



Bureau of Waterways Engineering and Wetlands

# Notice of Termination Document and Instrument Filing

Westmoreland County Engineering Workshop

Latrobe, PA

March 20 & 21, 2014

# Agenda

1. Review of Notice of Termination Document and Revisions
2. Notice of Termination Paperwork Requirements and Associated Field Activities
3. Instrument Filing
4. Questions and Comments

# Notice of Termination

- Document # is 3150-PM-BWEW0229b, with a revision date of 2/2014
- Post November 19, 2010 permit submissions
- Available at [www.dep.state.pa.us](http://www.dep.state.pa.us) through eLibrary

# Notice of Termination

## Associated permits include:

- General and Individual NPDES Permits for Stormwater Discharges Associated with Construction Activities
- Erosion and Sediment Control Permit
- Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing, or Treatment Operations or Transmission Facilities

# Notice of Termination

- Document Overview and Revisions
  - Sections 1-3 remain basic project information
  - Section 4 added - Long-term Operation and Maintenance and Restoration/Reclamation
    - Specify if PCSM BMP installation or restoration/reclamation activity
  - Section 5 – Final Certification of Licensed Professional
  - Section 6 – Proof of Instrument Filing with the Recorder of Deeds Office
  - Section 7 – Permit Termination Certification
  - Appendices A and B

# ▶ Notice of Termination Submission

- Paperwork Requirements
- Final Inspection/Field Requirements

# Notice of Termination Submission

- Paperwork Requirements

- ✓ Complete NOT Form, including Appendices A and B, when applicable
- ✓ Copy of record drawings/as-builts
- ✓ Copy of landowner notice\* (related to initial filing and permit conditions)
- ✓ Copy of Recorder of Deeds Office receipt for instrument filing\*

\*Apply to non-Commonwealth/non-federally-owned property

# Notice of Termination Submission

- Final Inspection/Field Requirements
  - ✓ Permanent Stabilization
  - ✓ Removal of E&S BMPs
  - ✓ Installation of PCSM BMPs



# Notice of Termination Submission

- Decision within 30 days of the submission of the NOT
  - Approve NOT
  - Deny NOT
- No conditional approvals

# ▶ Notice of Termination Submission

- Commonwealth/Federally-Owned Property vs. Non
- Restoration/Reclamation Activities

# Notice of Termination Submission

- Commonwealth/Federally-Owned Property
  - Per 25 PA Code §102.8(m)(3), a covenant that runs with the land is not required until transfer of the land containing the PCSM BMP occurs
  - A complete NOT submission includes:
    - ✓ Completed Sections 1-5, 7
    - ✓ Record drawings/as-builts
    - ✓ Appendix A

# Notice of Termination Submission

- Non-Commonwealth/Non-Federally-Owned Property
  - A complete NOT submission includes:
    - ✓ Completed Sections 1-7
    - ✓ Record drawings/as-builts
    - ✓ Copy of landowner notice
    - ✓ Copy of Recorder of Deeds Office receipt for instrument filing
    - ✓ Appendices A and B

# Notice of Termination Submission

- Restoration/Reclamation Activities
  - 25 PA Code §102.8(n) references regulated activities that require site restoration or reclamation
    - A complete NOT submission includes:
      - ✓ Completed Sections 1-4, 7.
      - ✓ Copy of record drawings/as-builts
        - ✓ PCSM Plan/Restoration Plan **may** be acceptable for restoration/reclamation sites

# Instrument Filing



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF WATERWAY & ENGINEERING AND WETLANDS

## POST CONSTRUCTION STORMWATER MANAGEMENT INSTRUMENT FILING NOTICE

**Regulatory Requirement:** This Notice serves to fulfill the requirements related to post construction stormwater management (PCSM) obligations referenced in 25 Pa. Code §§ 102.7 (related to permit termination) and 102.8(m) (related to PCSM long-term operation and maintenance requirements).

**Applicability:** For any property containing a PCSM best management practice (BMP), the permittee or co-permittee, who are presently covered under an Individual National Pollution Discharge Elimination System (NPDES) Permit for Stormwater Discharges Associated with Construction Activities, the General NPDES Permit for Stormwater Discharges Associated with Construction Activities (PAG-02), an Erosion and Sediment Control Permit (ESCP), or an Erosion and Sediment Control General Permit (ESCGP) for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing, or Treatment Operations or Transmission Facilities shall use this Notice to record an instrument with the Recorder of Deeds Office. *The instrument is to be recorded prior to the first deeds and is to be explicitly referenced in every first deed recorded in association with the project and subdivision.*

