

MEMORANDUM OF UNDERSTANDING

Between the

BERKS COUNTY CONSERVATION DISTRICT

and

MAXATAWNY TOWNSHIP

This Memorandum has been prepared jointly and agreed upon by each party for the following purposes:

To serve as a joint commitment by the signatory parties to control accelerated erosion and to prevent sediment pollution to the Waters of the Commonwealth which may result from the conduct of earth disturbance activities in MAXATAWNY TOWNSHIP ("Municipality").

I. In carrying out the intent of this Memorandum, the Berks County Conservation District ("District") shall:

1. Provide the Municipality with District project application packets and promptly notify Municipality of any changes in the plan review fee schedule.
2. Receive and review all Erosion and Sedimentation Control Plans ("E&S Plan" or "Plan") for earth disturbance activities 5,000 square feet or greater, which are required to be written in accordance with Chapter 102.4 of the PA Code.
3. Within ten (10) working days of completion of review, notify the consultant, the applicant, the Municipality, and the municipal engineer of all E&S Plan/NPDES Permit approvals, deficiencies, and all determinations including all project inspection reports and valid complaint inspection reports. Providing this information supports the Municipality with respect to Municipality's MS4 reporting requirements as required to satisfy Minimum Control Measure #4 related to services provided under this Memorandum.
4. Notify the consultant, the applicant, and the Municipality that a Plan submission has been returned based on either the lack of response within the specified time period or the lack of the development of a complete Plan in compliance with PA Department of Environmental Protection (PA DEP) Chapter 102 Erosion and Sediment Control Rules and Regulations.
5. Upon request, provide all applicants with the PA DEP Erosion and Sediment Pollution Control Program Manual and related forms, worksheets, checklists, etc., necessary to successfully prepare a Plan.
6. Upon the filing of a complaint by the Municipality and/or a third party, the following will occur:
 - a. The District will inspect the complaint within (10) ten calendar days of its receipt.
 - b. If warranted, the District will provide documentation of the associated findings. The source of the complaint shall remain anonymous in accordance with PA DEP policy.
7. Serve as the repository for all Plans, complaints, Earth Disturbance Inspection Reports, correspondence, etc., within the limitations stated by PA DEP, that involve earth disturbance activities within the said Municipality. All such information, except the complaint forms, shall be contained in a filing system which shall be available for inspection by Municipal officials upon receipt of a formal written request.
8. When requested by the landowner, provide technical assistance in the development of needed Agricultural E&S Plans and Manure Management Plans. 09/7/2016

In carrying out the intent of this Memorandum, the Municipality shall:

1. Retain a sufficient quantity of the District's project application packets and provide such packets to all parties for projects that require a review. The Municipality shall provide instructions to have the Plans (residential, commercial, industrial, timber harvest, agricultural expansion construction, etc.) for earth disturbance activities greater than or equal to 5,000 square feet, which are required to be written in accordance with Chapter 102.4 of the PA Code, submitted to the District for review per Chapter 102 of the PA Code.
2. Notify the District within (5) five days of receipt of an application for a project disturbing greater than or equal to (1) one acre, pursuant to Chapter 102.42.
3. Pursuant to Chapter 102.43, the Municipality shall not issue building or other permit or approval to those proposing or conducting earth disturbance activities requiring a PA DEP permit until the PA DEP or District has issued the E&S or individual NPDES Permit or approved coverage under the general NPDES Permit for Stormwater Discharges Associated with Construction Activities under Chapter 102.5.
4. Forward all questions pertaining to the preparation of Plans and applications to the District.
5. Forward all third party complaints about ongoing earth disturbance activities to the District for its inspection.
6. Not issue final close-out, or grant final release of improvement/E&S escrow until the applicant has submitted a Notice of Termination for all NPDES Permitted activities and received Permit termination correspondence from the District.
7. Forward to the District, any third party agricultural complaint relating to: nutrient pollution and sediment pollution.
8. The District highly recommends that the Municipality necessitate the development of written Agricultural E&S Plans, which are required under Chapter 102.4 for agricultural plowing or tilling activities and animal heavy use areas disturbing 5,000 square feet or greater of land, as well as necessitate the development of Manure Management Plans, before building permits for agricultural operations are approved. Manure Management Plans are required under 25 PA. Code Section 91.36 (b) for all farming operations that land apply manure or agricultural process wastewater, whether they generate the manure or import it from another operation. All farming operations that include an Animal Concentration Area (ACA) or pasture must also have a written Manure Management Plan. In addition, the Municipality should not issue a building permit, or other permit or approval, to those proposing to construct a liquid or semi-solid waste storage facility unless they have a design that has been approved and stamped by a professional engineer.

