

**Lancaster County Conservation District
Erosion & Sedimentation Committee Meeting Agenda
Thursday December 18, 2025
1:30 P.M. – 3:00 P.M.
Farm & Home Center
Sunroom – Upstairs Room 222
Available virtually via Microsoft Teams
[Teams Link](#)
Meeting ID: 222 006 497 46
Passcode: nySKxL**

1. Update on Pending Enforcement Cases
2. E&S Department Plans for 2026
3. PCSM Delegation Research Report – Discuss what has been found so far and identify next steps
Action Requested

Next Scheduled Meeting
Thursday January 22, 2026 @ 1:30 PM
Farm & Home Center and virtually via Microsoft Teams

3. PCSM Delegation Research Report Action Requested

1. Initial Document Review
 - a. Chapter 102 Delegation Agreement Template – Focus on the last 3 pages of the document “Conservation District Levels of Program Delegation Responsibilities and Required Output Measures for Post Construction Stormwater Management (PCSM)” – This document outlines all the “options” under the Chapter 102 delegation and is attached.
 - b. PA DEP SOP “Management of Chapter 102 Delegation Agreements” – This document outlines the process for adding or removing a delegation under the Chapter 102 program. It is a process document that would be applicable if the Committee/Board gives us the directive to proceed.
 - c. Several other CCDs Applications/Fee Schedules and Professional Engineer job postings – These were used to give staff a general understanding of other Districts’ current PCSM programs. Staff used this knowledge to generate questions and have productive conversations in section 2 below.
2. Consultation with other CCDs & PA DEP
 - a. CCDs – Input was gathered from other Districts with a focus on the 10 questions listed on the attached sheet.
 - i. 3 CCDs provided a written response (Berks, Cumberland, & York)
 - ii. 5 CCDs participated in a virtual meeting with LCCD staff (Chester, Montgomery, Monroe, Northampton, & Westmoreland)
 - b. PA DEP – A virtual meeting was held with representatives from LCCD, PA DEP Central Office, and PA DEP Southcentral Regional Office.
3. Findings – Staff have elected to organize our findings by reporting what we have categorized into “pros” of taking on the PCSM delegation, “cons” of taking on the PCSM delegation, and important items that need to be addressed if we elect to take on the PCSM delegation.
 - a. Pros
 - i. Potential for more timely reviews to the regulated community and less dependence on DEP. Districts reported their engineering staff can work in tandem with E&S technical staff to provide review letters in a timely manner with less need to coordinate with the DEP during challenging reviews. That said, there is still a need to wait for the DEP regional office to issue technical deficiency letters and permit issuances for Individual Permits, so the PCSM delegation does not entirely eliminate the potential for a bottleneck at DEP.
 - ii. Eliminates the awkward situation of staff identifying PCSM plan deficiencies and not knowing how to navigate the review process. In our current delegation agreement, E&S staff repeatedly notice technical deficiencies pertaining to the PCSM plan during a review and are stuck with making a choice between finding a way of stating their observations during a completeness review or letting go of the deficiency under the guise that we are not PCSM-delegated. Sometimes, staff receive pushback for identifying stormwater deficiencies when we are not delegated to do so. The PCSM delegation would give LCCD a strong backing to identify PCSM-related deficiencies.
 - iii. Assurance that PCSM plans meet the standards of Chapter 102. In our current delegation, we do not always have assurance that PCSM plans in acknowledged permits meet Chapter 102 regulations because DEP/CCD staff are not always completing a PCSM technical review. With the PCSM delegation, LCCD staff would have the discretion to complete a full PCSM technical review of any permit submission. Several Districts reported their sense that being able to complete these reviews ensures that all permitted sites in their counties are meeting the Chapter 102 regulations and ensures a baseline of protection for receiving surface waters.

- iv. Legal support from DEP. As with our current delegations, DEP will continue to provide support in the event of a permit appeal or other litigation. Any legal action related to LCCD staff's work under the Chapter 102 delegation (including the PCSM delegation) would continue to be covered by the work and assistance of the Department's Counsel's office. If staff (including a professional engineer) are working within the bounds of the Chapter 102 program and review responsibilities, they would be "covered."
 - v. Potential for simplified workload for other E&S staff. Taking on the PCSM delegation and adding engineering support to the team allows other team members to focus on the many other aspects of the Chapter 102 program. These include E&S Plan/Permit review, routine site inspections, complaint response, and compliance/enforcement efforts.
- b. Cons
- i. Upfront workload and effort. Other Districts and the Department reported the process to get started takes much time and effort, including a Chapter 102 program evaluation, revising delegation agreements with DEP, and hiring for an engineer. Multiple districts shared some of the difficulties they faced in hiring qualified engineers for the program.
 - ii. Lack of programmatic support and timely responses from DEP. Multiple districts outside of the DEP Southcentral Region reported that training for the engineers from DEP is non-existent. However, the DEP SCRO staff shared that they regularly review technical deficiency comments from engineers and provide support and training as needed. All PCSM-delegated Districts shared that their offices don't have authority to issue technical deficiency letters and permit approvals for Individual Permits, which can still result in extended timelines for those permits.
 - iii. The delegation does not necessarily lead to higher quality submissions. One CCD reported that despite having a staff with 3 engineers, they do not believe that submissions to them are of any higher quality. Another CCD reported that a significant frustration of the PCSM-delegation is that design consultants don't always want to do what is required.
- c. Items to Address (if LCCD proceeds with the PCSM delegation)
- i. Size of Engineering Team. Multiple CCDs reported they have more than 1 engineer (Chester, Lehigh, Montgomery, Monroe) or are seeking an additional engineer (York, Berks, Northampton). Retaining more than one PE on staff allows the delegated activities to continue in the event of a resignation or other staff departure. Additionally, many CCDs stated that 1 PE was not enough for them to effectively implement the PCSM program in alignment with their goals and objectives. The current submission numbers in Lancaster County would likely require *at least 2* PEs/engineering staff once fully up and running.
 - ii. Compensation and fee schedule updates. All CCDs shared that retaining adequate engineering staff requires significant financial investment. This includes working to provide compensation that takes into consideration the current market rate for qualified PEs in the field. Taking on the PCSM delegation would require an overhaul of LCCD's fee schedule that would have to include significant increases in our fees for service. Some Districts specifically encouraged LCCD to ensure that adequate salaries can be offered for PEs and not to "low-ball" them with non-competitive salary offers.
 - iii. Which permits will be reviewed?. CCDs have some level of discretion when it comes to which permit submissions will require a PCSM technical review. The delegation agreement outlines permits that must receive a PCSM technical review. Beyond this, CCDs can coordinate with their regional office to determine which other permits will be reviewed. Some of the CCDs we talked to have elected to review all permit submissions as it simplifies the review process and provides consistent resource protection across their counties.

- iv. E&S Department/LCCD management and structure. CCDs shared the various organizational structures they have that include the PCSM delegation and engineering staff. Currently at LCCD, all E&S staff report to the E&S co-managers. The E&S technical manager currently provides input on both E&S and PCSM-related questions to internal E&S staff and to the external regulated community. Knowing that engineering staff would take on some technical oversight (could include questions on PCSM plans, complex E&S BMPs that require engineering, or site observations of PCSM SCMs), the responsibilities of the E&S technical manager may need to be revised. It could be an ideal time to revisit the entire E&S Department organizational structure while adding the PCSM delegation. This could include shifting current team members to more specialized responsibilities amongst a whole host of other possibilities.
 - v. Office space. We are currently working to add an additional cubicle and team member in the first quarter of 2026. The E&S Office will be at capacity at that point (without a major overhaul or moving of storage.) LCCD will need to determine how to physically seat the additional engineering staff or provide them with alternate work arrangements.
4. Staff are looking to the E&S Committee for input on their findings and a recommendation on how to proceed at this point. Staff will be available during the meeting and discussion to answer questions, elaborate on anything in this write-up, and provide their professional opinion on the PCSM delegation at the request of the Committee.

