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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David W. Burchmore, Esq.
Squire, Sanders & Dempsey L.L.P.
4900 Key Tower
127 Public Square
Cleveland, Ohio 44114-1304

MAR 14 2006

Re: Government of the District of Columbia
Municipal Separate Storm Sewer System
NPDES Permit No. DC0000221, Final Amendment No. 1

Dear Mr. Burchmore:

Enclosed please find a final modification which the United States Environmental Protection Agency (EPA) has issued to the District of Columbia's existing National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit, pursuant to the NPDES Program established under the Clean Water Act, as amended, 33 U.S.C. §§1251 *et seq.* EPA's Fact Sheet and Responsiveness Summary to the comments raised during the public review and comment period are also enclosed for your information.

Pursuant to 40 C.F.R. § 124.19, the effective and expiration dates as well as the conditions and terms of the enclosed final modification (hereinafter known as Amendment No. 1) will become final unless, within thirty (30) days following issuance of Amendment No. 1, any person who filed comments on the draft amendment petitions the Environmental Appeals Board for review of any condition of the permit decision. Further, any person who failed to file comments on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. 40 C.F.R. § 124.19.

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Should you have any questions concerning this correspondence or the enclosures, please contact me at (215) 814-5422 or Mr. Garrison D. Miller of my staff at (215) 814-5745.

Sincerely,

Jon M. Capacasa, Director
Water Protection Division

Enclosures (3)

cc: Mr. F. Paul Calamita, Aqualaw, PLC (w/enclosures)

Part III.D. during the term of the Permit:

"Current Conditions"- Refers to a trend analysis which compares existing or baseline data to future data collected through the MS4 monitoring program as described in Part IV (Monitoring and Reporting Requirements) of the Permit to assess the overall performance (i.e., selection of BMPs/LID projects, setting of narrative/numeric effluent limits to MEP and/or water quality based standards) of the Storm Water Management Program within the District of Columbia.

[replace first paragraph of 2004 Permit with the following]

In addition to the duty to comply with the narrative effluent limits in Part I of this Permit, the permittee shall demonstrate compliance as described in this Part and in Part IV (Monitoring and Reporting Requirements). In accordance with the schedule identified in Part III.A. (Compliance Schedule) and Table 1 and below, Permittee shall further submit implementation plans to reduce discharges consistent with any applicable EPA-approved waste load allocation (WLA) component of any established Total Maximum Daily Loadings (TMDL). An applicable TMDL WLA for this Permit means any MS4 WLA established on or before the effective date of this Permit for a receiving stream, segment of a stream, or other waterbody within the District of Columbia as described below.

[next 2 paragraphs, identifying applicable WLAs and associated reductions left unchanged]
[the following paragraph to replace the third paragraph of Part IX.B in 2004 permit]

Demonstration of compliance (as specified in Parts IV and VIII of the Permit) will be calculated using the procedures (i.e., Simple Method) identified in the Upgraded SWMP dated October 19, 2002 (or other procedures approved by EPA via permit modification and shown to be scientifically sound and reliable in estimating actual load reductions), and will be reported by comparing the calculated load for each pollutant to the approved pollutant specific WLAs and its associated storm water load reductions for the receiving waterbody as specified in the Fact Sheet.

[the following two paragraphs to replace the last paragraph of Part IX.B. in 2004 permit]

The TMDL Implementation Plans shall consist of documenting all previous and on-going efforts at achieving the specific pollutant reductions identified in the TMDL WLA and further demonstrating additional controls sufficient to achieve those reductions through an established performance based benchmark. This benchmark shall be applied against annual projected performance standards for purposes of achievement of adequate reductions.

The Permittee shall submit to EPA the applicable TMDL Implementation Plans for the Anacostia River TMDLs within six months of the effective date of this permit and shall implement such Plan. The Permittee shall submit to EPA the applicable TMDL Implementation Plan for the Rock Creek TMDLs within twelve months after the effective issuance date of this Permit and shall implement such Plan.

PART X. PERMIT DEFINITIONS

[Add new definitions]

"Benchmark" or "measurable performance standard"- The term when used in Parts III.C.6. (Annual SWMP Reporting), III.D. (Annual SWMP Implementation Plan) and IX.B (TMDL WLA Implementation Plans and Compliance Monitoring) of the Permit refers to a criteria-based management evaluation tool described in Part IX.B (including but not limited to the Simple Method) for the purpose of making the determination each year as required in Part III.C.6 and

October 19, 2002, and to comply with all other requirements of this Permit (including but not limited to the narrative prohibitions on discharge of pollutants from the MS4 set forth in I.C. of this Permit). As further described in Part IX.B. of this Permit, in addition to complying with the effluent limits I.C. and I.D. of this Permit, the Permittee is required to submit and, unless instructed otherwise by EPA, implement the recommendations of implementation plans specific to the Anacostia River Total Maximum Daily Load (TMDL) wasteload allocations (WLAs) and Rock Creek TMDL WLAs in accordance with the schedule set forth in Part III.A. Table 1 of this Permit.

PART III. STORM WATER MANAGEMENT PLAN (SWMP)

C. Annual SWMP Reporting

The [Annual] Report shall include the following separate sections:

6. [keep existing part and add the following - remember this is cross referenced to Part III.D first paragraph] this identification shall include but not be limited to the permittee's calculation of pollutant loads and reductions from the MS4 system in those watershed(s) for which there are applicable TMDL WLAs using the methods described in Part IX.B.

PART VII. STANDARD PERMIT CONDITIONS FOR NPDES PERMITS

P. Reopener Clause for Permits

c. [replace first sentence of existing language with the following; concluding sentence of VII.P unchanged] The Permit may be modified in accordance with 40 C.F.R. Part 124.5, or revoked and reissued to incorporate additional controls in the event that EPA determines that further controls, under the iterative approach, are necessary to (1) ensure that the effluent limits are sufficient to prevent a further lowering of water quality from current conditions and/or (2) to ensure that the effluent limits are consistent with any applicable TMDL WLA allocated to discharge of pollutants from the MS4.

PART IX OTHER APPLICABLE PROVISIONS

A. Waivers and Exemptions

[unchanged, but add additional sentence] As part of its Annual Report to EPA under Part III.C. of this Permit, the permittee shall describe each and every instance in which the District authorized such an exemption and/or granted such a waiver, the nature and location of the activity for which each exemption or waiver was granted, the justification for each exemption or waiver, and the District's basis for finding that the exemption or waiver was consistent with the Federal Clean Water Act and other pertinent guidance, policies, and regulations.

B. TMDL WLA Implementation Plans and Compliance Monitoring