering compliance with the Act;
2. A permanent injunction directing Defendant to take all steps necessary to come into permanent and consistent compliance with the prohibition on unpermitted discharges contained in Section 301(a) of the CWA;
3. A permanent injunction directing Defendant to take all steps as are necessary to prevent or minimize the imminent and substantial risk to human health posed by pollutants (raw sewage) originating in its POTW, in accordance with Section 504(a) of the CWA, 33 U.S.C. § 1364(a);
4. A permanent injunction directing Defendant to take all steps necessary to achieve permanent and consistent compliance with the CWA and the regulations promulgated thereunder, and all terms and conditions of its NPDES permits;

5. A permanent injunction requiring Defendant to submit and implement a full, complete, and adequate Long Term Control Plan;
6. A judgment assessing civil penalties against Defendant and in favor of the United States and the Commonwealth;
7. Order Defendant to mitigate the effects of each of its violations;
8. Award the United States and the Commonwealth their costs and disbursements in this action; and
9. Grant such other and further relief as this Court deems appropriate.

Respectfully Submitted,


JOHN C. CRUDEN
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

Dated: Sept. 29, 2009


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Appendix A: Scranton Sewer Authority Effluent Limitation Violations

Reporting Period	Parameter	Concentration/Loading	Required	Reported
April 2003	Nitrogen	Average Monthly (November – April)	9.0 mg/L	13.4 mg/L
May 2003	Nitrogen	Average Monthly (May – October)	3.0 mg/L	9.4 mg/L
	Total Suspended Solids	Average Monthly	30.0 mg/L	34.3 mg/L
	Total Suspended Solids	Average Weekly	7506 lbs/day	7706 lbs/day
	Nitrogen	Average Monthly	500 lbs/day	816.1 lbs/day
	Total Suspended Solids	Average Weekly	45.0 mg/L	91.4 mg/L
June 2003	Nitrogen	Average Monthly (May – October)	3.0 mg/L	9.7 mg/L
	Nitrogen	Average Monthly	500 lbs/day	1037.7 lbs/day
	Fecal Coliform	Concentration (May – September)	200 n/100 ml	215.2 n/100 ml
July 2003	Nitrogen	Average Monthly (May – October)	3.0 mg/L	3.6 mg/L
October 2005	pH	Range	6.0 – 9.0	5.7

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In The Matter of)
)
)
The Sewer Authority of the)
City of Scranton) Proceeding Under Section 309(a) of the Clean
) Water Act, 33 U.S.C. § 1319(a)
)
307 North Washington Avenue)
Scranton, PA 18503,)
)
The City of Scranton, Pennsylvania)
Municipal Building)
340 North Washington Avenue)
Scranton, PA 18503,)
)
and)
) Docket No. CWA-03-2003-0017DN
)
American Water Services, Inc.)
10000 Sagemore Drive) ORDER FOR COMPLIANCE
#10101)
Marlton, NJ 08053,)
)
Respondents)
_____)

I. STATUTORY AUTHORITY

1. This Order for Compliance is issued under the authority vested in the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) ("CWA" or "Act"). The Administrator has delegated this authority to the Regional Administrator of EPA Region III who in turn has redelegated it to the Director, Water Protection Division.

II. STATUTORY AND REGULATORY BACKGROUND

2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the National Pollutant Discharge

Elimination System ("NPDES") program under Section 402 of the Act, 33 U.S.C. § 1342 and 40 C.F.R. Part 122.

3. Section 502(6) of the Act, 33 U.S.C. § 1362(6), defines "pollutant" to include, inter alia, sewage, sewage sludge, biological material and industrial, municipal and agricultural waste.

4. Section 502(12) of the Act, 33 U.S.C. § 1362(12), defines "discharge of a pollutant" to include "any addition of any pollutant to navigable waters from any point source."

5. Section 502(14) of the Act, 33 U.S.C. § 1362(14) defines "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well [or] discrete fissure"

6. 40 C.F.R. § 232.2 defines "waters of the United States" to include: (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce; (ii) all interstate waters; (iii) tributaries to such waters; and (iv) wetlands adjacent to such waters or their tributaries.

7. Discharges from a combined sewer overflow discharge point are discharges from a point source which require a permit pursuant to Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

III. FINDINGS

8. On February 12-13, 2001, representatives of the Environmental Protection Agency conducted an inspection of the wastewater collection system and wastewater treatment plant owned and/or operated by Respondents and described in Paragraph 10 below.

9. On June 19-20, 2001, representatives of the Environmental Protection Agency conducted a Pretreatment Audit of the wastewater treatment plant owned and/or operated by Respondents.

A. Respondents and the Scranton System

10. Respondent Sewer Authority of the City of Scranton ("SACS") owns and operates a wastewater collection system which collects and conveys both sanitary wastewater (including sewage) and storm water ("combined sewer system," "CSS" or "collection system") and a wastewater treatment plant ("WWTP") (the WWTP and the CSS collectively are referred to as the "Scranton system"). The Scranton system includes pipes, force mains, sanitary sewer lines, combined sewer lines, overflow structures (including regulators), pump stations, manholes, and other real and personal property and appurtenances thereto designed to convey sanitary wastewater (including sewage) and storm water to the WWTP or, in wet weather, to combined

sewer overflow ("CSO") discharge points. The CSS is located in the City of Scranton and the Boroughs of Dunmore, Taylor, Dickson City and Moosic, and the WWTP is located in the City of Scranton, Lackawanna County, Pennsylvania.

11. Respondent City of Scranton ("Scranton") leased the Scranton system from SACS pursuant to a Lease Agreement dated as of April 1, 1968 ("Lease"). Under the terms of the Lease, Scranton agreed to (a) operate and maintain the Scranton system, (b) pay the costs thereof, and (c) pay rentals to SACS for the Scranton system. Scranton entered into an Operating agreement with SACS, appointing SACS to act as Scranton's agent to operate and maintain the Scranton System.

12. On March 1, 1999, Respondent American Water Services, Inc. ("AWS") (formerly AmericanAnglian Environmental Technologies, L.P.), and Respondents SACS, Scranton and Dunmore entered into a Professional Services Agreement for the Management of the Scranton Sewer Authority Among AmericanAnglian Environmental Technologies, L.P., The City of Scranton, Pennsylvania, The Borough of Dunmore, Pennsylvania, and The Sewer Authority for the City of Scranton ("Service Agreement"). Pursuant to the Service Agreement, Respondent AWS operates the Scranton system.

13. Respondents SACS, City of Scranton and AWS own and/or operate the Scranton system.

14. Respondents are "persons" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

15. The WWTP discharges pollutants to the Lackawanna River, a water of the United States.

16. The Scranton system includes at least 69 CSO discharge points, which are pipes. Discharges of pollutants through these CSO discharge points are discharged to the Lackawanna River, Roaring Brook, Stafford Meadow Brook, Little Roaring Brook, Roaring Brook, and Keyser Creek, which are waters of the United States.

B. NPDES Permit No. PA-0026492

17. On November 5, 1996, pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Chapter 92 of the Pennsylvania Clean Streams Law, as amended, 35 P.S. Section 69.5, the Pennsylvania Department of Environmental Protection ("PADEP") issued NPDES Permit No. PA-0026492 ("the Permit") to Respondent SACS. The permit was scheduled to expire September 30, 2001, and has been administratively extended.

18. The Permit authorizes discharges of pollutants from 69 CSO discharge points within the Scranton system which are listed in the Permit, subject to the terms and conditions of

the Permit. The 69 CSO discharge points listed in the Permit do not include discharge points located at the Middle Street, Shawnee Avenue, Myrtle Street, Keyser Valley, and Dorothy Street pump stations.