Appendix A
Delegation Agreement

**ADMINISTRATION RESPONSIBILITIES IN THE
EROSION AND SEDIMENT POLLUTION CONTROL (E & S) PROGRAM
AND NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM (NPDES) PERMITTING PROGRAM FOR THE
DISCHARGE OF STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

THIS AGREEMENT made this _____ day of _____, 20____ by and between the Department of Environmental Protection, hereinafter called the “Department”, and the _____ Conservation District, hereinafter called the “District”, provides for the District to be the Department’s designee for the administration and enforcement functions of the Erosion and Sediment Pollution Control Program, hereinafter called the “E & S Program”, and the National Pollutant Discharge Elimination System Program, hereinafter called the “NPDES Program”, for the discharge of stormwater associated with construction activities within the political boundaries of _____ County according to the terms provided in level _____ of the Delegation Responsibilities and Required Output Measures (ROM’s) referenced in the Department’s Standard Operating Procedures, guidance, policy and other procedures established by the Department to implement the responsibilities under the delegated E&S and NPDES Programs and with the concurrence of the _____ County governing body.

WHEREAS, the purpose of the E&S and NPDES Programs is to minimize erosion and sedimentation in order to protect, maintain, reclaim, and restore water quality and existing and designated uses of waters of the Commonwealth and to provide for the conservation of soil, water, and related resources of the Commonwealth;

WHEREAS, it is the desire of the Department, the State Conservation Commission (SCC), and the district to maximize available resources and eliminate unnecessary duplication of effort and delays in the administration of the E&S and NPDES Programs under provisions of 25 Pa. Code Chapters 91, 92a, 93, 96, and 102; the Pennsylvania Clean Streams Law, 35 P.S. § 691.1, et seq.; the Conservation District Law, 3 P.S. § 49, et. seq.; the Federal Clean Water Act, 33 U.S.C. § 1251 et seq.; and other applicable Federal regulations, and thereby establish a more efficient program;

WHEREAS, the Department desires to delegate responsibilities as herein described to the District and the District desires to implement delegated responsibilities in the administration of the E&S and NPDES programs, to include those responsibilities related to agriculture erosion and sediment control;

WHEREAS, Section 11(2) of the Conservation District Law, 3 P.S. § 859(2) and 25 Pa. Code § 102.41, authorizes the Department to delegate, by agreement and in accordance with regulations adopted by the Environmental Quality Board, to a District one or more of its regulatory functions under the Act and § 9(11) of the Conservation District Law, 3 P.S. § 857(11), authorizes the District to accept, upon approval by the Commission, any authority delegated by the Department;

WHEREAS, the District and Department agree to the be legally bound by the Standard Contract/Delegation Agreement provisions in Attachment A, NonDiscrimination/Sexual Harrassment

Clause, Attachment B, Current Staff Resources, and Attachment C, Standard Contract/Delegation Agreement Provisions.

WHEREAS, such Programs and policies provide for the execution of this Agreement for the delegation by and between the District and the Department for the accomplishment of work by conducting District activities and completing ROM's as described in the Program Administrative Policy and Permitting Manual, and requirements of the Program Compliance Assistance and Enforcement Manual.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises contained herein, the parties intending to be legally bound agree as follows:

1. This delegation agreement supersedes and replaces any and all prior Chapter 102 Delegation Agreements between the District and the Department.
2. The District and the Department agree to be legally bound by Attachments "A", "B", and "C".
2. For the purpose of Attachment "A", all reference to "contractor" shall apply to the District.
3. The Department agrees to delegate to the District, and the District agrees to accept delegation from the Department, certain responsibilities for the E&S Program and NPDES Program implementation in accordance with all applicable federal, state, and local statutes, rules, regulations, including those concerning agriculture, and with all requirements as referenced in the Erosion and Sediment Pollution Control Manual, Standard Operating Procedures, the Program Administrative Policy and Permitting Manual, and Program Compliance Assistance and Enforcement Manual.
4. The Department shall periodically review the activities of the District conducted under this Agreement.
5. Prior written approval must be obtained from the Department for changes or additions to the work elements of this Agreement.
6. Program ROM's will be reviewed on a five year basis or more often if necessary by the Department and the Districts. Changes to these ROM's will be determined by the Department and Districts, and shall be effective upon approval by the State Conservation Commission (SCC).
7. The Department shall have access to and the right to examine any pertinent books, documents, letters, and reports or records involving transactions relating to the District's delegated authorities.
8. Duties and responsibilities of the District:

- a. **Staff** - The District shall retain sufficient personnel as identified in Attachment “B”, and hereby agrees to commit appropriate staff time to attend Program training provided by the Department at a minimum of once per year. The District shall notify the Department within 30 days of personnel changes utilizing Attachment B of this agreement.
- b. **Administration** - The District will provide all functions within their level of delegation, such as: filing, reports, permit processing, conducting technical plan reviews, conducting of field inspections, voluntary compliance, enforcement actions, and other administrative functions in conformance with applicable federal and state laws, regulations, policies and procedures, and in conformance with the Standard Operating Procedures, Program Administrative Policy and Permitting Manual, Program Erosion and Sediment Pollution Control Manual, and Program Compliance Assistance and Enforcement Manual, developed by the Department, as amended and updated, as it relates to the District’s level of delegation.
- c. Provide information and written materials to the public and educate the regulated community concerning Chapter 102 procedures and other requirements of the Act and regulations, policies, and procedures promulgated thereunder or established by the Department.
- d. Preserve the confidentiality of communications and documents exchanged between the parties in connection with their respective obligations under this agreement, including documents such as permits, draft policies, procedures and guidance shared with the District prior to being formally released for public comment or as a final document and preserve all applicable privileges, including, but not limited to, attorney-client privilege, attorney work products, and deliberative process privilege.
- e. Comply with the following attachments, each attached hereto and made a part hereof: Attachments A, B, and C

9. Duties and responsibilities of the Department (Central Office):

- a. Provide statewide regulatory, policy, and legal assistance to Districts on general Program matters as appropriate to the District’s level of delegation.
- b. Develop statewide policies and regulations for the E&S and NPDES Programs with input and consultation from Districts within resource capabilities.
- c. Provide, within limits of resource capabilities, financial assistance to the District for actual expenditures up to the maximum amount available in accordance with Commission approved guidelines for administering the Conservation District Fund Allocation Program Statement of Policy at 25 Pa. Code Section 83.31 et seq.

- d. Be available to the District for consultation on matters relating to statewide Program policy.
- e. Provide the District with the necessary information, training, and materials for the District to properly educate and inform the public on the Programs.
- f. Conduct Program training for newly delegated districts.
- g. Conduct Program training for new staff in delegated districts.
- h. Provide oversight on routine District statewide program evaluations in the E&S and NPDES Programs once every five years or as necessary.
- i. Provide administrative and technical training to District staff, at a minimum, on an annual basis.

10. Duties and Responsibilities of the Department (Regional Office):

- a. Provide assistance to the Districts to train new District staff.
- b. Provide day-to-day Program guidance and technical assistance to Districts on routine administrative permitting procedures and policies, and plan reviews in regard to the E&S and NPDES Programs, and to make permit decisions based upon guidance in the Chapter 102 Standard Operating Procedures.
- c. Assist in conducting Program evaluations of Districts in the E&S and NPDES Programs. To conduct Program follow-up evaluations on an as needed basis six to seven months from the date of the initial Program evaluation.
- d. Participate in Program training provided by the Department's Central Office staff.
- e. Provide compliance and enforcement assistance, including legal support for compliance and enforcement matters.
- f. Provide Program orientation for District Directors and staff.
- g. Maintain records of all completed permitting and completed compliance actions in accordance with the Department's records retention policy.
- h. Schedule and conduct regional roundtables and other meetings on Program issues at least twice per year.