Per 25 PA Code §102.8(m)(2), the instrument will assure disclosure of the PCSM BMP(s) and the related obligations in the ordinary course of a title search of the subject property. The recorded instrument must identify the PCSM BMP(s), provide for the necessary access related to long-term operation and maintenance of the PCSM BMP(s) and provide notice that the responsibility for long-term operation and maintenance of the PCSM BMP(s) is a covenant that runs with the land that is binding upon and enforceable by subsequent grantees and provide proof of filing with the Notice of Termination under §102.7(b)(5) (relating to permit termination). Documents attached as Exhibits to this Notice shall include: Instrument For the Declaration of Restrictions and Covenants, record drawings (the approved PCSM Plan may be attached in lieu of record drawings if construction of the PCSM BMP(s) has not yet been completed), all applicable landowner agreements and the long-term operation and maintenance plan which clearly outlines all applicable operation and maintenance activities necessary for the associated PCSM BMP(s).

Unless later dates are approved by the Department of Environmental Protection (Department) in writing, the permittee or co-permittee shall record the instrument within 45 days from the date of permit issuance or authorization and provide the conservation district and the Department with the date and place of recording along with a reference to the docket, deed book or other record, within 90 days from the date of permit issuance or authorization.

### 1. Parcel Information (attach additional sheets as necessary):

Uniform Parcel Identifier (UPI)/Tax Parcel ID # \_\_\_\_\_

Municipality \_\_\_\_\_ County \_\_\_\_\_

Lot(s) \_\_\_\_\_ Unit(s) \_\_\_\_\_

- 1 -

# Instrument Filing

- PCSM Instrument Filing Notice (3150-PM-BWEW0556, dated 2/2014)
  - Fulfills the requirements related to PCSM obligations referenced in 25 Pa. Code §§ 102.7 (related to permit termination) and 102.8(m) (related to PCSM long-term operation and maintenance requirements)
  - Filed by permittee or co-permittee and includes new property owner's information (if one exists)
  - Notarized for each signing party

# Instrument Filing

REVISED DRAFT 10/2013

**INSTRUMENT FOR THE DECLARATION OF RESTRICTIONS AND COVENANTS**

This Instrument for the Declaration of Restrictions and Covenants (Instrument) made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (the "Grantor"), having an address of \_\_\_\_\_ and \_\_\_\_\_ (the "Grantee"), having an address of \_\_\_\_\_.

**WITNESSETH:**

WHEREAS, Grantor is the owner of certain land situated in \_\_\_\_\_ Township/Borough, \_\_\_\_\_ County, Pennsylvania, containing +/- \_\_\_\_\_ acres and being designated as \_\_\_\_\_ on that certain Subdivision Plan recorded in \_\_\_\_\_ County Plot Book Volume \_\_\_\_\_, Page \_\_\_\_\_, and being \_\_\_\_\_ County Tax Parcel #/ Uniform Parcel Identifier \_\_\_\_\_, and being more particularly described in that certain Deed recorded to \_\_\_\_\_ County Instrument No. \_\_\_\_\_ ("the Property"); and

WHEREAS, Grantor has agreed to provide this Instrument to protect the Property; and

WHEREAS, the Property is included within the boundary of an Individual National Pollution Discharge Elimination System (NPDES) Permit for Discharges of Stormwater Associated with Construction Activities, the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities (PAG-02), an Erosion and Sediment Control Permit (ESCP), or an Erosion and Sediment Control General Permit (ESCGP) for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing, or Treatment Operations or Transmission Facilities (Permit No. \_\_\_\_\_) which identifies certain Post Construction Stormwater Management Best Management Practices (PCSM BMPs) located on the Property;

WHEREAS, the documents attached as Appendices to this Instrument shall include: record drawings or the approved PCSM Plan (should record drawings not yet be available), Appendix ##, all applicable landowner agreements, Appendix ##; and the long-term Operation and Maintenance Plan (O&M Plan), Appendix ##;

WHEREAS, Grantee has agreed to be responsible for implementation of the approved O and M Plan for the PCSM BMPs located on the Property as described in the O and M Plan which is attached to this Instrument, as Appendix ##, as incorporated herein;



# Instrument Filing

- Instrument for the Declaration of Restrictions and Covenants
  - Required under 25 Pa. Code § 102.8(m)(2) and is to be filed within 45 days from date of permit issuance or authorization
  - Recorded prior to the issuance of first deeds
  - Documents filed in conjunction with the Instrument include:
    - Record drawings/as-builts or the approved PCSM Plan (should record drawings not yet be available)
    - All applicable landowner agreements
    - The long-term Operation and Maintenance Plan

# Instrument Filing

- The Instrument filing will need to be amended with the Recorder of Deeds Office when:
  - The permittee transfers ownership of the property
  - Record drawings/as-builts become available



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Waterways Engineering and Wetlands

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