



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES
Nashville Environmental Field Office
711 R.S. Gass Blvd., Nashville, TN 37216
Phone 615-687-7000 Statewide 1-888-891-8332 Fax 615-687-7078

March 08, 2019

Mr. Joe Baker, City Manager
City of Berry Hill
698 Thompson Lane
Nashville, Tennessee 37204

VIA CERTIFIED MAIL: 7015 0640 0006 2277 6324
RETURN RECEIPT REQUESTED

Subject: City of Berry Hill Small Municipal Separate Storm Sewer System (MS4) Audit
National Pollutant Discharge Elimination System Tracking Number TNS075167
Berry Hill, Davidson County, Tennessee

Mr. Baker:

On February 12 and 13, 2019, Robert Karesh, with the TN Department of Environment and Conservation, Division of Water Resources (Division) conducted an audit of the Berry Hill MS4 Program. The purpose of the audit was to determine the City's compliance with Tennessee's general Small MS4 permit. During the audit, Division staff met with several City representatives including you, Bill Burdette (Building Official) and Steve Casey, PE (Civil & Environmental Consultants, Inc.). The audit included a review of the City's regulatory mechanisms, procedures and records, as well as observation of City staff as they performed an inspection of a project covered under the local construction site stormwater program. Division staff also visited one municipal facility. The Division greatly appreciates the time and commitment from your staff in preparation of and during the audit. Their availability and knowledge of the program ensured the audit was conducted in an efficient manner.

Permit

The General Permit for Discharges from Small MS4s was reissued and became effective on October 1, 2016. Berry Hill received and maintained coverage under the previous general permit until receiving a Notice of Coverage under the reissued general permit on May 1, 2017. This audit covered compliance with the previous general permit (effective October 1, 2010) and with the reissued permit that became effective on October 1, 2016.

Minimum Control Measure (MCM) 1 - Public Education and Outreach, Permit Section 4.2.1

The small MS4 permit requires the implementation of a Public Education and Outreach program about the impacts of stormwater discharges on local water bodies and the steps that can be taken to reduce stormwater pollution. A public information and education (PIE) plan shall be developed as specified in the permit.

Berry Hill has developed a PIE plan that includes specific information events/activities through targeted educational campaigns, such as a stormwater webpage, local newsletters, targeted mailers and employee training. Documentation of PIE plan events and activities has been maintained. However, the documentation of annual effectiveness evaluations was incomplete.

Full implementation of the Public Education and Outreach program requires the following:

- documenting annual evaluations of program effectiveness and the need for improvement.

Minimum Control Measure 2 – Public Involvement and Participation, Permit Section 4.2.2

The small MS4 permit requires the implementation of a Public Involvement/Participation program. The permit requires the permittee to develop methods for promoting public participation in stormwater-related events and facilitate opportunities for involvement. Notification of the participation and involvement opportunities are to be posted in appropriate media.

Berry Hill's Public Involvement/Participation program provides notification of stormwater program items through methods including the stormwater webpage, local newsletters and city council meetings. The program includes mechanisms for the reporting of illicit discharges or other stormwater related complaints. However, it does not include methods for promoting public participation in stormwater-related events and opportunities for involvement.

Full implementation of the Public Involvement and Participation measure requires the following:

- development and implementation of methods for promoting public participation in stormwater-related events and opportunities for involvement.

Minimum Control Measure 3 – Illicit Discharge Detection and Elimination (IDDE), Permit Section 4.2.3

The small MS4 permit requires the permittee to develop, implement and enforce a program to detect and eliminate illicit discharges into the storm sewer system. The permittee must update and maintain its storm sewer system map, effectively prohibit, through a regulatory mechanism, non-stormwater discharges into the storm sewer system and implement an appropriate Enforcement Response Plan (ERP).

Berry Hill has adopted a stormwater management ordinance that prohibits illicit discharges, and implemented an ERP and standard procedures for identification of areas of illicit discharges. The City has also developed a storm sewer system map and provided mechanisms for the reporting of suspected illicit discharges.

Berry Hill has developed and implemented this MCM.

Minimum Control Measure 4 – Construction Site Stormwater Runoff Control, Permit Section 4.2.4

The small MS4 permit requires the development, implementation, and enforcement of a program to reduce pollutants in stormwater runoff to the stormwater system from construction activities that result in land disturbance of greater than or equal to one acre, or less than one acre if part of a larger common plan of development. In part, this MCM includes an ordinance or other regulatory mechanism to require erosion prevention and sediment controls (EPSCs), sanctions to enforce compliance, specific procedures for construction site plan review and approval, as well as specific procedures for permittee inspection and compliance documentation.

Berry Hill has adopted a stormwater management ordinance controlling construction stormwater discharges, and established a plans review process and inspection program for construction projects. The ordinance requires construction site operators to implement appropriate EPSC best management practices consistent with those described in the Tennessee Erosion and Sediment Control Handbook. However, the ordinance is unclear in how these requirements apply to all construction activities within the City that result in land disturbance of greater than or equal to one acre, or less than one acre if part of a common plan of development. The ordinance also includes a discretionary land disturbance permit exemption for certain activities as determined by the City Manager, or his designee.