On this _____ day of _____ 20____, the State Conservation Commission approved by resolution, this Agreement between the Department and the _____ District.

Witness:

Chairperson,
_____ Conservation District

Witness:

**Commonwealth of Pennsylvania
State Conservation Commission**

Executive Secretary
State Conservation Commission

Witness:

Department of Environmental Protection

Deputy Secretary for Field Operations

Witness:

Deputy Secretary for Water Management

Approved as to legality and form:

Office of Attorney General

Office of Chief Counsel
Department of Environmental Protection

Office of General Counsel

ATTACHMENT A

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
4. The Contractor and each subcontractor shall not discriminate in violation of PHRA and applicable federal laws against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
8. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

ATTACHMENT B

Current Staff Resources

**STAFF RESOURCES OF THE _____ CONSERVATION DISTRICT
TO BE COMMITTED TO COMPLETION OF ALL REQUIREMENTS AND
RESPONSIBILITIES SPECIFIED IN THE DELEGATION AGREEMENT EXECUTED
_____, 20 ____, BETWEEN THE _____
CONSERVATION DISTRICT AND THE DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

PERSONNEL:

A.

1. NAME: _____ TITLE: _____

- a. Education: _____ Year: _____
- b. List license and/or certification: _____
- c. Years in current position: _____
- d. Years experience in delegated Program responsibilities: _____

2. LISTING OF DELEGATED PROGRAM WORK ASSIGNMENTS IN PERCENTAGE (%) OF TOTAL EMPLOYEE WORK ASSIGNMENTS: (Check all areas that pertain to your current job duties.)

- a. Administration (general) : _____ %
- b. Program information & education : _____ %
- c. Administration (permit processing) : _____ %
- d. Technical review of plans : _____ %
- e. Program compliance & inspections : _____ %
- f. Enforcement (Level 3 only) : _____ %

3. OTHER: List any other pertinent information, work experience, and training:

B.

1. NAME: _____ TITLE: _____

- a. Education: _____ Year: _____
- b. List license and/or certification: _____
- c. Years in current position: _____
- d. Years experience in delegated Program responsibilities: _____

2. LISTING OF DELEGATED PROGRAM WORK ASSIGNMENTS IN PERCENTAGE (%) OF TOTAL EMPLOYEE WORK ASSIGNMENTS: (Check all categories that pertain to your current job duties.)

- a. Administration (general) : _____ %
- b. Program information & education : _____ %
- c. Administration (permit processing) : _____ %
- d. Technical review of plans : _____ %
- e. Program compliance & inspections : _____ %
- f. Enforcement (Level 3 only) : _____ %

3. OTHER: List any other pertinent information, work experience, and training:

C.

1. NAME: _____ TITLE: _____

- a. Education: _____ Year: _____
- b. List license and/or certification: _____
- c. Years in current position: _____
- d. Years experience in delegated Program responsibilities: _____

2. LISTING OF DELEGATED PROGRAM WORK ASSIGNMENTS IN PERCENTAGE (%) OF TOTAL EMPLOYEE WORK ASSIGNMENTS:

- a. Administration (general) : _____ %
- b. Program information & education : _____ %
- c. Administration (permit processing) : _____ %
- d. Technical review of plans : _____ %
- e. Program compliance & inspections : _____ %
- f. Enforcement (Level 3 only) : _____ %

3. OTHER: List any other pertinent information, work experience, and training.

ATTACHMENT C

STANDARD CONTRACT/DELEGATION AGREEMENT PROVISIONS

A. GENERAL CONDITIONS:

1. The SCC approves District responsibilities as defined in the statutes, rules, regulations and Commission approved agreement terms, work elements, administrative procedures, budget allocations and payment provisions.
2. The Department agrees to delegate to the District certain program responsibilities, and the District agrees to accept delegation from the Department of those responsibilities, for program implementation in accordance with all applicable statutes, rules, regulations, policies, procedures and this Agreement.
3. The parties may, by mutual written amendment hereto, modify or extend the terms of this Agreement.
4. The District must obtain written approval from the Department prior to making changes or additions to the work elements of this Agreement.
5. The District may not dispose of nor convert (1) equipment and supplies provided to the District, or (2) equipment purchased or acquired by the District with Commonwealth funds, without the prior written approval of the Department.
6. District Directors and District employees shall comply with applicable laws and regulations, including laws and regulations administered by the State Ethics Commission.
7. All publication rights and copyrights produced by the District under this delegation agreement/contract are owned by the Commonwealth. The Department grants a royalty-free, non-exclusive license to the District to use the rights to these publications. Upon request by the Department, the District shall consult with and review the results of these projects with the Department prior to publication.
8. If Districts subcontract, utilize service purchase agreements for execution of project activities or provision of services to a project, they must first seek written approval in advance by the Department. Any such arrangements shall provide that the District will retain ultimate control and responsibility for the project, and that the subcontractor shall be bound by these conditions and other requirements applicable to the District in the conduct of the project.

B. STANDARD COMMONWEALTH CONTRACT PROVISIONS

The District shall comply with the terms and conditions of the “Nondiscrimination/Sexual Harassment Clause” contained in this Agreement.

C. STATE SERVICES AND INDEMNIFICATION

1. With respect to the performance of any duties or functions delegated to a District under this Agreement, the Commonwealth will defend and indemnify District directors and associate District directors and District employees to the same extent as it defends and indemnifies Commonwealth employees, and all directors and employees shall have all immunities afforded by law to Commonwealth employees.
2. The Commonwealth and the District agree that neither party to this Agreement shall be held responsible to the other for any loss of life, personal injury or property damages of any kind incurred in performing or completing any work or duties under this program.

D. RECORDS AND REPORTING

1. The District shall keep accurate and timely accounting records of all funds disbursed to ensure that charged expenditures are for eligible purposes and that documentation is readily available to verify that such charges are accurate.
2. Financial records, supporting documents, and all other records pertaining to the program shall be retained and be made available to the Department or its agent for audit for a period of three (3) years after any one or more of the following has occurred: (1) the final apportionment payment is made; (2) the agreement has expired; (3) projects have been completed; or (4) all other pending matters are resolved.
3. The District shall submit all program accomplishment reports, financial audit statements, and other reports on prescribed forms and at times as specified. Failure to submit these reports in a timely manner may result in program specific payment being withheld from the District until the reports have been received by the Department.

E. COMMUNICATIONS

1. The District and the Department shall meet at the request of either party to discuss the progress of work under this Agreement and any issues pertinent to it.
2. The District or Department shall notify the other in writing within 30 calendar days of any unusual development or circumstance which could significantly change or otherwise affect the responsibilities outlined in this Agreement.
3. The District and Department shall practice open and objective communications at all levels to prevent and resolve disputes under this Agreement. Issue resolution at the lowest appropriate level in the chain of command is encouraged. Any party can request a meeting to discuss and resolve issues and/or request the assistance of a facilitator to assist in resolving a dispute. In matters of statewide policy and procedures, the Department Regional Office will confer with Department Central Office staff for dispute resolution.

The District and the Department will utilize the following chain of command to ensure effective communications, decision-making, and dispute resolution.

- a. In situations where the District program staff and DEP program staff are unable to resolve a disagreement concerning delegated duties, or interpretations of DEP rules, regulations, policies, and procedures, the issue will be elevated to the Conservation District Manager and appropriate DEP Program Section Chief for discussion and resolution.
- b. If the District Manager and DEP Section Chief cannot resolve the issue, it will be elevated to the Conservation District Board and appropriate DEP Program Manager for discussion and resolution.
- c. If District Board and DEP Program Manager cannot resolve the issue, it will be elevated to the DEP Regional Director, who, in consultation with appropriate DEP Central Office staff, will provide a final decision and resolution.

Issues of statewide or program wide significance such as, but not limited to, program funding, administrative manuals, reporting procedures, etc., will be elevated from the Conservation District Board to the Executive Secretary of the State Conservation Commission. The Executive Secretary of the SCC will work with the appropriate DEP Central Office staff to provide options to resolve the issue and establish a course of action to achieve a resolution.