19. The Permit requires Respondents to perform certain actions with respect to the CSO discharge points. These actions include, but are not limited to, the following:

- a. Pursuant to Part A of the Permit, fifteen (15) overflow points that are representative of the 69 CSO discharge points listed in the Permit shall be monitored for cause, frequency, duration and quality of flow. This data is to be reported quarterly as an attachment to the Discharge Monitoring Report form.
- b. Pursuant to Special Condition Six of Part C, CSO discharges are permitted only when flows in the Scranton System exceed conveyance or treatment capacities during wet weather periods.
- c. Pursuant to Special Condition Six of Part C, dry weather overflows are prohibited.
- d. Pursuant to Special Condition Six, Section I.1 of Part C, the Permit requires a physical identification of the combined sewer system, including for each outfall: the location of the discharge point; a description of the regulator system, a description of the outfall structure; field verification of such information as cracked sewers, depressed or questionable integrity, and observances of flow restrictions; the location of downstream public drinking water intakes, Special Protection waters and public recreational areas; a visual identification system to identify each outfall; identification of chronic or continuous dry weather overflows and a schedule to eliminate dry weather overflows; and identification of any overflow from pump stations, gates or other control structures.
- e. Pursuant to Special Condition Six, Section I.2 of Part C, the Permit requires a hydraulic characterization of the system, including characterization of frequency, quantity and duration of overflow events and correlation of the quantity of discharge with the intensity and duration of storm events.
- f. Pursuant to Special Condition Six, Section II of Part C, the Permit requires submission of a report with appropriate documentation, demonstrating implementation of and compliance with the Nine Minimum Controls listed in the Permit and further described in U.S. EPA, Combined Sewer Overflow (CSO) Control Policy (April 1994) (EPA 830-8-94-001), and U.S. EPA, Combined Sewer Overflows: Guidance for Nine Minimum Controls (May 1995) (EPA 832-B-95-003). The Nine Minimum Controls include the following:

- (i) Proper operation and maintenance of the sewer system;
 - (ii) Maximum use of the collection system for storage and conveyance to the WWTP;
 - (iii) Review/modification of Scranton's pretreatment program;
 - (iv) Maximization of flow to the WWTP for treatment;
 - (v) Elimination of dry weather overflows;
 - (vi) Control of solids and floatables;
 - (vii) Pollution prevention programs;
 - (viii) Public notification of overflow occurrences/impacts;
 - (ix) Monitoring to effectively characterize sewer overflow impacts.
- g. Part B.1.c.(3) states that, where the Permittee becomes "aware that [they] failed to submit any relevant facts ... or submitted incorrect information ... in any report ..., [the Permittee] shall promptly submit such facts or information to the Department."

20. Pursuant to Special Condition Six, Section III of Part C, the Permit requires submission of a final Long Term Control Plan (LTCP) and Schedule for implementation of the LTCP.

21. In addition, the Permit requires that all facilities and systems installed or used to achieve compliance with the terms and conditions of the permit be maintained in good working order and properly operated. Permit, Part B.1.d.

22. The Permit limits the discharge of pollutants, including total suspended solids, dissolved oxygen, CBOD5, pH, and other pollutants from the WWTP. Permit, Part A.

23. Special Condition Seven(a) of the Permit requires operation and implementation of "an industrial pretreatment program in accordance with the federal Clean Water Act, the Pennsylvania Clean Streams law, and the federal regulations at 40 C.F.R. Section 403. The program shall also be implemented in accordance with the pretreatment program and any modifications thereto submitted by the permittee and approved by the Approval Authority."

C. Operation of the WWTP

24. Pursuant to Special Condition Six, Section II of Part C, the Permit requires submission of a report with appropriate documentation, demonstrating implementation of and compliance with the Nine Minimum Controls listed in the Permit and further described in U.S. EPA, Combined Sewer Overflow (CSO) Control Policy (April 1994) (EPA 830-8-94-001), and U.S. EPA, Combined Sewer Overflows: Guidance for Nine Minimum Controls (May 1995) (EPA 832-B-95-003). One of the Nine Minimum Controls is maximization of flow to the WWTP. In addition, the Permit requires that all facilities and systems installed or used to achieve compliance with the terms and conditions of the permit be maintained in good working order and properly operated. Permit, Part B.1.d.

25. Pursuant to Special Condition Six of Part C, CSO discharges are permitted only when flows in the Scranton System exceed conveyance or treatment capacities during wet weather periods.

26. As per Respondents' Peak Flow Hydrologic Capacity Analysis Report dated July 9, 2002, the WWTP's goal is to treat 39 mgd as a peak hourly flow and 25 mgd as an average daily flow.

27. Operation of the WWTP below its maximum capacity prevents maximization of flow to the WWTP.

28. CSO point source 003 is located immediately upstream of the WWTP.

29. On the dates provided in Attachment A, Respondents discharged untreated sewage from CSO point source 003 while simultaneously operating the WWTP at the respective flow rates provided in Attachment A. These flow rates represent operation below the permitted rate of the WWTP. On August 3, 2001, EPA and PADEP were notified during a meeting that the WWTP was operated at reduced flow rates to avoid solids carryover within the WWTP. The discharges set forth in Attachment A violate Special Condition Six of Part C of the Permit.

D. Operation of the CSS

30. Pursuant to Special Condition Six, Section II of Part C, the Permit requires submission of a report with appropriate documentation, demonstrating implementation of and compliance with the Nine Minimum Controls listed in the Permit and further described in U.S. EPA, Combined Sewer Overflow (CSO) Control Policy (April 1994) (EPA 830-8-94-001), and U.S. EPA, Combined Sewer Overflows: Guidance for Nine Minimum Controls (May 1995) (EPA 832-B-95-003). The Nine Minimum Controls include maximization of flow to the WWTP and maximum use of the the collection system for storage and conveyance to the WWTP. In addition, the Permit requires that all facilities and systems installed or used to achieve compliance with the terms and conditions of the permit be maintained in good working order and

properly operated. Permit, Part B.1.d.

31. Stream water, rain water and ground water entering into the CSS reduces available storage in the CSS for wastewater.

32. Reduced available storage in the CSS prevents maximization of wastewater flow to the WWTP. By failing to maximize wastewater flow to the WWTP, Respondents have failed to implement one of the Nine Minimum Controls required by Special Condition Six, Section II of Part C of the Permit.

33. Respondents own and/or operate numerous regulators designed to allow the discharge of sanitary wastewater (including sewage) and storm water at CSO points while operated in one mode and prevent the inflow of water into the CSS while operated in an alternative mode. The poor condition of the regulators in the Scranton system prevents adjustment of each regulator from one mode to another, allowing inflow of water into the CSS. The failure to maintain the CSS in good working condition violates Part B.1.d. of the Permit. The failure to maintain the regulators in good working condition violates Part B.1.d. of the Permit.

34. As set forth in Paragraph 28 above, Respondents discharged untreated sewage from CSO point 003 while simultaneously operating its WWTP at the respective flow rates provided in Attachment A. These flow rates represent operation below the capacity of the WWTP. On August 3, 2001, EPA and PADEP were notified during a meeting that the WWTP is operated at reduced flow rates to avoid solids carryover within the WWTP. The discharges set forth in Attachment A violate Special Condition Six of Part C of the Permit. The failure to take corrective action to prevent solids carryover results in operation of the WWTP in violation of Part B.1.d of the Permit.

35. Respondents have identified in the Service Agreement numerous defects in the CSS including broken pipes, separated joints, blocked siphons, accumulation of debris, sunken and/or sagging pipes, collapsed pipes, inflow of stream water, and discharge of untreated sewage through manholes and to basements and mines. On information and belief, these defects have not been remedied. The failure to maintain the CSS in good working condition violates Part B.1.d. of the Permit.

36. On the dates provided below, Respondents discharged untreated sewage from the respective CSO points identified below. These discharges were caused by blockages in the CSS and are dry weather discharges.

Date	Location of Dry Weather Discharge
5/26/00	CSO No. 27
6/16/00	CSO No. 66
6/16/00	CSO No. 63

7/19/00	CSO No. 55
9/12/00	Poplar Street
9/28/00	CSO No. 63
10/05/00	Well Street CSO
10/31/00	CSO No. 56, Love Pl.
11/02/00	CSO No. 15
11/28/00	CSO No. 55
11/29/00	CSO No. 43
11/30/00	CSO No. 42
5/20/02	CSO Nos. 15, 28, 45
6/13/02	CSO Nos. 11, 15, 45
6/18/02	CSO Nos. 15, 28
6/28/02	CSO No. 28
7/15/02	CSO No. 52
7/24/02	CSO Nos. 9, 12, 13, 18, 43
7/29/02	CSO No. 8
8/21/02	CSO No. 45
9/5/02	CSO No. 5

37. Pursuant to Part A of the Permit, only discharges caused by a wet weather event that causes flows to exceed the capacity of the Scranton system are authorized. Special Condition Six of Part C of the Permit prohibits dry weather discharges. The discharges identified in Paragraph 36 violate Part A and Special Condition Six of Part C of the Permit.