II. This Memorandum of Understanding shall become effective immediately. It shall be reviewed as the need arises by either or both parties, and may be amended by mutual consent of both parties. This Memorandum of Understanding may be terminated at any time, by either party, following a thirty (30) day written notice to the other party.

FOR MAXATAUNNY TOWNSHIP (municipality)

BY: CHRIS PAFF *Chris Paff* DATE 2.1.2018

Attest: *Quinton R. Weber*

FOR THE BERKS COUNTY CONSERVATION DISTRICT

Eric Shubert 2/23/18
CHAIR DATE



BERKS COUNTY CONSERVATION DISTRICT
 1238 COUNTY WELFARE ROAD, SUITE 200
 LEESPORT, PA 19533-9710
 610-372-4657 • FAX 610-478-7058
 www.berkscd.com

PROJECT APPLICATION			
APPLICATION TYPE (check all that apply) New <input type="checkbox"/> Renewal <input type="checkbox"/> Initial Revision <input type="checkbox"/> Subsequent Revision <input type="checkbox"/> Expedited Review <input type="checkbox"/>			
Project Name:		Municipality:	
Site Location/Address:		Tax Parcel	
Total Project Area (Acres):	Total Disturbed Area (Acres):	Lat ° ' "	Long ° ' "
Receiving Water/Watershed Name:		Chapter 93 Classification:	
APPLICANT INFORMATION			
Applicant's Last Name	First Name	Phone	E-mail
Organization Name or Registered Fictitious Name		Phone	FAX
Mailing Address	City	State	ZIP + 4
CONSULTANT INFORMATION			
Last Name (license, certifications)	First Name	Consulting Firm	
Mailing Address	City	State	ZIP+4
E-mail	Phone	Ext	
	FAX		
PLAN INFORMATION			
ALL PLANS MUST BE FOLDED. ROLLED PLANS WILL BE RETURNED			
Have you included the following:	Permits Required:	Type of Submission:	
<input type="checkbox"/> Attached Fees	<input type="checkbox"/> NPDES General	Residential	<input type="checkbox"/>
<input type="checkbox"/> Written Narrative	<input type="checkbox"/> NPDES Individual	Commercial/Industrial	<input type="checkbox"/>
<input type="checkbox"/> Plan Drawings	<input type="checkbox"/> 105 Water Encroachment (GP)	Government	<input type="checkbox"/>
<input type="checkbox"/> Calculations	<input type="checkbox"/> E&SC Permit (only for ≥25 acres of disturbance for Timber Harvests)	Timber Harvest	<input type="checkbox"/>
	<input type="checkbox"/> ESCGP (for oil and gas activities ≥5 acres of disturbance)	Agricultural	<input type="checkbox"/>
		Other _____	<input type="checkbox"/>
Enclosed Fees (All Checks Payable to BCCD Unless Otherwise Stated)			
Review Fee \$ _____ (see NOTE below)	NPDES Base Fee	\$ _____	(payable to Berks County Clean Water Fund)
2 nd Revision Fee \$ _____ (50% of initial fee)	NPDES Disturbed Acre Fee	\$ _____	(payable to DEP/Commonwealth Clean Water Fund)
	Ch. 105 Permit Fee	\$ _____	(payable to Berks County Clean Water Fund)
NOTE: The initial project fee includes the initial review, one subsequent review, site inspections, technical assistance, complaint response, and administrative support. Each fee must be on a separate check – DO NOT COMBINE fees.			
For District Use Only: Application# _____ Date: _____			
Project Review Fee \$ _____	Ck# _____		
NPDES Base Fee \$ _____	Ck# _____		
Disturbed Acre Fee \$ _____	Ck# _____		
105 Permit Fee \$ _____	Ck# _____		
Expedited Fee \$ _____	Ck# _____		



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PROJECT FEE SCHEDULE

The following fees will be charged by the Berks County Conservation District for Erosion and Sediment Control Plan reviews, as authorized by Act 217 – The Conservation District Law.
 These fees are effective **October 1, 2017**.