F. DUTIES AND RESPONSIBILITIES OF THE CONSERVATION DISTRICT

1. The District, prior to entering this Agreement, shall employ or retain sufficient number of qualified personnel necessary to carry out the District's responsibilities under this Agreement. The District shall commit staff time to attend program training provided by the Department, as related to their specific program delegation.
2. The District will perform all technical and administrative functions in accordance with applicable federal and state laws, regulations, policies, and procedures in the respective program.
3. The District shall maintain privacy and confidentiality of any draft documents, including any pre-decisional correspondence, permits, or other documents related to administration and enforcement of this program. The District shall consult with the Department's regional office prior to responding to any Right To Know Law request for documents related to its activities under this Agreement.
4. The District shall make available its personnel to act as witnesses for any proceeding where a District permit action is at issue.

G. DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT

1. The Department will provide technical and administrative oversight, guidance, and training to the District.
2. The Department will provide the SCC and Districts with Department-approved Program Manuals, required reporting forms, as well as computer files containing these standardized

forms, where appropriate. All necessary documents can be located on the Department's eLibrary.

3. Department staff shall be available to the District for consultation on matters relating to the Program. Contacts will be made on a regular basis and in a timely fashion by the staff to ensure adequate communications concerning program changes. The Department shall provide for administrative, technical, and other appropriate training to the District staff.
4. The Department will provide program support for proper program implementation, including the areas of compliance and enforcement assistance.
5. The Department shall provide to the District those informational materials developed for the program to assist the District in educating and informing the general public.

H. CONTRACT COMPLIANCE AND CORRECTIVE ACTIONS

When the terms and conditions of the Agreement are not materially being met, or the District, due to staff constraints, can no longer perform the required duties and responsibilities under the delegation agreement, the Department or District may, after written notice to the other party, suspend the delegation agreement.

Department Initiated Process Due to Delegated Program Deficiencies

It is understood that a fair and objective process will be followed in the interest of correcting performance deficiencies under this Agreement. Except for extraordinary circumstances, suspension and termination are considered last steps in a progressive process to define performance deficiencies and implement corrective action plans with ample opportunity to consider relevant circumstances and achieve acceptable performance.

- a. The Department conducts a program evaluation. Evaluations are normally conducted on a five-year cycle, unless specific problems are called to the attention of the Department which would result in scheduling a more immediate evaluation.
- b. If significant program deficiencies are found, a letter will be sent to the District Board referencing the evaluation findings and stating that a follow-up evaluation will be conducted within a six-month period to ensure that deficiencies have been corrected.
- c. If the follow-up evaluation indicates continued significant program deficiencies with no notable improvement, a letter detailing these deficiencies will be sent to the District Board within 15 calendar days from the date of the evaluation indicating the Department's intent to suspend delegation until the program deficiencies are corrected.
- d. The Board may request a meeting with the Department within 30 calendar days of receipt of the letter to initiate resolution of the Program deficiencies. If a meeting with the Department is not requested within the 30-day timeframe, the Department will initiate program suspension effective immediately following the 30-day time period.

- e. During the period of suspension, the District will not be compensated for that delegated program. Effective on the date of the program suspension, the program responsibilities will revert back to the Department.
- f. Once program specific staff has been sufficiently training to the satisfaction of the Department, program suspension shall be removed and the delegation agreement reinstated.

District Initiated Process Due to Program Staff Vacancies

The District shall notify the appropriate Department Central Office program staff immediately upon any change in personnel employed or retained for the purpose of performing delegated program responsibilities. In the event that the District is unable to employ or retain sufficient, qualified, trained personnel to carry out the program, the Department may, upon written notice, suspend delegation until sufficient, qualified, and trained personnel have been hired or retained.

During this suspension period, the District will not be compensated for the delegated program. The District would, however, be compensated upon the hiring or retaining of program specific personnel. Effective upon suspension, program responsibilities will revert back to the Department.

Once program specific staff have been sufficiently trained to the satisfaction of the Department, program suspension shall be removed and the delegation agreement reinstated.

I. TERMINATION

This delegation Agreement may be terminated by either of the signatory parties upon 60 calendar days written notice to the other party. Upon notice of termination, the parties will coordinate regarding transfer of the responsibilities back to DEP. Within 10 calendar days of such termination, the District shall release to the Department Regional Office all Program files and records.

J. CONCURRENT POWER

The Department shall retain the power to conduct its responsibilities pursuant to applicable environmental statutes and regulations. The Department, where feasible, will notify the District prior to conducting inspections or initiating enforcement actions within the Districts delegated programs. The Department, based on policy and procedures, will from time to time, update the District regarding the status of the compliance and enforcement issues where the District had made an enforcement referral to the Department.

K. DURATION OF THE AGREEMENT

This Agreement shall begin on the date executed by the parties in this Agreement. It will be evaluated periodically by both parties. It can be terminated through the arrangement described in Section I above.

Conservation District Levels of Program Delegation Responsibilities And Required Output Measures

LEVEL I - EDUCATION/INFORMATION AND OUTREACH

The District will:

- A. Provide education and outreach services on the Erosion and Sediment Control (E&S) Program, the Post Construction Stormwater Management (PCSM) Program, and the National Pollutant Discharge Elimination System (NPDES) Program.

Required Output Measures:

- A. Develop and conduct programs concerning the E&S, PCSM, and NPDES Programs. This also includes Agriculture E&S.
 - 1. Conduct a minimum of two informational and/or educational programs per calendar year on: general programs for school students, watershed groups, agricultural producer groups, civic groups or the general public, specialized educational programs for the regulated community, training seminars on the correct procedures for completing NPDES and E&S Control Permit applications, etc. (joint programs with neighboring districts will count as one credit for each sponsoring District).
 - 2. Issue a minimum of two news releases per calendar year (releases include newsletters, newspaper articles, TV and radio public announcements, etc.).
- B. Maintain an adequate supply of up-to-date applications and other forms developed by the department on the E&S, PCSM and NPDES Programs.
- C. Maintain and update all E&S, PCSM, and NPDES Program agreements in affect between the District and municipalities and/or other governmental agencies.
- D. Provide the department with the Program quarterly reports that detail accomplishments under their level of delegation. The District will submit the forms to the DEP by the 15th day following the end of each quarter. Failure to provide timely report information to the department may result in Program payment being withheld by the department until the required information has been submitted.
- E. Provide the department with other reporting data as requested.
- F. Refer complaints received to the appropriate agency within 8 business days of receipt.

LEVEL II - PROGRAM ADMINISTRATION AND COMPLIANCE

The District will:

- A. Perform all Level I responsibilities and required output measures.
- B. Maintain a system, developed by the department with input from conservation districts, including appropriate files for the receipt, assessment and resolution of complaints. This system shall include complaints regarding agricultural operations.
- C. Receive, process, and review all permit application forms/NOIs, GIFs and E&S Plans for new or renewed general and individual NPDES Permits for Stormwater Discharges Associated with Construction Activities involving equal to or greater than one acre of earth disturbance, and for Erosion and Sediment Control Permits. Complete the review process and timeframes in accordance with the items listed below or as specified in the most current approved Standard Operating Procedures (SOP).
 1. Conduct completeness reviews for all permits, including completeness reviews of the PCSM components of the permit applications, within 15 business days of receipt. Provide notification to the applicant of completeness/incompleteness within the 20 business day timeframe. Conservation Districts are required to verify that the items listed under Post Construction Stormwater Management Plan in the NOI Checklist are present in the plan and narrative. As per the SOP, Delegated Conservation Districts are expected to confirm that the required information is complete and adequate in the application package. Delegated Conservation Districts may consult with the appropriate Department Regional Office and elevate when necessary, inconsistencies related to the technical elements of the PCSM plan and narrative.
 2. Conduct initial technical E&S Plan reviews for **General** NPDES permits within 22 business days after the 20 business day completeness timeframe lapses. Notify the regional office of permit coverage or of technical E&S Plan deficiencies within this 22 business day timeframe. Total processing time for a General NPDES permit without deficiencies is 71 business days.
 3. Conduct a second technical E&S Plan review, where necessary, within 17 business days from receipt of E&S Plan resubmittal. If the E&S Plan meets the technical requirements, approve coverage under the General NPDES Permit within the 17 business day timeframe. If the E&S Plan is deemed inadequate, make a recommendation to the appropriate DEP Regional Office within the 17 business day timeframe to deny permit coverage.
 4. Conduct initial technical E&S Plan reviews for NPDES **Individual** Permits and E&S Control Permits within 47 business days after the 20 business day completeness timeframe lapses. Total processing time is for an individual NPDES permit without deficiencies is 107 business days.
 5. If the E&S Plan meets the technical requirements, make a permit recommendation to the DEP Regional Office to issue the permit within the 47 business day timeframe. If