38. On multiple occasions, Respondents have discharged untreated sewage from discharge points that are not authorized by the Permit. These occasions include, but are not limited to, the following. On June 14, 2002, June 27, 2002 and July 19, 2002, Respondents discharged untreated sewage from the Keyser Valley, Middle Street and Shawnee Street Pump Stations. On June 14, 2002 and June 27, 2002, Respondents also discharged untreated sewage from the Myrtle Street Pump Station. The Permit does not authorize the discharge of untreated sewage from these locations. Consequently, these discharges violate Section 301(a) of the Clean Water Act.

39. Pursuant to Part A.3.c.(5) of the Permit, all instances of noncompliance (other than those reported as part of compliance schedule reporting or within 24 hours because they may endanger health or the environment) must be reported at the same time Respondents submit discharge monitoring reports.

40. The instances of dry weather discharges listed in Paragraph 36 that occurred prior to 2002, which are instances of noncompliance, were not properly reported.

41. The failure to report the instances of dry weather discharges described in Paragraph 40 violates Part A.3.c.(5) of the Permit.

E. Failure to Implement Nine Minimum Controls Plan

42. Pursuant to Special Condition Six, Section II of Part C, the Permit requires submission of a report with appropriate documentation, demonstrating implementation of and compliance with the Nine Minimum Controls listed in the Permit and further described in U.S. EPA, Combined Sewer Overflow (CSO) Control Policy (April 1994) (EPA 830-8-94-001), and U.S. EPA, Combined Sewer Overflows: Guidance for Nine Minimum Controls (May 1995) (EPA 832-B-95-003).

43. Part B.1.c.(3) of the Permit states that, where the Permittee becomes "aware that [they] failed to submit any relevant facts ... or submitted incorrect information ... in any report ..., [the Permittee] shall promptly submit such facts or information to the Department."

44. On November 10, 1998, Respondent Scranton Sewer Authority submitted the City of Scranton Sewer Authority Combined Sewer Overflow Plan Documentation of Nine Minimum Controls ("1998 NMC Plan").

45. Respondents have failed to implement many of the items described in the 1998 NMC Plan, including:

- a. Application to PADEP for permission to discharge untreated sewage from the CSO points located at the Middle Street and Shawnee Avenue pump stations.
- b. Inspection of 25,000 feet of the collection system on an annual basis.
- c. Modeling of the Scranton system to determine the lowest critical elevation (basement floor elevation, manhole rim elevation, or street inlet elevation) upstream of each of the CSO points to identify the maximum depth of wastewater that can be safely maintained in the chambers.
- d. Completion of draw down test to confirm the capacity of pumps at pump stations and use of time meters and recording devices to estimate the dry weather and wet weather flows to the pump stations.
- e. Monitoring of the use of pumps for the purpose of pumping wastewater out of the CSS and into waters of the United States.
- f. Installation of baffles at ten CSO points on a trial basis and evaluation of the success of the trial.
- g. Development of an accurate set of plans necessary to determine system capacity and model flows, including street locations, ground level contour lines, and manhole locations.

- h. Development, calibration, and use of a comprehensive model of the CSS using the XP-SWMM computer program.
- i. Evaluation of the feasibility of separation of selected portions of the CSS.

46. The failure to implement the elements of the 1998 NMC Plan set forth in Paragraph 45 above violates Special Condition Six, Section II of Part C of the Permit.

47. Following EPA's inspection, Respondents informed EPA that they had decided not to implement numerous elements of the 1998 NMC Plan, and that the 1998 NMC Plan was not representative of their efforts to implement the Nine Minimum Controls. Prior to EPA's inspection, Respondents had not informed PADEP or EPA that they were not implementing the 1998 NMC Plan.

48. The failure to submit corrected information regarding the intent to implement elements of the 1998 NMC Plan violated Part B.1.c.(3) of the Permit.

F. Failure to Comply with Other Aspects of the Permit Related to CSO Discharges

49. Respondents have failed to comply with numerous aspects of NPDES Permit No. PA-0026492, including but not limited to the following:

- a. There has been inadequate monitoring of 15 representative overflow points for cause, frequency, duration and quality of flow. The failure to monitor 15 representative overflow points violates Part A of the Permit.
- b. There has not been a physical identification of the combined sewer system, including but not limited to locating downstream public drinking water intakes, Special Protection waters, and public recreational areas, and identifying chronic or continuous dry weather overflows and eliminating all dry weather overflows. The failure to conduct a physical identification of the CSS violates Special Condition Six, Section I.1. of Part C of the Permit.
- c. There has not been a hydraulic characterization of the system. The failure to perform a hydraulic characterization of the system violates Special Condition Six, Section I.2 of Part C of the Permit.
- d. No schedule for implementation of the Long Term Control Plan (LTCP) has been submitted. The failure to submit a schedule for implementation of the LTCP violates Special Condition Six, Section III of Part C of the Permit.

- e. The facilities installed or used to achieve compliance with the terms and conditions of the Permit have not been maintained in good working order or operated properly. The failure to maintain the Scranton system in good working order violates Part B.1.d. of the Permit.

G. Implementation of the Pretreatment Program

50. Special Condition Seven(a) of the Permit requires that the operation and implementation of "an industrial pretreatment program in accordance with the federal Clean Water Act, the Pennsylvania Clean Streams law, and the federal regulations at 40 C.F.R. Section 403. The program shall also be implemented in accordance with the pretreatment program and any modifications thereto submitted by the permittee and approved by the Approval Authority."

51. Pursuant to 40 C.F.R. § 403.8(f)(1), the WWTP must operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the [Respondents] to apply or enforce requirements of the Act."

52. Although the Scranton system services portions of the Boroughs of Moosic, Taylor and Dickson City, the Respondents have never obtained the appropriate legal authority from the Boroughs of Moosic, Taylor and Dickson City. The failure to obtain appropriate legal authority or to enter into a jurisdictional agreement for program implementation with the Boroughs of Moosic, Taylor and Dickson City violates Special Condition Seven (a) of the Permit.

53. Pursuant to 40 C.F.R. §403.8(f)(2)(i), the Permit requires development and implementation of "procedures to ensure compliance with the requirements of a Pretreatment Program. At a minimum, these procedures shall enable [identification and location of] all possible Industrial Users which might be subject to the ... Pretreatment Program. Any compilation, index, or inventory of Industrial Users made under this paragraph shall be made available to the Regional Administrator or Director at once."

54. Respondents are unable to identify all industrial users contributing discharge of pollutants to the Scranton system in jurisdictions other than Scranton. The failure to identify all industrial users contributing discharges to the Scranton system violates Special Condition Seven (a) of the Permit.

55. Pursuant to 40 C.F.R. § 403.8(f)(1)(iii)(C), the contribution to the WWTP by each industrial user must be controlled "through permit, order or similar means, ... to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of [industrial users] identified as significant under 40 C.F.R. § 403(t), this control shall be achieved through permits or equivalent individual control mechanisms issued to each such user. Such control mechanisms must be enforceable and contain ... effluent limits based on applicable general pretreatment standards in 40 C.F.R. Part 403, categorical pretreatment standards, local limits, and

State and local law.”

56. In its annual report for calendar year 2001, Scranton reported that North American Manufacturing is subject to the pretreatment standards in the metal finishing point source category, 40 C.F.R. 433 (categorical pretreatment standards). An industrial user permit was issued to North American Manufacturing which contains limits for zinc and cyanide which are less stringent than the categorical pretreatment standards.

57. The issuance of industrial user permits which contain limits that are less stringent than categorical pretreatment standards and/or local limits violates Special Condition Seven (a) of the Permit.

58. Pursuant to 40 C.F.R. §403.8(f)(5), Respondents "shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how [Respondents] will investigate and respond to instances of [industrial user] noncompliance. The plan shall ... (ii) Describe the types of escalating enforcement responses [Respondents] will take in response to all anticipated types of ... violations and the time periods within which responses will take place."