Regular E&SC Plan (under 1 acre of disturbance) Submit 1 original and 1 copy of Narratives & Plans	0 - 0.49 Acres	\$525
	0.5 - 0.99 Acres	\$800
Timber Harvest (based on acres of disturbance) A \$75 discount can be taken with proof of <i>Society of American Forestry</i> or <i>Sustainable Forestry Initiative</i> training. Submit 1 original and 1 copy of Narratives, Forms & Plans	5,000 sq ft - 3.99 Acres	\$325
	4.0 - 9.99 Acres	\$525
	10 - 24.99 Acres	\$800
	25 Acres or Greater	\$1,050
Chapter 105 Water Encroachment (A permit fee must be paid for each permit applied for, as well as a review fee. Some water encroachment permit fees are waived; please see the Rules and Guidelines section) Submit 1 original and 1 copy of Narratives, Forms, & Plans	Review Fee (made out to Berks County Conservation District)	\$210 per GP
	Permit Fee (made out to Berks County Clean Water Fund)	See DEP's Chapter 105 Fee Calculation Worksheet
Review Fee for Oil and Gas Activities (based on acres of disturbance, see Rules & Guidelines section for disturbance criteria) Submit 1 original and 1 copy of Narratives & Plans	\$800 per acre, rounding to the nearest whole acre	
Road Maintenance Activities (based on acres of disturbance) Submit 1 original and 1 copy of Narratives & Plans	\$525 per acre, rounding to the nearest whole acre	
Expedited Review Fee (see Rules & Guidelines section for additional information)	The expedited fee is equal to two times the normal review fee, paid in a separate check. <i>Example:</i> normal review fee of \$800 plus an additional check for \$1,600	

NPDES Fees

NPDES Review Fee (Based on acres of disturbance, see Rules & Guidelines section for disturbance criteria) This check should be made out to Berks County Conservation District or BCCD		
1-4.99 Acres	\$2,350	
5-9.99 Acres	\$3,200	
10-14.99 Acres	\$4,000	
15-19.99 Acres	\$4,725	
20-24.99 Acres	\$5,500	
25 Acres or greater	\$6,300 + \$100 for each additional acre of disturbance	
NPDES Administrative Fees		
General NPDES Submit 1 original and 1 copy of Narratives, Forms & Plans	\$500 permit fee made out to Berks County Clean Water Fund	\$100 x each disturbed acre, made out to DEP/Commonwealth Clean Water Fund . Please round up or down to the nearest whole acre.
Individual NPDES	\$1,500 permit fee made out to Berks County Clean Water Fund	\$100 x each disturbed acre, made out to DEP/Commonwealth Clean Water Fund . Please round up or down to the nearest whole acre.
A total of three checks should be submitted for each NPDES submission; a review fee, permit fee, and disturbed acre fee		

Berks County Conservation District Plan Review Rules and Guidelines

I. Authority & Applicability

- A. The Berks County Conservation District (BCCD) is delegated the responsibility to administer the Commonwealth's Erosion and Sediment Control (E&SC) Program and portions of the National Pollutant Discharge Elimination System (NPDES) Program under The PA Clean Streams Law. The Conservation District Law (Sec. 9) provides the BCCD with the authority to accept the responsibility to administer programs and to collect fees for services performed. BCCD also has obligations for review under MOUs and MS4 programs with Municipalities.
- B. Waiver of Fees – Requests for waiver of fees will be subject to Board of Directors approval. Requests must be submitted in writing at least 14 days prior to Board Meetings. Board Meetings are typically the last Wednesday of every month. The time period to review a plan will not start until the Board makes a decision on the waiver request unless the fee is paid in full.
- C. Agricultural Operations – Plan review fees shall not be applicable to agricultural operations engaged in normal farming activities (including manure storage facilities), and documented in a BCCD approved conservation plan. The applicant must provide permission for the BCCD to view the conservation plan. Exceptions are: earth disturbance for new buildings, associated parking areas, and other construction-related circumstances. In these cases, the project fee schedule is applicable.

II. Fees

A. Project Fee Schedule – The BCCD will charge the project fees found on the page titled "Project Fee Schedule" which accompanies this set of Rules and Guidelines.