the E&S Plan does not meet the technical requirements, notify the regional office of the deficiencies within the 47 business day timeframe, and request E&S Plan resubmission within 60 calendar days of the date that the deficiency letter is sent out by the District.

6. Conduct a second technical E&S Plan review, where necessary, within 22 business days of receipt of E&S Plan resubmittal. Notify the region if the E&S Plan is either adequate or inadequate, and recommend either issuance or denial of the permit to the appropriate DEP Regional Office within the 22 business day timeframe.
 7. The above-mentioned timeframes for E&S Plan reviews associated with permit applications are consistent with DEP's Permit Review Policy and Permit Decision Guarantee timeframes.
- D. Receive, process, and review ESCGP-2 permits for Oil and Gas activities. Complete the review process and timeframes in accordance with the items listed below or as specified in the most current approved Standard Operating Procedures (SOP).
3. Conduct completeness reviews for ESCGP-2 permits within 15 business days of receipt. If the permit application is complete, the completeness notification letter shall be sent to the permit applicant. The Permit Review Process timeframe of 43 business days will be based upon the date of that letter.
 4. Conduct initial technical E&S Plan reviews for ESCGP-2 permits within 18 business days from the date the permit application is considered complete. Any technical deficiencies should be documented in a technical deficiency letter to the applicant/owner and consultant. The letter will also include the requirement that revised plans should be submitted within 60 calendar days of the date of the technical deficiency letter.
 5. Conduct a second technical E&S Plan review, where necessary, within 10 business days from the date of the resubmittal.
- E. Conduct E&S Plan reviews pursuant to other DEP regulations and notify the appropriate party of E&S Plan adequacy or inadequacy within 35 business days of receipt. This requirement does not supersede any other E&S Plan review timeframes established under agreements with other local, state, or federal agencies.
- F. Perform E&S Plan reviews under agreements with municipalities or other governmental agencies in accordance with the applicable laws, rules and regulations, policies, and procedures.
- G. Receive, process and acknowledge co-permittee/transferee application forms within 20 business days of receipt of a complete for submittal. Receive, process, and conduct a site inspection for notices of termination (NOT) forms within 20 business days of receipt.

PSCM Best Management Practices should be inspected as part of the NOT final inspection.

Required Output Measures:

- A. Respond to all complaints within 8 business days of their receipt. Within 10 business days of receipt, refer problems dealing with situations outside the Programs to the department or other appropriate governmental agencies.
- B. Document all complaints utilizing forms developed by the department.
- C. For situations involving the authority under this Agreement, including those on agricultural operations, schedule and make site visits to assess the situation, conduct site inspections of the earth disturbance activity, document site conditions and violations of applicable laws and regulations on standard inspection report forms provided by the department, and attempt to attain voluntary compliance. When voluntary compliance cannot be attained, refer these cases to the appropriate Department Regional Office for appropriate enforcement action.
- D. Respond to and document situations, including those on agricultural operations, where sediment pollution, or a danger thereof, is being observed or a violation of applicable laws or regulations has occurred.
- E. Use the criteria established by the department for documentation and preparation of enforcement actions. Documentation could include actions, reports, letters of correspondence and other forms of documentation, including personal observations.
- F. Conduct site inspections of earth disturbance activities and document site conditions and violations of applicable laws and regulations, including those in regard to post construction stormwater management activities, on the standard inspection report forms provided by the department. The site inspection should include the entire site, therefore any observable site conditions relating to PCSM practice installation should be documented by the Conservation District. Complete the site inspection process and timeframes in accordance with the items listed below or as specified in most current approved Standard Operating Procedures (SOP).
 - 1. Inspect all active E&S Control permitted and **Individual** NPDES permitted sites once within the first 20 business days of commencement of earth disturbance activities, and then once every 65 business days at a minimum during active construction.
 - 2. Conduct more frequent inspections where there is higher pollution potential, sensitive environmental resources, continuing violations, or when the permittee has shown a lack of ability or intention to comply with a Department regulation, permit or order (history of non-compliance).

3. Inspect active NPDES **general permitted** sites involving **5 or more acres** of earth disturbance once within the first 35 business days of earth disturbance and then on an as-needed basis.
 4. Inspect active NPDES **general permitted** sites involving **1 to less than 5 acres** of earth disturbance on an as-needed basis. Inspections should be prioritized based on E&S Plan review, complaints, pollution potential, sensitive environmental resources, continuing violations, or a history of non-compliance.
 5. Follow-up site inspections on sites with either major or severe violations should be conducted within 20 business days of the previous site visit. Inspections and re-inspections at active non-permitted sites are to be conducted on an as-needed or complaint driven basis.
- G. Establish and maintain a separate District Clean Water Fund account for the deposit of any and all base administrative filing fees to be retained by the District under the E&S Program and NPDES Program. Fees must be deposited into the Clean Water Fund account within 10 calendar days of receipt of the permit application package. The fees deposited in the District Clean Water Fund account shall be used by the District to support the NPDES and E&S Programs, i.e., administrative expenses, travel expenses for site inspections, E&S technician reimbursement, field and office equipment, abatement of environmental problems, training sessions, conferences, and professional development related to the E&S and NPDES Programs. The District Clean Water Fund shall be subject to monitoring and audit by DEP or the Commission at all times.
- H. The District shall remit any and all disturbed acre fees under the E&S Program and NPDES Program to the DEP Regional Office. The delegated conservation district may forward the disturbed acre checks to the regional office as they are received or may bundle them and forward all disturbed acre fee checks at least once a week to the regional office.

LEVEL III - PROGRAM ENFORCEMENT

The District will:

- A. Perform all Level I and II responsibilities and required output measures. Prepare, commence and execute summary proceedings, issue notices of violation, schedule and conduct administrative enforcement conferences, seek civil penalties and available remedies thru consent assessments or consent adjudications, and related actions as established in the Program Compliance Assistance and Enforcement Manual.
- B. Retain its own legal counsel, except for those services related to delegated programs as set forth in Section 4, Subsection 2, of the Conservation District Law. For those services related to the delegated programs, the District may utilize DEP's legal counsel. DEP's legal counsel or the District's legal counsel shall review and sign all final settlement documents in accordance with the department's policies and procedures.

Required Output Measures:

- A. Advise the department of all enforcement actions initiated and provide this information on the department's program quarterly report form detailing final compliance agreements, penalties and other actions. Provide copies of all final enforcement documents used to resolve cases to the department's regional office. Forward all penalties collected to the department's regional office within 8 business days of receipt, unless otherwise directed or requested by the department's regional office.

- B. Prior to initiation of any equity action, civil penalty action or any other court proceeding, notify the department in writing of filing and prosecution of such action or proceeding. For summary or misdemeanor prosecutions, the District must obtain approval from their County District Attorney's Office.