59. Respondents' approved Pretreatment Program includes an Enforcement Response Guide approved May 4, 1994 ("ERG"). Respondents' ERG provides that facilities with significant limit exceedances of discharge limits (either isolated or recurring) will be issued Administrative Orders. The ERG provides that facilities which fail to monitor or which report more than thirty days late also will be issued Administrative Orders.

60. Respondents have failed to implement their ERG because they have failed to issue Administrative Orders for the following violations, based on Respondents' 1999 Annual Report:

<u>Industrial User</u>	<u>Violation</u>
Scranton Lace	Failure to sample discharges
Enzyme Development Corp.	Exceeded THP limit
Saquoit Industry	Failure to sample; exceeded MBAS limit
Anemostat	Failure to sample
GNB Battery Technologies	Failure to sample
Jaunty Textile	Exceeded copper and color limits
Apex Waste Services	Failure to sample; exceeded MBAS and pH limits
Steamtown NHS	Exceeded copper and color limits
Crystal Soda Water	Exceeded color and pH limits
North American Manufacturing	Exceeded MBAS and TPH limits
Chamberlain Manufacturing	Exceeded zinc and color limits

61. Respondents have failed to implement their ERG because they have failed to issue Administrative Orders and/or Compliance Schedules for the following violations, based on Respondents' 2000 Annual Report:

<u>Industrial User</u>	<u>Violation</u>
Scranton Lace	Exceeded pH limit
Enzyme Development Corp.	Exceeded copper limit
Instrument Specialities	Exceeded color and silver limits
Anemostat	Exceeded nickle limit
Steamtown NHS	Exceeded MBAS, copper, lead, pH and toluene limits
United Gilsonite Laboratories	Exceeded ammonia nitrate and BOD limits
North American Manufacturing	Exceeded zinc, color, MBAS limits
Chamberlain Manufacturing	Exceeded lead, color, TPH and zinc limits

62. Respondents have failed to implement their ERG because they have failed to issue Administrative Orders for the following violations, based on Respondents' 2001 Annual Report and quarterly industrial user compliance reports:

<u>Industrial User</u>	<u>Violation</u>
Crystal Soda Water Co.	Exceeded copper limits
Laird Technologies Saquoit, Inc.	Exceeded silver, MBAS limits
North American Manufacturing	Exceeded MBAS limits Late report (more than 30 days)
Scanton Lace	Exceeded zinc, MBAS, copper, mercury limits Late report (more than 30 days)
Steamtown National Historic Site	Exceeded copper, MBAS limits

63. The failure to implement the ERG violates Special Condition Seven (a) of the Permit.

64. Pursuant to 40 C.F.R. § 403.8(f)(2)(vii), the public must be notified annually in the largest daily newspaper published in the municipality of industrial users which during the previous twelve months were in significant noncompliance with applicable pretreatment requirements.

65. The public was not timely notified of industrial users which were in significant noncompliance in calendar year 1999 and in calendar year 2000.

66. The failure to timely notify the public of industrial users which were in significant noncompliance in calendar years 1999 and 2000, violates Special Condition Seven (a) of the Permit.

67. Pursuant to Special Condition 7(d) of the Permit, Respondents "shall submit to EPA and DEP in [the] Annual Report a reevaluation of [the] local limits based on a headworks analysis of [the] treatment plant within 1 year of permit issuance. Within 6 months of acceptance of the headworks analysis, the permittee shall adopt the revised limits and notify all contributing municipalities of the need to adopt the revised limits.

68. Respondents submitted a reevaluation of local limits in 1998. Because various concerns of EPA were not addressed, this evaluation was not accepted. On December 3, 2001, Respondents submitted a sampling plan for a new reevaluation of the local limits. This sampling plan was accepted by EPA on December 12, 2001. Respondents have not conducted a reevaluation of local limits based on the new sampling plan.

H. Other Violations

69. The Permit limits the discharge of pollutants, including total suspended solids, dissolved oxygen, CBOD5, pH and other pollutants from the WWTP. Permit, Part A.

70. According to discharge monitoring reports provided by Respondents, the discharge from the WWTP has violated permit limits as follows:

<u>Parameter</u>	<u>Date</u>
Dissolved oxygen	10/99, 11/99, 12/99, 3/00, 8/00, 9/00
pH	4/98, 9/98, 11/99, 10/99, 1/00, 2/00, 3/00, 4/00, 6/00, 7/00, 9/00, 11/00
TSS	11/00, 3/01, 4/01
Chlorine	3/01, 4/01

71. The Permit requires that annual inspection of Outfalls 201 and 202. Such inspection shall consist of a visual inspection of areas contributing to storm water discharge for evidence of or the potential for pollutants entering the drainage systems. Measures to reduce pollutant loadings shall be evaluated, and Respondents shall provide for implementation of any changes in pollution control methods within 90 days. In addition, Respondents shall prepare a report which summarizes the inspection and the actions taken in accordance therewith. Such report shall be kept on-site and submitted to the PA DEP upon request. Permit Part A, pages 2h & 2i.

72. Respondents were unable to produce documentation of their annual inspections of Outfalls 201 and 202 upon request during the inspection conducted by EPA personnel on February 12-13, 2001. Documentation of a single inspection apparently conducted May 21,

2002, was provided to EPA on June 4, 2002.

73. The failure to inspect Outfalls 201 and 202 and/or to document inspections of Outfalls 201 and 202 violates Part A of the Permit.

74. Special Condition Seven (b) of the Permit requires submission of an Annual Report by March 31 of each year to PADEP and EPA. Among other things, the Annual Report shall contain a summary of sampling and analysis of treatment plant influent, effluent and sludge for toxic and incompatible pollutants. Permit, Special Condition Seven (b)5. In addition, the Permit requires monitoring at the WWTP that, at a minimum, includes quarterly influent, effluent and sludge analysis for all local limit parameters and an annual priority pollutant scan for influent and sludge. Permit, Special Condition Seven (b) 7.

75. Respondents failed to submit an analysis of sludge as part of their Annual Report to EPA and PADEP by March 31, 2001.

76. The failure to submit an analysis of sludge as part of their Annual Report by March 31, 2001, violated Special Condition Seven (b) of the Permit.

77. On information and belief, on or about September 13, 2002, Respondents hauled liquid sludge from the WWTP and re-injected it into the CSS at a manhole in Dunmore. Respondents took this action when the WWTP experienced an inability to thicken primary and waste activated sludge prior to pressing, in conjunction with a high mixed liquor suspended solids (MLSS) level in the aeration tanks and excessive solids in the primary and secondary clarifiers, leading to dangerously elevated overall system solids levels.

78. Respondents' actions described in Paragraph 77 had the potential to discharge solids to the river through activation of a downstream CSO.

79. In addition, Respondents have discharged pollutants to waters of the United States from points in the system which are not authorized by NPDES Permit No. PA-0026492.

80. Discharging pollutants to the waters of the United States without complying with NPDES Permit No. PA-0026492 and/or without proper authorization, violates Section 301(a) of the Act, 33 U.S.C. § 1311(a).

IV. ORDER FOR COMPLIANCE

Therefore, this 27th day of November, 2002, Respondents are hereby ORDERED, pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), to conduct the following activities:

81. Cease the discharge of pollutants into waters of the United States except in compliance with Permit No. PA-0026492 and Sections 301 and 402 of the Act.

82. Within forty-five (45) days of the effective date of this Order, Respondents shall submit to EPA documentation demonstrating that Respondents have amended their permit application and provided to DEP all information necessary to include in their NPDES Permit all discharge points, including the following overflow and emergency overflow discharge pipes at the following pump stations not currently listed in the Permit: Middle Street, Shawnee Street, Dorothy Street, Keyser Valley and Myrtle Street.

83. Respondents shall notify EPA within ten (10) days of any discharge from the following pump stations until such time as Respondents receive an NPDES Permit that authorizes such discharges: Middle Street, Shawnee Street, Dorothy Street, Keyser Valley and Myrtle Street.