The City's plans review procedures included evaluation of EPSCs and specific *Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities (CGP)* technical standards. However, not all procedures and technical standards are included in the plans review documentation for each project. At a minimum the City's review process should include documentation of the following procedures and technical standards:

- a determination of discharges into waters with unavailable parameters or exceptional Tennessee waters;
- design storm (2-yr/24 hr and 5-yr/24 hr) consistent with the CGP;
- sediment basin for drainage areas (10 acres and 5 acres) consistent with the CGP;
- construction buffer requirements (15-ft/30-ft and 30-ft/60-ft) consistent with the CGP; and
- waste materials handling requirements are consistent with the CGP.

Site inspection procedures were evaluated by performing a visit to the Berry Hill Office Building (TNR241761) construction site. The City's inspector, Bill Burdette, demonstrated a working knowledge of erosion prevention and sediment control practices, and performed comprehensive site inspections with appropriate documentation and on-site communication.

Full implementation of the Construction Site Stormwater Runoff Control program requires the following:

- revising the City's stormwater ordinance to clarify that it applies to all construction activities that result in land disturbance of greater than or equal to one acre, or less than one acre if part of a common plan of development;
- revising the City's stormwater ordinance to remove discretionary exemptions; and
- revising plans review documentation to include all procedures and CGP technical standards.

Minimum Control Measure 5 - Permanent Stormwater Management in New Development and Redevelopment, Permit Section 4.2.5

The small MS4 permit requires the implementation of a permanent (post-construction) stormwater management program focused on removing pollutants from stormwater discharges through management practices, control techniques, and system design and engineering methods implemented to the maximum extent practicable. In part, this MCM includes an ordinance or other regulatory mechanism to address permanent stormwater pollutant management for New Development Projects, procedures for plans review and approval, procedures for conducting and tracking site inspections, and a means to ensure permanent stormwater control measures are adequately maintained.

The Division offered an extension to all small MS4s for the full implementation of this minimum control measure. As a result, evaluating compliance was limited to documenting program elements and activities implemented at the time of the audit. Berry Hill has adopted a stormwater management ordinance that

addresses permanent stormwater pollutant management for new development and redevelopment projects. The City has also implemented procedures for plans review and approval, conducting and tracking site inspections, and ensuring measures are adequately maintained.

Berry Hill has developed and implemented this MCM.

Minimum Control Measure 6 – Pollution Prevention/Good Housekeeping for Municipal Operations, Permit Section 4.2.6

The small MS4 permit requires the permittee to develop and implement an operation and maintenance program that has the ultimate goal of preventing or reducing pollutant runoff from municipal operations. In addition, an employee training program should be implemented for employees responsible for municipal operations at facilities within the jurisdiction that handle, generate and/or store materials which constitute a potential pollutant of concern for MS4s.

Berry Hill has implemented an operation and maintenance program, including a training program for employees and contractors. Operation and maintenance plans have been developed for all applicable operations, and documentation of operation and maintenance activities was complete.

As part of determining compliance with this minimum control measure, the Public Works Department and Salt Storage facilities located on East Iris Drive were inspected. The implemented site operation and maintenance plans appeared effective, and included pollution prevention best management practices related to vehicle maintenance and salt storage.

Berry Hill has developed and implemented this MCM.

Monitoring, Recordkeeping, and Reporting (Section 5.0 of the MS4 permit)

Sections 5.1 and 5.2 of the MS4 permit require analytical and non-analytical monitoring to be conducted in streams with unavailable parameters for nutrients, pathogens, siltation, and habitat alteration. The monitoring program is intended to provide data that, when combined with other MS4 information, identifies and eliminates pollutant sources, and assists in determining the effectiveness of the overall MS4 Program in improving water quality. Sections 5.3 and 5.4 describe record-keeping and reporting requirements, which include the submittal of an annual report by September 30th of each calendar year.

Berry Hill completed the analytical and non-analytical monitoring required during the previous permit cycle, and has provided a summary of monitoring results. Future analytical monitoring efforts will be performed using the current permit's Option 1 analytical monitoring requirements. Analytical and non-analytical monitoring should be collected by September 30, 2021. Additionally, Berry Hill has submitted an annual report to the Division by September 30 of each calendar year.

Required Actions:

Based on the audit findings, the Division requests a written response addressing the actions below and proposed timelines for their completion:

- documenting annual evaluations of program effectiveness and the need for improvement;

- development and implementation of methods for promoting public participation in stormwater-related events and opportunities for involvement;
- revising the City's stormwater ordinance to clarify that it applies to all construction activities that result in land disturbance of greater than or equal to one acre, or less than one acre if part of a common plan of development;
- revising the City's stormwater ordinance to remove discretionary exemptions; and
- revising plans review documentation to include all procedures and CGP technical standards.

Please provide a written response by April 18, 2019 addressing the requested actions and proposed timelines for their completion. Again, we greatly appreciate the time and commitment from your staff in preparation of and during the audit. If you have any questions or concerns regarding the MS4 permit or this audit, please contact Robert Karesh at 615-253-5402 or via email at Robert.Karesh@tn.gov, or Nikki Carpenter at 615-687-7128 or via email at nikki.carpenter@tn.gov.

Sincerely,



Robert Karesh
Division of Water Resources

cc: Division of Water Resources, Nashville Field Office