**ADMINISTRATION RESPONSIBILITIES IN THE
EROSION AND SEDIMENT POLLUTION CONTROL (E & S) PROGRAM
AND NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM (NPDES) PERMITTING PROGRAM FOR THE
DISCHARGE OF STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITIES
FOR ADVANCED REVIEW LEVELS FOR POST CONSTRUCTION STORMWATER
MANAGEMENT PLANS**

THIS AGREEMENT made this _____ day of _____, 20____ by and between the Department of Environmental Protection, hereinafter called the “Department”, and the _____ Conservation District, hereinafter called the “District”, provides for the District to be the Department’s designee for the administration of the Post Construction Stormwater Management Program, hereinafter called the “PCSM Program” and for the administration and enforcement functions of the Erosion and Sediment Pollution Control Program, hereinafter called the “E & S Program”, and the National Pollutant Discharge Elimination System Program, hereinafter called the “NPDES Program”, for the discharge of stormwater associated with construction activities within the political boundaries of _____ County according to the terms provided in level _____ for the E&S Program and the terms of the PCSM Program of the Delegation Responsibilities and Required Output Measures (ROM’s) referenced in this agreement and the Department’s Program Administrative Policy and Permitting Manual, and the policies and procedures set forth in the Department’s Program Compliance Assistance and Enforcement Manual, and with the concurrence of the _____ County governing body.

WHEREAS, the purpose of the E&S, PCSM, and NPDES Programs is to minimize erosion and sedimentation and to manage post construction stormwater in order to protect, maintain, reclaim, and restore water quality and existing and designated uses of waters of the Commonwealth and to provide for the conservation of soil, water, and related resources of the Commonwealth;

WHEREAS, it is the desire of the Department, the State Conservation Commission (SCC) and the district to maximize available resources and eliminate unnecessary duplication of effort and delays in the administration of the E&S, PCSM, and NPDES Programs under provisions of 25 Pa. Code Chapters 91, 92a, 93, 96, and 102; the Pennsylvania Clean Streams Law, 35 P.S. § 691.1 et seq.; the Conservation District Law, 3 P.S. § 49, et. seq.; the Federal Clean Water Act, 33 U.S.C. § 1251 et seq.; and other applicable Federal regulations, and thereby establish a more efficient program;

WHEREAS, the Department desires to delegate responsibilities as herein described to the District and the District desires to implement delegated responsibilities in the administration of the E&S, PCSM, and NPDES programs, to include those responsibilities related to agriculture erosion and sediment control;

WHEREAS, Section 11(2) of the Conservation District Law, 3 P.S. § 859(2) and 25 Pa. Code § 102.41, authorizes the Department to delegate, by agreement and in accordance with regulations adopted by the Environmental Quality Board, to a District one of more of its regulatory functions under

the Act and § 9(11) of the Conservation District Law, 3 P.S. § 857(11), authorizes the District to accept, upon approval by the Commission, any authority delegated by the Department.

WHEREAS, the District and Department agree to be legally bound by the Standard Contract/Delegation Agreement provisions in Attachment A, Non-Discrimination/Sexual Harrassment Clause, Attachment B, Current Staff Resources, and Attachment C, Standard Contract/Delegation Agreement Provisions;

WHEREAS, such Programs and policies provide for the execution of this Agreement for the delegation by and between the District and the Department for the purpose of accomplishment of work by conducting District activities and completing ROMs as described in the Program Administrative Policy and Permitting Manual and requirements of the Program Compliance Assistance and Enforcement manual.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises contained herein, the parties intending to be legally bound agree as follows:

1. This delegation agreement supersedes and replaces any and all prior Chapter 102 Delegation Agreements between the District and the Department.
2. The District and the Department agree to be legally bound by Attachments “A”, “B”, and “C”.
2. For the purpose of Attachment “A”, all reference to “contractor” shall apply to the District.
3. The Department agrees to delegate to the District, and the District agrees to accept delegation from the Department, certain responsibilities for the E&S Program, PCSM Program, and NPDES Program implementation in accordance with all applicable federal, state, and local statutes, rules, regulations, including those concerning agriculture, and with all requirements as referenced in the Program Administrative Policy and Permitting Manual, and Program Compliance Assistance and Enforcement Manual.
4. The Department shall periodically review the activities of the District conducted under this Agreement.
5. Prior written approval must be obtained from the Department for changes or additions to the work elements of this Agreement.
6. Program ROM’s will be reviewed on a five year basis by the Department and the Districts. Changes to these ROM’s will be determined by the Department and Districts, and shall be effective upon approval by the State Conservation Commission (SCC).

7. The Department shall have access to and the right to examine any pertinent books, documents, letters, and reports or records involving transactions relating to the District's delegated authorities.
8. Duties and responsibilities of the District:
 - a. **Staff** - The District shall retain sufficient personnel as identified in Attachment "B", and hereby agrees to commit appropriate staff time to attend Program training provided by the Department at a minimum of once per year. The District shall notify the Department within 30 days of personnel changes utilizing Attachment B of this agreement.
 - b. **Administration** - The District will provide all functions within their level of delegation, such as: filing, reports, permit processing, conducting technical plan reviews, conducting of field inspections, voluntary compliance, enforcement actions, and other administrative functions in conformance with applicable federal and state laws, regulations, policies and procedures, and in conformance with the Standard Operating Procedures, Program Administrative Policy and Permitting Manual, Program Erosion and Sediment Pollution Control Manual, Stormwater BMP Manual, and Program Compliance Assistance and Enforcement Manual, developed by the Department, as amended and updated, as it relates to the District's level of delegation.
 - c. Provide information and written materials to the public and educate the regulated community concerning Chapter 102 procedures and other requirements of the Act and regulations, policies, and procedures promulgated thereunder or established by the Department.
 - d. Preserve the confidentiality of communications and documents exchanged between the parties in connection with their respective obligations under the agreement, including documents such as permits, draft policies, procedures and guidance shared with the District prior to being formally released for public comment or as a final document and preserve all applicable privileges, including, but not limited to, attorney-client privilege, attorney work products, and deliberative process privilege.
 - e. Comply with the following attachments, each attached hereto and made a part hereof: Attachments A, B, and C.

9. Duties and responsibilities of the Department (Central Office):

- a. Provide statewide regulatory, policy, and legal assistance to Districts on general Program matters as appropriate to the District's level of delegation.
- b. Develop statewide policies and regulations with input and consultation with Districts for the E&S, PCSM, and NPDES Programs within resource capabilities.
- c. Provide, within limits of resource capabilities, financial assistance to the District for actual expenditures up to the maximum amount available in accordance with Commission-approved guidelines for administering the Conservation District Fund Allocation Program Statement of Policy at 25 Pa. Code § 83.31 et seq.
- d. Be available to the District for consultation on matters relating to statewide Program policy.
- e. Provide the District with the necessary information, training, and materials for the District to properly educate and inform the public on the Programs.
- f. Conduct Program training for newly delegated districts.
- g. Conduct Program training for new staff in delegated districts
- h. Provide oversight on routine District statewide program evaluations in the E&S, PCSM, and NPDES Programs once every five years or as necessary.
- i. Provide administrative and technical training to District staff, at a minimum, on an annual basis.

10. Duties and Responsibilities of the Department (Regional Office):

- a. Provide assistance to the Districts to train new District staff.
- b. Provide day-to-day Program guidance and technical assistance to Districts on routine administrative permitting procedures and policies, and plan reviews in regard to the E&S, PCSM, and NPDES Programs, and to make permit decisions based upon guidance in the Chapter 102 Standard Operating Procedures and the Program Administrative Policy and Permitting Manual.
- c. Assist in conducting Program evaluations of Districts in the E&S, PCSM, and NPDES Programs. Conduct Program follow-up evaluations on an as-needed basis six to seven months from the date of the initial program evaluation.
- d. Participate in Program training provided by the Department's Central Office staff.