84. On or about September 3, 2002, Respondents provided to DEP and EPA a draft Wet Weather Operating Plan for Outfall 003 dated August 29, 2002 ("WWP"). This Order expresses neither agreement nor disagreement with the WWP. EPA reserves the right to amend this Order to require implementation of a WWP approved by both DEP and EPA.

85. Within forty-five (45) days of the effective date of this Order, Respondents shall submit to EPA and DEP, in addition to the revised WWP described in Paragraph 84, a short-term optimization plan for the operation of the WWTP pending implementation of Respondents' LTCP. The plan shall identify corrective action and maintenance tasks that will maximize the flow that the WWTP can accept and treat, including secondary treatment. EPA reserves the right to amend this Order to require implementation of a short-term optimization plan for the WWTP approved by both DEP and EPA.

86. Respondents shall implement the following specific operating and monitoring protocols for Outfall 003:

Operating Protocols:

- a. Operating mechanisms shall be set to convey the peak sanitary flow of 39 mgd to the WWTP for one hour and 25 mgd thereafter;
- b. Outfall 003 may discharge combined sewer overflow during wet weather conditions to the extent that combined sewage flows to the WWTP exceed 39 mgd for more than one hour in a twenty-four hour period, provided that Respondents are in compliance with this Order and all permit conditions, including, but not limited to, the CSO Special

Conditions set forth in Part C, Section Six of Respondents' NPDES Permit.

Monitoring Protocols:

- a. Respondent shall collect data indicating the date, time, flow, cause, duration, and total quantity measured in mgd of discharges from Outfall 003 using the flow chart meter recently purchased by Respondents.
- b. Respondents shall collect data on the flow through the WWTP measured in mgd on an hourly basis.
- c. The monitoring information described in this Paragraph shall be submitted to DEP on a monthly basis for each instance in which there is a discharge through Outfall 003.

Reporting:

- a. In the event there is a discharge from Outfall 003 when combined sewage flows to the WWTP have not exceeded 39 mgd for more than one hour in a twenty-four hour period, Respondents shall notify DEP and EPA within 30 days of the discharge. Such notification shall describe the cause of the discharge (including the underlying cause of any condition, such as excess grit, that resulted in the discharge) and shall propose a schedule to implement corrective action to prevent a recurrence.

87. Within sixty (60) days of the effective date of this Order, Respondents shall submit to EPA appropriate documentation demonstrating implementation of and compliance with the 1998 NMC Plan. To the extent Respondents determine any aspect of the 1998 NMC Plan cannot be implemented, Respondents shall submit to EPA and DEP a revised NMC Plan and appropriate documentation demonstrating implementation of and compliance with the nine minimum controls as described in Special Condition Six, Section II of Part C of the Permit.

88. On October 8, 2002, Respondents submitted to EPA an operation and maintenance plan for the CSS. Respondents shall revise the operation and maintenance plan within 30 days of receiving comments from EPA. Respondents shall implement the operation and maintenance plan immediately.

89. Within sixty (60) days of the effective date of this Order, Respondents shall submit the following items:

- a. A schedule for completing physical identification of the collection system within twelve (12) months. The physical identification shall include but not be limited to

system configuration, pipe diameters, shapes, lengths, slope, elevation and interior surface condition (i.e., representative friction coefficients), regulator, manhole and other appurtenances' locations, shapes, sizes, elevations and interior condition; pump station locations, sizes, elevations and interior conditions, identification of the portions of the system that are separated and those that are combined, and the locations of downstream public drinking water intakes, Special Protection waters, and public recreational areas.

- b. A schedule for completing corrective action for those deficiencies identified in the Service Agreement and Paragraphs 33 and 35 of this Order, including but not limited to, non-functioning CSS regulators, non-functioning limit switches on the sludge collector drives, infeasibility of operating both primary clarifier scum removal systems, and CSS defects such as broken pipe, separated joints, blocked siphons, accumulation of debris, sunken and/or sagging pipe, collapsed pipe, inflow of stream water and/or groundwater, and discharge of untreated sewage through manholes and to basements and mines.
- c. A schedule for compiling existing information about the following receiving waters: the Lackawanna River, Leggetts Creek, Roaring Brook, Little Roaring Brook, Stafford Meadow Brook and Keyser Creek, including but not limited to whether these waters are achieving the applicable water quality standards (including designated uses) and for developing information on the impacts to the water quality of these waters associated with overflow discharges from the system.
- d. A schedule for completing within six (6) months a hydraulic capacity evaluation of the WWTP, including the results of draw down tests on the WWTP raw sewage pumps while operating separately and simultaneously, calculations and plots of system head curves, the results of an initial settling velocity analysis for WWTP sludge, and an evaluation of how total suspended solids levels in WWTP effluent may be quantified based on known flow and sludge blanket levels.

90. Within one-hundred and twenty (120) days of the effective date of this Order, Respondents shall install, operate and commence collection of data from rain gauges. The type, number and location of gauges shall be adequate to provide data sufficient by itself or in combination with other data, such as Doppler radar data, to allow accurate characterization of rainfall in the service area and to calibrate the hydraulic model described in Paragraphs 97-98. In addition to providing calibration for the hydraulic model described in Paragraphs 97-98, this data

shall be utilized to develop a correlation between precipitation and CSO discharges utilizing data collected pursuant to Paragraph 114 of this Order.

91. Within one-hundred and twenty (120) days of the effective date of this Order, Respondents shall submit a plan and schedule for evaluating solids and floatables that are being discharged from the system and for installing solids and/or floatables controls in the CSO outfalls identified on pages 2d-2g of the NPDES Permit. This plan shall include at a minimum the installation of baffles at three (3) representative CSO outfalls and the installation of solids and floatables control at Outfall 003.

92. Within one-hundred and eighty (180) days of the effective date of this Order, Respondents shall complete pump drawdown tests of each pumping station to determine its capacity and submit to EPA a report describing the results of the drawdown tests and a plan and schedule for implementing adjustments to pump station operation that would minimize sewage overflows at each pump station, including, if technically feasible, the installation of additional wastewater pumps and/or the removal or reduced use of "storm water" pumps currently used to discharge untreated sewage into receiving streams.

93. Within one-hundred and eighty (180) days of the effective date of this Order, Respondents shall submit to EPA a plan and schedule to evaluate the capacity of downstream portions of the CSS to receive and convey wastewater from each pump station and to maximize storage in the CSS. The plan and schedule shall include, at a minimum, an evaluation of the volume of stream water collected by the System through physical defects and non-functioning regulators, an identification of actions (e.g., repair/replacement of non-functional CSS regulators, raising weirs, and correction of other deficiencies) that are expected to reduce the volume of stream water, and an estimate of the volume of stream water that can be eliminated from the Scranton system. At a minimum, the following locations shall be evaluated for stream water entering the collection system: Glen Street (CSO # 10), Gordon Ave./Pinebrook (CSO # 15), Sanderson Ave. (CSO # 35), Tioga Ave. (CSO # 36), Emmett ST. (CSO # 45), Coar Court (CSO # 46), River St. (CSO # 49), Schimpff Court (CSO # 50), Richmond St. (CSO # 57), Morcel St. (CSO # 61), Olyphant-North (CSO # 64), Drinker Place (CSO # 65), and Shawnee Pump Station.

94. Within ninety (90) days of the effective date of this Order, Respondents shall submit a plan and schedule for identifying and eliminating dry weather overflows. The plan should list all dry weather overflows in the five years prior to this Order, along with the date(s), cause, and corrective action for each overflow, and propose solutions to eliminate future dry weather overflows. At a minimum, the following locations should be evaluated for dry weather overflows: the locations of the dry weather overflows listed in Paragraph 36 of this Order, pump stations Keyser Valley, Middle Street, Myrtle Street, Shawnee Street, and CSO numbers 3, 5, 8, 9, 11, 12, 13, 15, 18, 28, 43 and 45.

