The EPA Audit Experience – Lititz Borough

SUE BARRY, MANAGER – LITITZ BOROUGH
ELIJAH YEARICK, AICP, DIRECTOR OF PLANNING – LITITZ BOROUGH
SCOTT HAIN – LITITZ BOROUGH COUNCIL
MIKE LASALA – LANDSTUDIES
Background

Prior to the audit, Lititz was covered under the 2003 General Permit for small MS4s as well as the subsequent 2013 update (PAG-13).

In the August 2014, the Borough received a call from the EPA requesting that we compile information and that we would be audited.
Background – What they wanted

• Program management documents (SWMP, NOI, Annual Reports, Organizational Charts)
• System mapping & BMP Inventories – with municipally owned facilities noted
• Stormwater ordinances & regulatory mechanisms
• Written procedures, tracking mechanisms, and violation tracking
• Inspection files
• Records of training

During the course of the audit, the Borough supplied EPA with over 70 different resources.
Background

By early September, the Borough received EPA’s Administrative Order. It detailed their main focus areas, which corresponded to the Minimum Control Measures (MCMs) which are required to be part of a Stormwater Management Program.

Representatives of the EPA and their contractors audited our stormwater management program for two days in late October 2014. PADEP staff were also in attendance.
The Audit -- Attendance

• Three EPA Staff
• Four EPA contractors from Eastern Research Group
• Five PADEP Staff (Observers only)
• One staff member from the County Conservation District
• Five Consultants employed by the Borough
• 10 Borough Officials & Staff
The Audit – Focus Areas

Borough Garage

Borough Hall – Record Review

Borough Quarry – We were dumping street sweepings there

Active construction site in the Borough

Borough Vehicle washing protocol (DPW, Police, & Fire)

Borough owned stormwater facilities (Basins, CARA)
The Audit – The Experience
Section D: Summary of Findings/Comments
(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

<table>
<thead>
<tr>
<th>SEV Codes</th>
<th>SEV Description</th>
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Management Practice Violations

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<thead>
<tr>
<th>Code</th>
<th>Description</th>
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<tr>
<td>BO019</td>
<td>Best Management Practice Deficiencies</td>
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<tr>
<td>BO024</td>
<td>Biosolids/Sewage Sludge Violation (Part 503)</td>
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<tr>
<td>BO026</td>
<td>Failure to Allow Entry</td>
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<td>BO012</td>
<td>Failure to Conduct Inspections</td>
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<td>BO027</td>
<td>Failure to Develop Adequate SPCC Plan</td>
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<td>BO017</td>
<td>Failure to develop any or adequate SWPPP/SWMP</td>
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<td>BO011</td>
<td>Failure to Develop/Enforce Standards</td>
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<td>BO028</td>
<td>Failure to Implement SPCC Plan</td>
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<td>BO018</td>
<td>Failure to Implement SWPPP/SWMP</td>
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<td>BO041</td>
<td>Failure to Maintain Records</td>
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<td>BO040</td>
<td>Improper Chemical Handling</td>
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<td>BO023</td>
<td>Improper Land Application (non-503, non-CAFO)</td>
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<td>BO020</td>
<td>Improper Operation and Maintenance</td>
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EPA’s determination

The Borough received the EPA’s report of the inspection in February of 2015.

EPA noted 13 observations, grouped under the headings of four of the MCMs that are required to be part of a stormwater management program.
MCMs

1) Public education & outreach
2) Public participation and involvement
3) Illicit discharge detection and elimination
4) Construction site runoff control
5) Post-construction stormwater management
6) Pollution prevention & good housekeeping for municipal operations & maintenance
MCMs

1) Public education & outreach
2) Public participation and involvement
3) Illicit discharge detection and elimination
4) Construction site runoff control
5) Post-construction stormwater management
6) Pollution prevention & good housekeeping for municipal operations & maintenance
Illicit Discharge Detection & Elimination  
(MCM 3)

Observation 1: At the time of inspection, Lititz did not have an accurate map that showed the location of all MS4 outfalls

Observation 2: At the time of inspection, Lititz was not conducting field screening of outfalls in the priority areas twice a year

Observation 3: At the time of inspection, the former Superintendent of Public Works stated that not all outfall field screening was conducted after 72 hours following a rain event.

Observation 4: While on site, [EPA] observed that Lititz did not have equipment or sampling kits to collect and analyze dry weather samples if needed during outfall field screening.
Construction Stormwater Runoff (MCM 4)

Observation 5: At the time of inspection, Lititz had not taken an enforcement action or issues a penalty for violations of erosion and sediment control (ESC) related provisions in their Stormwater Management Ordinance since the start of their permit coverage.

Observation 6: At the time of inspection, Lititz did not distribute educational materials to developers.
Post-Construction Stormwater Runoff (MCM 5)

Observation 7: During the inspection, [EPA] observed that Lititz may not be ensuring the installation of the stormwater detention basin at [an active construction site] as designed.

Observation 8: At the time of the inspection, it did not appear that Lititz had a system in place to monitor post-construction stormwater BMPs since the start of their permit coverage in 2004.
Observation 9: At the time of the inspection, Lititz did not have baseline information and annual records documenting current conditions and required maintenance for municipally-owned stormwater control facilities.