- e. Provide compliance and enforcement assistance, including legal support for compliance and enforcement matters.
- f. Provide Program orientation for District directors and staff.
- g. Maintain records of all completed permitting and completed compliance actions in accordance with the Department's records retention policy.
- h. Schedule and conduct regional roundtables and other meetings on Program issues at least twice per year.

On this _____ day of _____ 20____, the State Conservation Commission approved by resolution, this Agreement between the Department and the _____ District.

Witness:

Chairperson,
_____ Conservation District

Witness:

**Commonwealth of Pennsylvania
State Conservation Commission**

Executive Secretary
State Conservation Commission

Witness:

Department of Environmental Protection

Deputy Secretary for Field Operations

Witness:

Deputy Secretary for Water Management

Approved as to legality and form:

Office of Attorney General

Office of Chief Counsel
Department of Environmental Protection

Office of General Counsel

ATTACHMENT A

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
4. The Contractor and each subcontractor shall not discriminate in violation of PHRA and applicable federal laws against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
8. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

ATTACHMENT B

Current Staff Resources

**STAFF RESOURCES OF THE _____ CONSERVATION DISTRICT
TO BE COMMITTED TO COMPLETION OF ALL REQUIREMENTS AND
RESPONSIBILITIES SPECIFIED IN THE DELEGATION AGREEMENT EXECUTED
_____, 20 ____, BETWEEN THE _____
CONSERVATION DISTRICT AND THE DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

PERSONNEL:

A.

1. NAME: _____ TITLE: _____
 - a. Education: _____ Year: _____
 - b. List license and/or certification: _____
 - c. Years in current position: _____
 - d. Years experience in delegated Program responsibilities: _____

2. LISTING OF DELEGATED PROGRAM WORK ASSIGNMENTS IN PERCENTAGE (%) OF TOTAL EMPLOYEE WORK ASSIGNMENTS: (Check all areas that pertain to your current job duties.)

- a. Administration (general) : _____ %
- b. Program information & education : _____ %
- c. Administration (permit processing) : _____ %
- d. Technical review of plans : _____ %
- e. Program compliance & inspections : _____ %
- f. Enforcement (Level 3 only) : _____ %

3. OTHER: List any other pertinent information, work experience, and training:

B.

1. NAME: _____ TITLE: _____
 - a. Education: _____ Year: _____
 - b. List license and/or certification: _____
 - c. Years in current position: _____
 - d. Years experience in delegated Program responsibilities: _____

2. LISTING OF DELEGATED PROGRAM WORK ASSIGNMENTS IN PERCENTAGE (%) OF TOTAL EMPLOYEE WORK ASSIGNMENTS: (Check all categories that pertain to your current job duties.)

- a. Administration (general) : _____ %
- b. Program information & education : _____ %
- c. Administration (permit processing) : _____ %
- d. Technical review of plans : _____ %
- e. Program compliance & inspections : _____ %
- f. Enforcement (Level 3 only) : _____ %

3. OTHER: List any other pertinent information, work experience, and training:

C.

1. NAME: _____ TITLE: _____

- a. Education: _____ Year: _____
- b. List license and/or certification: _____
- c. Years in current position: _____
- d. Years experience in delegated Program responsibilities: _____

2. LISTING OF DELEGATED PROGRAM WORK ASSIGNMENTS IN PERCENTAGE (%) OF TOTAL EMPLOYEE WORK ASSIGNMENTS:

- a. Administration (general) : _____ %
- b. Program information & education : _____ %
- c. Administration (permit processing) : _____ %
- d. Technical review of plans : _____ %
- e. Program compliance & inspections : _____ %
- f. Enforcement (Level 3 only) : _____ %

3. OTHER: List any other pertinent information, work experience, and training.

ATTACHMENT C

STANDARD CONTRACT/DELEGATION AGREEMENT PROVISIONS

A. GENERAL CONDITIONS:

1. The SCC approves District responsibilities as defined in the statutes, rules, regulations and Commission approved agreement terms, work elements, administrative procedures, budget allocations and payment provisions.
2. The Department agrees to delegate to the District certain program responsibilities, and the District agrees to accept delegation from the Department of those responsibilities, for program implementation in accordance with all applicable statutes, rules, regulations, policies, procedures and this Agreement.
3. The parties may, by mutual written amendment hereto, modify or extend the terms of this Agreement.
4. The District must obtain written approval from the Department prior to making changes or additions to the work elements of this Agreement.
5. The District may not dispose of nor convert (1) equipment and supplies provided to the District, or (2) equipment purchased or acquired by the District with Commonwealth funds, without the prior written approval of the Department.
6. District Directors and District employees shall comply with applicable laws and regulations, including laws and regulations administered by the State Ethics Commission.
7. All publication rights and copyrights produced by the District under this delegation agreement/contract are owned by the Commonwealth. The Department grants a royalty-free, non-exclusive license to the District to use the rights to these publications. Upon request by the Department, the District shall consult with and review the results of these projects with the Department prior to publication.
8. If districts subcontract, utilize service purchase agreements for execution of project activities or provision of services to a project, they must first seek written approval in advance by the Department. Any such arrangements shall provide that the District will retain ultimate control and responsibility for the project, and that the subcontractor shall be bound by these conditions and other requirements applicable to the District in the conduct of the project.

B. STANDARD COMMONWEALTH CONTRACT PROVISIONS

The District shall comply with the terms and conditions of the “Nondiscrimination/Sexual Harassment Clause” contained in this Agreement.

C. STATE SERVICES AND INDEMNIFICATION

1. With respect to the performance of any duties or functions delegated to a District under this Agreement, the Commonwealth will defend and indemnify District directors and associate District directors and District employees to the same extent as it defends and indemnifies

Commonwealth employees, and all directors and employees shall have all immunities afforded by law to Commonwealth employees.

2. The Commonwealth and the District agree that neither party to this Agreement shall be held responsible to the other for any loss of life, personal injury or property damages of any kind incurred in performing or completing any work or duties under this program.

D. RECORDS AND REPORTING

1. The District shall keep accurate and timely accounting records of all funds disbursed to ensure that charged expenditures are for eligible purposes and that documentation is readily available to verify that such charges are accurate.
2. Financial records, supporting documents, and all other records pertaining to the program shall be retained and be made available to the Department or its agent for audit for a period of three (3) years after any one or more of the following has occurred: (1) the final apportionment payment is made; (2) the agreement has expired; (3) projects have been completed; or (4) all other pending matters are resolved.
3. The District shall submit all program accomplishment reports, financial audit statements, and other reports on prescribed forms and at times as specified. Failure to submit these reports in a timely manner may result in program specific payment being withheld from the District until the reports have been received by the Department.

E. COMMUNICATIONS

1. The District and the Department shall meet at the request of either party to discuss the progress of work under this Agreement and any issues pertinent to it.
2. The District or Department shall notify the other in writing within 30 calendar days of any unusual development or circumstance which could significantly change or otherwise affect the responsibilities outlined in this Agreement.
3. The District and Department shall practice open and objective communications at all levels to prevent and resolve disputes under this Agreement. Issue resolution at the lowest appropriate level in the chain of command is encouraged. Any party can request a meeting to discuss and resolve issues and/or request the assistance of a facilitator to assist in resolving a dispute. In matters of statewide policy and procedures, the Department Regional Office will confer with Department Central Office staff for dispute resolution.

The District and the Department will utilize the following chain of command to ensure effective communications, decision-making, and dispute resolution.

- a. In situations where the District program staff and DEP program staff are unable to resolve a disagreement concerning delegated duties, or interpretations of DEP rules, regulations, policies, and procedures, the issue will be elevated to the Conservation District Manager and appropriate DEP Program Section Chief for discussion and resolution.

- b. If the District Manager and DEP Section Chief cannot resolve the issue, it will be elevated to the Conservation District Board and appropriate DEP Program Manager for discussion and resolution.
- c. If District Board and DEP Program Manager cannot resolve the issue, it will be elevated to the DEP Regional Director, who, in consultation with appropriate DEP Central Office staff, will provide a final decision and resolution.