95. Within one-hundred and eighty (180) days of the effective date of this Order, Respondents shall submit to EPA a plan and schedule for eliminating discharge points from the

CSS (i.e., CSO regulators). The regulators should be prioritized according to dry weather overflow history, size, location, sensitive areas, industrial contributors, and other relevant factors. At a minimum, the following regulators shall be considered: Watkins Street (CSO # 32), Sanderson Ave. (CSO # 35), East Market St. (CSO # 39), West Market St. (CSO # 40), Ross Ave. (CSO # 42), East Scranton St. (CSO # 44), Emmett St. (CSO # 45), Coar Court (CSO # 46), Schimpff Court (CSO # 50), Raines St. (CSO # 54), Richmond St. (CSO # 57), Morcel St. (CSO # 61), Olyphant-North (CSO # 64), and Lake St. (CSO # 71).

96. Within one-hundred and eighty (180) days of the effective date of this Order, Respondents shall submit a plan and schedule to educate the public regarding the nature of discharges from the CSS and the need to engage in measures to minimize those discharges. The public education program shall include both enclosures with the sewer bill and signs posted at the CSO discharge points identified on pages 2d-2g of the NPDES Permit. Both the enclosures and the signs shall describe the discharges as containing "untreated sewage."

97. Within ninety (90) days of the effective date of this Order, Respondents shall submit a plan and schedule for developing and completing the hydraulic model of the Scranton System described in Paragraph 98 within twenty-four (24) months of the effective date of this Order. The plan and schedule shall include: (i) a description of the Hydraulic Model; (ii) specific attributes, characteristics, and limitations of the Hydraulic Model; (iii) identification of all input parameters, constants, assumed values, and expected outputs; (iv) map(s) and schematic(s) that identify and characterize the portions of the Sewer System that shall be included in the Hydraulic Model; (v) identification of input data to be used; (vi) configuration of the Hydraulic Model; (vii) procedures and protocols for performance of sensitivity analyses (i.e., how the Hydraulic Model responds to changes in input parameters and variables) and identification of the ranges within which calibration parameters shall be maintained; (viii) procedures for calibrating the Hydraulic Model to account for values representative of the Sewer System and the Facilities using actual Sewer System and Facilities data (e.g., flow data and hydraulic grade line data); (ix) procedures to verify the Hydraulic Model's performance using actual Sewer System and Facilities data (e.g., flow data and hydraulic grade line data); (x) procedures for modeling wet weather flows from separate Sewer System service areas; and (xi) an expeditious schedule for the development and utilization of the Hydraulic Model.

98. Within twenty-four (24) months of the effective date of this Order, Respondents shall complete and submit to EPA a hydraulic model of the CSS. At a minimum, the hydraulic model shall correlate precipitation with CSO discharges (including discharges from Outfall 003) and shall determine the lowest critical elevation (basement floor elevation, manhole rim elevation, or street inlet elevation) upstream of each of the CSO points to identify the maximum depth of wastewater that can safely be maintained in the regulator chambers. All data used in the development of the hydraulic model shall be consistent with EPA's Combined Sewer Overflows: Guidance For Monitoring and Modeling (1999), EPA's Combined Sewer Overflows: Guidance for Long Term Control Plan (1995), 40 C.F.R. Part 136, and good engineering practice.

- a. The Hydraulic Model shall be sufficient for use in the development and implementation of operation and maintenance procedures and to establish priorities for, and evaluate the impacts of, proposed system modifications and upgrades.
- b. At a minimum, the Hydraulic Model shall be capable of: (i) predicting base flows and wet weather flows generated by various wet weather events in combined areas; (ii) predicting the hydraulic grade lines, volume and flow rates of wastewater in force mains and gravity sewer lines; (iii) predicting the hydraulic pressure and flow capacity of wastewater at any point in force mains throughout the Combined Sewer System; (iv) predicting the flow capacity of each pump station; (v) predicting the flow capacity of all gravity sewer lines; (vi) predicting the peak flows during wet weather and dry weather conditions for each pump station and all specified gravity sewer lines; (vii) predicting the likelihood, location, duration and volume of discharge from each CSO Discharge outfall for a range of precipitation events (of varying durations and return frequencies); (viii) predicting wet weather flows for the separate sewer areas; (ix) predicting the peak instantaneous and sustained flows to the WWTP for a variety of storm events (of varying durations and return frequencies); (x) estimating wastewater flow, groundwater infiltration, runoff, and precipitation-induced infiltration and inflow; and (xi) providing all output data necessary to support development of the Long Term Control Plan.

99. Within thirty-six (36) months of the effective date of this Order, Respondents shall complete and submit to DEP and EPA a revised Long Term Control Plan and a schedule for implementation of the Long Term Control Plan. The revised Long Term Control Plan shall conform to EPA's Combined Sewer Overflow (CSO) Control Policy, 59 Fed. Reg. 18688 (April 19, 1994) (codified at 33 U.S.C. § 1342(q)) and Combined Sewer Overflows: Guidance for Long Term Control Plan (1995).

100. Respondents shall take appropriate enforcement action to bring industrial users into compliance and shall fully implement the Enforcement Response Guide included in their approved Pretreatment Program and approved May 4, 1994, in accordance with the procedures and time frames set forth therein.

101. Respondents shall publish no later than March 31 annually, in the largest daily newspaper published in Scranton, Pennsylvania, notice of all industrial users which at any time during the previous calendar year were in significant noncompliance with applicable pretreatment requirements.

102. Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA a plan and schedule for obtaining appropriate legal authority or entry of a jurisdictional agreement allowing the Authority to apply and enforce requirements of Sections

307(b) and (c) of the Clean Water Act, 33 U.S.C. §§ 1317(b) & (c) and any implementing regulations, within Jefferson Township, the Boroughs of Moosic and Taylor, and Dickson City.

103. Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA a description and corresponding dates of Respondents' past efforts to identify all industrial users within the service area, and provide a written certification from an appropriate official that the description is true and correct. Respondents shall, at a minimum, describe how Respondents developed the original list of industrial users, describe the rationale for not further investigating particular users, describe how users were eliminated from the list, identify users as to which additional investigation was performed, describe the results of additional investigation, describe conclusions reached as to each user, and assess whether any categorical standard applies to each user. In addition, the report shall provide copies of any survey forms used by Respondents. The certification should be signed and dated, and should include the following language: "Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

104. Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA a plan and schedule for completion of their efforts to identify and locate all possible industrial users which might be subject to Respondents' Pretreatment Program. The plan shall include, at a minimum, a method for determining users' status as significant/non-significant, categorical applicability and new source/existing source, and for conducting an industrial user survey.

105. Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA, documentation reflecting any change in North American Manufacturing's user permit or the status of that permit which reflects that North American Manufacturing no longer discharges to the Scranton system.

106. Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA a copy of the most recent permit issued to United Gilsonite Laboratories, any fact sheet developed for that permit and all permit applications and supporting information and data submitted by United Gilsonite Laboratories.

107. Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA copies of all enforcement actions, including but not limited to Notices of Violation (whether written or conveyed orally), Administrative Orders, and Compliance Schedules, issued to industrial users of the Scranton system from 1999 to the present.

108. Within thirty (30) days of the effective date of this Order, Respondents shall submit to EPA a copy of their October 15, 2001 submission to EPA seeking modification of the MIPP to allow for twice annual self-monitoring compliance reports by industrial users.

109. Within one hundred and eighty (180) days of the effective date of this Order,

Respondents shall submit to EPA a reevaluation of local limits based on the sampling plan submitted December 3, 2001 and approved December 12, 2001.

110. Respondents shall submit to EPA quarterly industrial user compliance reports. Such reports shall specifically identify which industrial users are in significant noncompliance for the covered time period, the causes of the significant noncompliance and any corrective actions taken or proposed. Respondents shall include all monitoring data for each industrial user for the covered time period.

111. Pursuant to Special Conditions 7.b.5. and 7.b.7. of the NPDES Permit, Respondents shall conduct quarterly monitoring of influent, effluent and sludge analysis for all pollutants for which a local limit exists, and submit the monitoring results to EPA in the Annual Report submitted March 31 of each year.

112. Pursuant to Part A of the Permit, Respondent shall conduct annual inspections of Outfalls 201 and 202. Respondent shall document these inspections and shall include the documentation in the Annual Report submitted to EPA March 31 of each year.

113. Within thirty (30) days of the date of this Order, an appropriate official(s) representing Respondents shall certify in writing to EPA the status of repairs related to deficiencies identified during the inspection of Outfalls 201 and 202 conducted on or about May 21, 2002.