B. Expedited Review Fees and Procedure

1. Expedited review requests will be accepted on a first come, first served basis. The request must be initiated by a phone call to one of the Resource Conservationists at 610-372-4657. The phone conversation is then confirmed by an email or fax to the BCCD. **Expedited review requests will be honored and scheduled pursuant to staff availability and must be approved by the District Executive. Program can be suspended at any time by a posting at the CD Office.**
2. Agencies exempt from project fees will not be eligible for the expedited review unless all review fees are paid. Any applicable NPDES administrative fees do not need to be paid in this case (these are still exempt).
3. The E&SC Plan and PCSM plan designer(s) and the applicant or permittee (if applicable) will be required to attend a pre-application meeting with the BCCD.
4. The following are to be submitted for the expedited review:
 - A. Two checks: Payable to the Berks County Conservation District
 1. The initial plan review fee
 2. The expedited plan review fee, equal to double the initial plan review fee
 - B. The NPDES Permit fees (if applicable)
 - C. The NPDES Notice of Intent and required documentation (if applicable)
 - D. An E&SC plan narrative and drawings
 - E. A PCSM narrative and drawings (if applicable)
5. A pre-application meeting is **strongly recommended** prior to submitting the permit application materials. During the pre-application meeting, the plans will receive an informal review. The submission will be subject to "in-office" completeness and technical reviews, as applicable, and will not be formally reviewed during the pre-application meeting.
6. If the applicant is advised that the documents are incomplete at the conclusion of the pre-application meeting, the incomplete documents will need to be revised, and the revisions will be incorporated in the initial submission.
7. NPDES Projects only - The Conservation District will conduct a formal completeness review of the documents within five (5) business days of receipt of the scheduled expedited review submission. If the submission is incomplete, both the applicant and the plan designer(s) will be notified by e-mail and phone call. The notification will identify the omissions and request that the documents be resubmitted.

8. The in-office technical review will be completed within five (5) business days of the date the submission is deemed to be complete for projects disturbing up to fifty (50) acres, and within an additional five (5) business days for each fifty (50) disturbed acre increment.
9. If completeness or technical deficiencies are found during an in-office review, a review letter with all of the comments will be emailed to both the applicant and the plan designer(s). The applicant must resubmit within 5 business days, and include a cover letter identifying all changes to the documents, along with highlighted changes within all the documents. The applicant may request a 10 day extension (in writing, email is fine) to submit revisions. No additional fee will be required for the first resubmission.
10. Resubmission shall include a cover letter identifying all changes to the documents, along with highlighted changes within all the documents. No additional fee will be required for the first resubmission within the completeness and technical review periods. In the event completeness or technical deficiencies are not properly addressed in the initial resubmission, the project will have to be resubmitted and will be subject to a revision fee equal to 50% of the initial plan review fee. The resubmission will be reviewed within five (5) business days.

C. Terms and Conditions – The following guidelines are to be utilized in determining the appropriate fee:

1. All plan review fees are based on acres of disturbance.
2. ESCGP and ESCP Permits – An Erosion and Sediment Control General Permit (ESCGP) is required for a person proposing oil and gas activities that involve 5 acres or more of earth disturbance over the life of the project. An Erosion and Sediment Control Permit (ESCP Permit) is required for a person proposing a timber harvesting or road maintenance activity involving 25 acres or more of earth disturbance over the life of the project. ESCGP and ESCP review fees are based on acres of disturbance noted in the Project Fee Schedule above. ESCGP and ESCP permits are also subject to an additional DEP permit fee and an additional disturbed acreage fee.
3. Chapter 105 Water Obstruction and Encroachment General Permit (GP) E&SC plans – A \$210 review fee per GP will be charged for GP plan review. The plan review fee is waived for the GP-1, Fish Enhancement Structure. The review fee is also waived for the GP-6, Agricultural Crossings and Ramps and the GP-9, Agricultural Activities for encroachment activities associated with a conservation plan. However, the plan review fee will not be waived if a Conservation District employee is providing technical assistance to the GP-6 or GP-9 applicant and the GP is not included within a conservation plan. The 105 GP Permit fee is separate from the E&SC plan review fee. Federal, State, County, Municipal Agencies and Authorities are exempt from the permit fee (See DEP's 105 Fee Calculation Worksheet). An agency that is exempt from a 105 GP permit fee is not exempt from the BCCD review fee unless the review fee is waived by approval of the BCCD Board of Directors or District Executive.
4. Initial and Revision Submissions – The review fee is intended to cover the initial plan review and one (1) subsequent revision. If additional reviews are required, each resubmission shall be assessed a fee of 50% of the original review fee. Please refer to Section D below for further information on additional fees.
5. Permit applications under review for NPDES, ESCGP, or ESCP projects with additional acreage that was not included in the original submission must submit a disturbed acreage fee equal to the difference between the original acreage and new acreage. An additional review fee may also be required for the additional disturbance in accordance with Section D below.
6. Phased Development Projects – For phased projects, the fees shall be based on either the total disturbed acres included in all phases of work or on the disturbed acres within the phase that is being reviewed for immediate development. It is recommended that the applicant reviews DEP's Permit Guidelines for Phased NPDES projects.