Observation 10: While on site, [EPA] observed that a detailed schedule for inspecting all stormwater facilities and performing operations and maintenance activities was not available, except for a street sweeping schedule.

Observation 11: At the time of the inspection, the Fire Chief stated that the Lititz Fire Department washes its vehicles outside in the driveway of the Fire Station.
Pollution Prevention and Good Housekeeping for Municipal Operations (MCM 6) – Cont.

Observation 12: At the time of the inspection, Lititz disposed of sediment, catch basin debris, vegetative debris, street sweepings, grass clippings, mulch, asphalt, and concrete at its Borough-owned “fill site”...

Observation 13; While on site, [EPA] observed that Lititz did not have documentation indicating that all public works municipal employees received training about stormwater management and operations and maintenance of municipal facilities.
Follow-up

After receiving these observations, the Borough was asked to respond within 15 business days. A response was sent in late February 2015.

We heard nothing from the EPA until July 2016.
Meanwhile....

Lititz engaged with LandStudies to begin getting our program up to speed.

We began developing a comprehensive schedule to address each of the MCMs and to bring our data and information into compliance.
# Program Schedule

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<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
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Mapping & Asset Evaluation

Pre-Audit

Post-Audit
# Annual Municipal Employee Training and Education Plan

**Municipality:** Lititz Borough  
**Date of Plan:** 1/16/17  
**Plan Dates:** 3/16/17 - 3/18/18  
**Permit #:** PAC133539  
**Permit Cycle Year:** 5

This plan provides an outline of training and education activities for the municipality’s employees (and contractors as applicable) for the dates indicated. This plan does not inhibit the potential to pursue and/or conduct other training activities the municipality may deem necessary during the permit cycle year. This plan is developed to help document the municipality’s compliance efforts with the selected and implemented Best Management Practice (BMP) GH-1 “Employee Training and Education.”

<table>
<thead>
<tr>
<th>Training Event</th>
<th>Target Employee Audience</th>
<th>Planned Frequency (if applicable)</th>
<th>Topic(s)/Description</th>
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<tr>
<td>SWMP Review</td>
<td>All Staff</td>
<td>Nov 2017</td>
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<tr>
<td>Illicit Discharge and Detection</td>
<td>Public Works Staff</td>
<td>June 2017</td>
<td>Outfall screening focus</td>
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<td>Tail-gate training</td>
<td>PW Staff</td>
<td>March 2017</td>
<td>Inlet protection</td>
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<tr>
<td>Tail-gate training</td>
<td>PW Staff</td>
<td>April 2017</td>
<td>Landscape Maintenance (incl. mowing)</td>
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**Enforcement**

- **Outlet Pipe (see Picture 4)**
  - Removal of the accumulated sediment, debris, etc. that had built up approximately 10” – 12” adjacent to and covering the outlet flow control device surface plate with 3” openings. The sludge opening could not be visually observed; in turn, the accumulated sediment, debris, etc. is completely negating the functionality of the control device.

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**City of Lititz, City of Lititz, Pennsylvania**

7 South Broad Street
Lititz, PA 17543

Phone (717) 626-2044
Fax (717) 626-1329

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**May 2, 2017**

**RE:** Illegal Dumping/Illcit Discharge Event

**Level 1 Enforcement**

Lititz Borough Illicit Discharge Detection & Elimination (IDDE) Program

**Date:**

It has come to our attention that grass clippings piles were observed along the edge of the natural wetland/stormwater conveyance system to the rear of your property. Please see attached photos.

This practice is not permitted in Lititz Borough, and is in violation of the Stormwater Management Ordinance and the Stormwater Management Program (SWMP) developed as required by the issued Municipal Separate Storm Sewer System (MS4) Permit.
EPA Gets back to us

“Based on the 2014 inspection, as well as a review of the information provided by the Borough during and after the inspection and information obtained from PADEP, EPA believes that the Borough’s MS4 program was not and is not compliant with the MS4 PAG-13”

MCMs 3, 5, and 6 were specifically cited as deficiencies

Fines were cited as high as $187,500
However....

EPA offered us the opportunity to settle the fine admiratively instead of through formal litigation.

So representatives of the Borough traveled to EPA Region 3 Headquarters in Philadelphia in September 2016 to discuss the settlement and the progress made thus far.
The Meeting

At the meeting, we described the progress we had made into the SWMP since the audit including adding additional staff to work on the program.

During the discussion, EPA seemed impressed at our progress and even asked if they could use some of our resources as examples.

After the discussion, no fine was mentioned... despite our expectations.
The Conclusion

The Borough received the Consent Agreement and Final Order (CAFO) in December of 2016, incorporating several of our solicitor’s comments.

The findings of violation were limited to two allegations that the Borough had not fully developed our SWMP for the MS4.

The amount of the civil penalty was agreed upon in the amount of $3,000.

We are still waiting to received the executed CAFO from EPA.
Take-aways

• We feel that the progress made from the audit to the CAFO is directly responsible for the relatively low fine we received.

• More professional assistance was needed to adequately manage the SWMP (both staff & consultants)

• Document, Document, Document

• A SWMP should not be an afterthought.