114. Respondents shall install, operate and collect data from monitoring devices at fifteen (15) CSO discharge points that are representative of the combined sewer relief discharge points listed in the Permit as discharge points 003-071. Such monitoring shall include the collection of data indicating the cause, frequency, duration, and quantity of flow. Such monitoring shall be accomplished using available flow monitoring technology that shall either (1) notify Scranton via a remote alarm system of the commencement and completion of each CSO discharges from any monitored overflow point, thereby enabling Scranton to manually record duration and quantity of flow, or (2) automatically record the date, time, duration, and quantity of flow as determined by flow meters installed at CSO points. Such monitoring data shall be provided to DEP on a monthly basis. Within forty-five (45) days of the effective date of this Order, Respondents shall submit to EPA a report identifying the 15 CSO discharge points to be monitored, explaining how those 15 points are representative of the combined sewer relief discharge points listed in the Permit, identifying any significant industrial user that is a contributor to the 15 CSO discharge points, and describing the monitoring devices that have been installed and contingency planning to meet this requirement in case of equipment failure.

115. Respondents shall cease and desist from hauling sludge from the WWTP and re-injecting it into an upstream point in the collection system.

116. Respondents shall maintain the overall system solids inventory at a level sufficient such that it does not interfere with operation of the WWTP.

117. With respect to each item submitted pursuant to this Order, EPA shall exercise best efforts to provide comments within thirty (30) days. Within forty-five (45) days of receiving comments from EPA, Respondents shall correct deficiencies in accordance with EPA's comments and re-submit the item.

118. Respondents shall fully implement each item submitted pursuant to Paragraphs 87, 88, 89, 91, 93, 94, 95, 96, 97, 102 and 103 within the schedule submitted by Respondents and in accordance with the comments provided by EPA.

119. Within thirty (30) days of implementation of any aspect of this Order, Respondents shall provide EPA and DEP with documentation demonstrating that portion has been implemented.

120. Respondents' failure to fully implement all work in connection with this Order in the manner and time period therein shall be deemed a violation of this Order.

121. All submissions to EPA required by this Order other than those required by Paragraphs 100-111 shall be sent to:

Sharon Fang
NPDES Branch (3WP31)
United States Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

All submissions to EPA required by Paragraphs 100-111 of this Order shall be sent to:

John Lovell
Office of Municipal Assistance (3WP24)
United States Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

122. All submissions to the Pennsylvania Department of Environmental Protection required by this Order shall be sent to:

Kate Crowley, Program Manager
Water Management Program
Department of Environmental Protection
2 Public Square
Wilkes Barre, PA 18711-0790

123. All submissions provided pursuant to this Order shall be signed by Respondents and shall include the following certification:

"I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

V. GENERAL PROVISIONS

124. Issuance of this Order shall not be deemed an election by EPA to forego any administrative, civil, or criminal action to seek penalties, fines, or any other appropriate relief under the Act for the violations cited herein. EPA reserves the right to seek any remedy available under the law that it deems appropriate for the violations cited.

125. Respondents shall permit EPA or its authorized representative to inspect the Site at any time upon reasonable advance notice to Respondents to confirm that the work required herein is being or has been implemented in conformity with the representations made herein, that Respondents are in compliance with their NPDES permit, and that Respondents are in compliance with this Order. EPA reserves all existing inspection authority

126. If a criminal judicial action is initiated by the U.S. Department of Justice, and Respondents are convicted of a criminal offense under Section 309(c) of the Act, Respondents may be subject to a monetary fine and/or imprisonment, and may become ineligible for certain contracts, grants, or loans under Section 508 of the Act.

127. Respondents' compliance with the terms of this Order shall not constitute compliance with the Clean Water Act or any other Federal, State or local law or regulation. Nor does this Order constitute a waiver or modification of the terms or conditions of any issued permit.

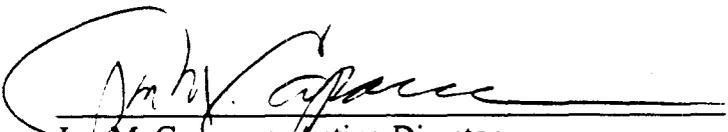
128. Violation of the terms of this Order may result in further EPA enforcement action for the underlying violations including, but not limited to, imposition of administrative penalties, 33 U.S.C. § 1319(g), and/or initiation of judicial proceedings that allow for civil penalties of up

to \$27,500 per day, 33 U.S.C. §§ 1319(b) and (d), for each day of violation, 40 C.F.R. Part 19, and/or for the criminal sanctions of imprisonment and fines of up to \$50,000 per day, 33 U.S.C. § 1319(c).

VI. EFFECTIVE DATE

129. The effective date of this Order shall be the date it is received by Respondents by any means, including but not limited to facsimile, electronic mail, United States Mail, or delivery.

11/27/02
Date



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

Attachment A

City of Scranton Flow through Outfall 003

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
05/01/2000	26.026	0.004
05/02/2000	14.578	1.222
05/05/2000	13.049	1.254
05/06/2000	13.097	0.272
05/07/2000	12.902	2.946
05/08/2000	15.310	0.258
05/10/2000	15.084	5.735
05/11/2000	15.412	0.056
05/12/2000	16.695	1.486
05/13/2000	14.978	3.186
05/14/2000	16.280	1.133
05/16/2000	13.916	0.001
05/17/2000	14.104	0.001
05/18/2000	15.020	5.015
05/19/2000	17.285	12.930
05/20/2000	14.697	4.739
05/21/2000	15.387	0.849
05/22/2000	16.772	9.931
05/23/2000	18.643	2.781
05/24/2000	19.901	14.410
05/25/2000	19.407	1.556
05/29/2000	14.002	0.008
06/02/2000	13.373	0.385
06/04/2000	12.300	0.001
06/05/2000	19.277	3.097
06/06/2000	18.936	30.340
06/07/2000	19.915	9.747
06/08/2000	19.825	0.305
06/11/2000	16.938	8.080
06/12/2000	19.134	4.324
06/13/2000	18.759	1.137
06/14/2000	17.486	0.366
06/17/2000	15.286	0.178

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
06/18/2000	15.945	1.513
06/21/2000	14.037	6.678
06/22/2000	18.742	1.003
06/25/2000	13.550	1.348
06/26/2000	17.062	3.375
06/27/2000	18.917	5.059
06/28/2000	18.370	0.050
06/29/2000	15.130	2.893
07/07/2000	12.325	0.001
07/08/2000	11.771	0.001
07/09/2000	12.148	0.009
07/10/2000	12.529	0.004
07/12/2000	10.590	0.001
07/13/2000	10.053	0.001
07/16/2000	18.231	6.843
07/17/2000	13.897	5.007
07/18/2000	12.984	0.005
07/22/2000	9.644	0.613
07/24/2000	10.419	0.007
07/29/2000	10.323	2.714
07/31/2000	20.635	15.803
08/01/2000	22.232	13.244
08/03/2000	15.105	0.328
08/06/2000	13.941	1.904
08/07/2000	18.178	2.445
08/09/2000	16.560	0.542
08/10/2000	14.623	1.209
08/12/2000	11.557	0.002
08/14/2000	14.685	0.335
08/20/2000	9.776	0.003
08/21/2000	10.287	0.001
08/22/2000	9.746	0.003
08/23/2000	12.700	4.262
09/01/2000	12.460	0.107

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
09/02/2000	14.421	0.189
09/03/2000	10.454	2.457
09/04/2000	12.489	0.151
09/08/2000	9.607	0.009
09/11/2000	9.881	0.001
09/12/2000	13.928	1.766
09/13/2000	17.897	10.764
09/15/2000	14.971	1.135
09/17/2000	10.428	0.014
09/19/2000	15.177	1.180
09/26/2000	15.696	2.770
10/05/2000	13.383	1.304
10/06/2000	13.416	0.008
10/07/2000	10.392	0.001
10/08/2000	8.512	0.002
10/12/2000	9.145	0.001
10/13/2000	8.560	0.003
10/17/2000	13.056	3.256
10/18/2000	21.373	14.479
10/19/2000	14.040	0.001
10/28/2000	7.840	0.001
11/10/2000	20.024	17.872
11/14/2000	15.818	3.177
11/15/2000	11.740	0.001
11/20/2000	10.627	0.001
11/21/2000	9.643	0.002
11/22/2000	9.787	0.001
11/24/2000	9.192	0.001
11/26/2000	14.458	0.297
11/30/2000	13.179	0.098
12/05/2000	10.269	0.001
12/06/2000	7.843	0.001
12/07/2000	9.145	0.002
12/08/2000	9.950	0.001