- D. Additional Fees – the BCCD reserves the right to impose additional plan review fees of up to 50% of the initial review fee for plan reviews in accordance with the conditions listed herein:
1. Where the owner or owner's agent fails to directly address and attempt to resolve deficiencies expressed by the BCCD after review of the resubmitted E&SC and PCSM Plans and thus requires the BCCD to conduct additional E&SC and PCSM Plan reviews.
 2. When design of an E&SC Plan, which has been submitted and reviewed, is revised to the point that the previous E&SC Plan is not applicable, the BCCD shall require an additional initial project fee at the cost as indicated above. A 50% review fee may be required for all subsequent submittals thereafter until adequacy has been determined.
 3. In cases where an additional 50% fee is believed to be excessive, a reduced fee may be granted with the BCCD Board of Directors / District Executive approval. All fees will be at the District's discretion.
- E. Special Conditions – the BCCD reserves the right to adjust fees in accordance with the special conditions list herein:
1. Letters of adequacy issued by the BCCD for non-NPDES projects are valid for two (2) years from the date of issuance. Failure to complete earth disturbance within two (2) years of the issuance of the adequate review letter will invalidate the review and require a resubmission, which is subject to an additional fee.
 2. NPDES Permit renewals may require updated plans and associated review fee at the discretion of the BCCD depending on the age of the project and its compliance with current regulations at the time of resubmission.
 3. Plans submitted after any construction has begun on a property will be charged double the fees listed on the Project Fee Schedule for the review of the project. All construction should be halted until the project has been approved as adequate.
 4. The Conservation District will charge additional fees for the following scenarios for permitted sites:
 - a. Major Amendments: A submission of a different project on the same site shall be considered as a new project and shall be subject to a new review fee. Major Amendments to permit applications, including Corrective Action Plans, will require a review fee equal to 50% of the review fee based on the total proposed acres of disturbance. In scenarios where the review fees are deemed excessive, the Conservation District may charge reduced fees. Major amendments are also subject to an additional disturbed acreage fee noted in Section C.5 above, as well as an additional permit fee.
 - b. Minor Amendments to permitted sites: Minor amendments on permitted sites will be charged \$200 per minor amendment, payable to the Berks County Conservation District.
 - c. Administrative fees, including extension requests, will be charged \$100 per administrative request, payable to the Berks County Conservation District.
- F. Withdrawal of Projects – It is the policy of the Berks County Conservation District to provide no refund of any project fees unless required by Conservation District Law or other applicable statutes once the initial project application is processed.

"Be it resolved this 22nd day of February 1989 that the Berks County Conservation District does hereby agree to charge a fee for the review of all Erosion and Sediment Control Plans, as authorized by the Commonwealth of Pennsylvania Act #217 approved May 15, 1945, as amended in accordance with the attached schedule of charges." Amended by resolution on November 30, 2005. Amended by resolution on November 29, 2006. Amended by resolution on November 28, 2007. Amended by resolution on July 30, 2008, Amended by resolution on August 26, 2009. Amended by resolution on January 27, 2010, Amended by resolution on September 29, 2010. Amended by resolution on May 29, 2013. Amended by resolution on March 30, 2016. Amended by resolution June 17, 2016. Amended by resolution February 2017. Amended by resolution August 15, 2017.