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
12/11/2000	8.734	0.001
12/12/2000	10.631	0.001
12/14/2000	14.477	3.296
12/16/2000	13.900	3.261
12/17/2000	20.546	26.629
12/18/2000	22.186	0.121
12/19/2000	20.086	0.015
12/20/2000	17.104	0.009
01/03/2001	12.459	0.001
01/19/2001	14.650	0.002
01/21/2001	11.133	0.001
01/26/2001	10.417	0.001
01/30/2001	16.078	10.611
01/31/2001	21.547	5.517
02/01/2001	19.954	0.002
02/04/2001	13.893	0.001
02/07/2001	17.109	0.001
02/09/2001	19.824	0.989
02/10/2001	21.499	3.952
02/12/2001	16.504	0.001
02/14/2001	18.147	1.060
02/15/2001	19.177	0.259
02/16/2001	18.415	2.231
02/20/2001	15.098	0.001
02/25/2001	15.009	5.288
02/26/2001	18.242	0.034
03/08/2001	10.775	4.758
03/09/2001	10.960	0.613
03/10/2001	9.835	0.630
03/13/2001	10.399	19.638
03/14/2001	9.463	9.855
03/15/2001	9.402	4.846
03/16/2001	11.370	3.546
03/17/2001	10.325	10.573

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
03/18/2001	11.330	6.392
03/19/2001	11.205	2.294
03/20/2001	11.274	1.592
03/21/2001	15.376	12.646
03/22/2001	15.271	14.474
03/23/2001	16.108	5.863
03/24/2001	17.395	1.879
03/25/2001	17.846	1.184
03/26/2001	14.046	1.376
03/27/2001	15.545	0.517
03/28/2001	13.186	1.847
03/29/2001	14.602	2.508
03/30/2001	11.925	26.416
03/31/2001	13.245	9.915
04/01/2001	10.971	6.534
04/02/2001	12.449	6.343
04/03/2001	13.000	4.443
04/04/2001	15.502	1.845
04/05/2001	14.833	1.583
04/06/2001	14.618	7.129
04/07/2001	13.807	3.401
04/08/2001	13.085	8.018
04/09/2001	13.505	10.224
04/10/2001	11.623	11.624
04/11/2001	11.111	9.137
04/12/2001	11.627	7.157
04/13/2001	13.094	3.990
04/14/2001	12.196	3.223
04/15/2001	12.592	2.345
04/16/2001	13.960	4.887
04/17/2001	14.596	6.618
04/18/2001	14.489	2.882
04/19/2001	13.682	2.641
04/20/2001	9.455	3.427
04/21/2001	10.421	10.020
04/22/2001	10.195	6.597

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
04/23/2001	13.470	2.461
04/24/2001	13.708	1.367
04/25/2001	14.360	0.048
04/27/2001	15.311	0.037
04/28/2001	11.081	0.364
04/29/2001	11.380	0.751
04/30/2001	12.189	0.470
05/01/2001	12.350	0.246
05/09/2001	11.780	0.164
05/12/2001	11.089	1.157
05/16/2001	10.152	0.001
05/21/2001	11.456	0.001
05/22/2001	12.046	6.193
05/23/2001	16.009	1.029
05/26/2001	14.040	4.669
05/27/2001	12.468	6.628
05/28/2001	14.556	4.055
06/01/2001	11.767	2.228
06/02/2001	14.438	10.970
06/03/2001	15.058	14.137
06/04/2001	16.229	0.102
06/06/2001	14.246	0.001
06/12/2001	12.848	0.115
06/14/2001	11.134	0.014
06/16/2000	9.707	6.525
06/17/2001	16.958	9.505
06/20/2001	13.854	0.387
06/23/2001	11.046	0.538
07/01/2001	11.921	5.469
07/04/2001	11.480	1.282
07/05/2001	13.061	2.388
07/08/2001	13.248	3.953
07/09/2001	15.318	2.756
07/11/2001	13.230	1.917

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
07/20/2001	9.360	0.010
07/23/2001	9.138	0.001
07/26/2001	11.841	1.856
07/31/2001	9.672	0.001
09/01/2001	15.528	1.159
09/02/2001	9.630	0.001
09/04/2001	11.065	0.030
09/06/2001	8.791	0.001
09/10/2001	11.271	0.169
09/13/2001	9.421	0.172
09/14/2001	17.262	4.808
09/16/2001	8.075	0.001
09/19/2001	9.187	0.001
09/20/2001	16.124	8.275
09/24/2001	12.689	8.435
09/25/2001	19.456	12.830
10/01/2001	9.349	8770.000
10/06/2001	11.808	1.203
10/15/2001	14.676	3.769
10/16/2001	10.548	2.201
10/17/2001	12.132	0.853
10/19/2001	9.130	0.001
10/23/2001	11.352	0.008
10/24/2001	14.541	0.466
10/31/2001	8.456	0.001
11/04/2001	9.493	0.183
11/20/2001	13.986	3.723
11/21/2001	32.767	3.723
11/25/2001	11.592	7.544
11/30/2001	15.775	4.730
12/01/2001	14.977	1.526
12/07/2001	12.191	0.111
12/08/2001	18.865	2.286

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
12/14/2001	2.073	0.001
12/17/2001	16.726	2.405
12/18/2001	20.109	8.974
12/24/2001	13.756	0.288
01/11/2002	22.911	3.329
01/12/2002	17.525	0.003
01/24/2002	20.300	1.938
01/25/2002	18.207	0.006
02/01/2002	20.546	2.88
02/10/2002	15.935	5.281
02/11/2002	21.299	6.068
03/03/2002	15.439	0.224
03/11/2002	10.525	1.43
03/16/2002	15.049	5.938
03/20/2002	16.234	7.547
03/21/2002	15.733	0.085
03/25/2002	14.479	0.052
03/26/2002	16.746	14.497
03/27/2002	17.837	11.497
03/28/2002	13.49	8.052
03/29/2002	15.529	3.361
03/30/2002	16.298	0.382
03/31/2002	15.713	2.295
04/01/2002	17.377	3.48
04/03/2002	15.655	1.74
04/09/2002	13.931	6.42
04/10/2002	17.168	0.9
04/11/2002	15.478	0.2
04/13/2002	15.043	5.87
04/14/2002	14.304	1.76
04/15/2002	17.599	9.44
04/19/2002	15.778	0.59
04/20/2002	17.971	2.59

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
04/25/2002	15.086	1.52
04/26/2002	14.11	0.01
04/28/2002	23.442	23.37
04/29/2002	17.045	4.94
04/30/2002	20.136	0.57
05/02/2002	19.671	9.17
05/03/2002	19.49	0.35
05/09/2002	18.299	3.81
05/12/2002	18.742	12.66
05/13/2002	23.577	26.22
05/14/2002	26.085	16.6
05/15/2002	25.639	1.6
05/16/2002	20.331	0.02
05/18/2002	12.708	20.98
05/19/2002	22.653	0.01
05/26/2002	17.209	1.6
05/28/2002	18.664	4.94
05/29/2002	19.682	0.44
05/31/2002	18.213	0.81
06/06/2002	23.038	14.93
06/07/2002	23.421	2.68
06/12/2002	17.313	3.16
06/14/2002	24.092	8.37
06/15/2002	23.783	4.68
06/16/2002	20.295	0.16
06/18/2002	17.808	0.15
06/19/2002	17.666	0.07
06/27/2002	16.41	4.36
06/28/2002	17.34	0.01
07/15/2002	11.928	1.042
07/23/2002	12.809	0.354
08/02/2002		2.4
08/05/2002		1.75

Date	WWTP Flow Rate (MGD)	003 Discharge Rate (MGD)
08/15/2002		1.55
08/20/2002		4.32
08/24/2002		2.53
08/29/2002		5.76