Issues of statewide or program wide significance such as, but not limited to, program funding, administrative manuals, reporting procedures, etc., will be elevated from the Conservation District Board to the Executive Secretary of the State Conservation Commission. The Executive Secretary of the SCC will work with the appropriate DEP Central Office staff to provide options to resolve the issue and establish a course of action to achieve a resolution.

F. DUTIES AND RESPONSIBILITIES OF THE CONSERVATION DISTRICT

- 1. The District, prior to entering this Agreement, shall employ or retain sufficient number of qualified personnel necessary to carry out the District's responsibilities under this Agreement. The District shall commit staff time to attend program training provided by the Department, as related to their specific program delegation.
- 2. The District will perform all technical and administrative functions in accordance with applicable federal and state laws, regulations, policies, and procedures in the respective program.
- 3. The District shall maintain privacy and confidentiality of any draft documents, including any pre-decisional correspondence, permits, or other documents related to administration and enforcement of this program. The District shall consult with the Department's regional office prior to responding to any Right To Know Law request for documents related to its activities under this Agreement.
- 4. The District shall make available its personnel to act as witnesses for any proceeding where a District permit action is at issue.

G. DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT

- 1. The Department will provide technical and administrative oversight, guidance, and training to the District.
- 2. The Department will provide the SCC and Districts with Department-approved Program Manuals, required reporting forms, as well as computer files containing these standardized forms, where appropriate. All necessary documents can be located on the Department's eLibrary.

3. Department staff shall be available to the District for consultation on matters relating to the Program. Contacts will be made on a regular basis and in a timely fashion by the staff to ensure adequate communications concerning program changes. The Department shall provide for administrative, technical, and other appropriate training to the District staff.
4. The Department will provide program support for proper program implementation, including the areas of compliance and enforcement assistance.
5. The Department shall provide to the District those informational materials developed for the program to assist the District in educating and informing the general public.

H. CONTRACT COMPLIANCE AND CORRECTIVE ACTIONS

When the terms and conditions of the Agreement are not materially being met, or the District, due to staff constraints, can no longer perform the required duties and responsibilities under the delegation agreement, the Department or District may, after written notice to the other party, suspend the delegation agreement.

Department Initiated Process Due to Delegated Program Deficiencies

It is understood that a fair and objective process will be followed in the interest of correcting performance deficiencies under this Agreement. Except for extraordinary circumstances, suspension and termination are considered last steps in a progressive process to define performance deficiencies and implement corrective action plans with ample opportunity to consider relevant circumstances and achieve acceptable performance.

- a. The Department conducts a program evaluation. Evaluations are normally conducted on a five-year cycle, unless specific problems are called to the attention of the Department which would result in scheduling a more immediate evaluation.
- b. If significant program deficiencies are found, a letter will be sent to the District Board referencing the evaluation findings and stating that a follow-up evaluation will be conducted within a six-month period to ensure that deficiencies have been corrected.
- c. If the follow-up evaluation indicates continued significant program deficiencies with no notable improvement, a letter detailing these deficiencies will be sent to the District Board within 15 calendar days from the date of the evaluation indicating the Department's intent to suspend delegation until the program deficiencies are corrected.
- d. The Board may request a meeting with the Department within 30 calendar days of receipt of the letter to initiate resolution of the Program deficiencies. If a meeting with the Department is not requested within the 30-day timeframe, the Department will initiate program suspension effective immediately following the 30-day time period.
- e. During the period of suspension, the District will not be compensated for that delegated program. Effective on the date of the program suspension, the program responsibilities will revert back to the Department.

- f. Once program specific staff has been sufficiently training to the satisfaction of the Department, program suspension shall be removed and the delegation agreement reinstated.

District Initiated Process Due to Program Staff Vacancies

The District shall notify the appropriate Department Central Office program staff immediately upon any change in personnel employed or retained for the purpose of performing delegated program responsibilities. In the event that the District is unable to employ or retain sufficient, qualified, trained personnel to carry out the program, the Department may, upon written notice, suspend delegation until sufficient, qualified, and trained personnel have been hired or retained.

During this suspension period, the District will not be compensated for the delegated program. The District would, however, be compensated upon the hiring or retaining of program specific personnel. Effective upon suspension, program responsibilities will revert back to the Department.

Once program specific staff have been sufficiently trained to the satisfaction of the Department, program suspension shall be removed and the delegation agreement reinstated.

I. TERMINATION

This delegation Agreement may be terminated by either of the signatory parties upon 60 calendar days written notice to the other party. Upon notice of termination, the parties will coordinate regarding transfer of the responsibilities back to the Department. Within 10 calendar days of such termination, the District shall release to the Department Regional Office all Program files and records.

J. CONCURRENT POWER

The Department shall retain the power to conduct its responsibilities pursuant to applicable environmental statutes and regulations. The Department, where feasible, will notify the District prior to conducting inspections or initiating enforcement actions within the Districts delegated programs. The Department, based on policy and procedures, will from time to time, update the District regarding the status of compliance and enforcement issues where the District had made an enforcement referral to the Department within a reasonable timeframe.

K. DURATION OF THE AGREEMENT

This Agreement shall begin on the date executed by the parties in this Agreement. It will be evaluated every five years by both parties. It can be terminated through the arrangement described in Section I above.

Conservation District Levels of Program Delegation Responsibilities And Required Output Measures for Post Construction Stormwater Management (PCSM)

In addition to all delegated responsibilities and required output measures per the level chosen for the E&S Program the District will:

- A. Provide education and outreach services on the PCSM Program, and the National Pollutant Discharge Elimination System (NPDES) Program.
- B. Maintain a system, developed by the Department, including appropriate files, for the receipt, assessment, and resolution of PCSM complaints associated with active NPDES permitted sites prior to the submittal and acknowledgement of the Notice of Termination (NOT).
- C. Conduct technical (engineering) review for PCSM Plans that have been designed in accordance with the PA Stormwater BMP Manual. PCSM Plans using standards and design criteria other than those contained in the PA Stormwater BMP Manual shall be forwarded to the Department Regional Office for review. The technical review and review timeframes shall be conducted in accordance with the items listed below or the most current, approved Standard Operating Procedures (SOPs) and checklists provided by the Department.
 1. For Individual NPDES Permits, the technical review of both the E&S Plan and the PCSM plan will be completed within 47 business days of the date the permit application is considered complete.
 2. If the PCSM Plan meets the requirements of checklist, make a permit recommendation along with the items described in C. 4a. to the DEP Regional Office to issue the permit within the 47 business day timeframe. If the PCSM Plan does not meet the technical requirements, notify DEP of the deficiencies within the 47 business day timeframe, and request PCSM Plan resubmission within 60 calendar days of the date that the deficiency letter is sent out by the District.
 3. Conduct a second technical review of the E&S Plan and PCSM Plan, where necessary, within 22 business days of receipt of resubmittal. Any technical deficiencies that remain in both the E&S and PCSM plans should be documented in a letter attached to an email to the Department application manager.
 4. If the PCSM plan is found to be technically adequate for an Individual NPDES permit, the conservation district will forward the following information and documents to the regional office:
 - a. Completed recommendation for permit action letter, completed E&S technical plan review checklist, two sets of approved and stamped E&S Plans, completed PCSM plan, engineering review checklist, two sets of the approved stamped PCSM plans and narratives. The district will retain the third set of plans.

5. Conduct initial technical (engineering) PCSM Plan reviews for General NPDES Permits within the timeframes allotted for the General NPDES Permit review process as staff resources and other responsibilities permit.
- D. Perform PCSM Plan reviews under agreements with municipalities or other governmental agencies in accordance with the applicable laws, rules and regulations, policies, and procedures.
- E. Conduct inspections of PCSM BMPs and make notes in the standard inspection report forms when on site to perform E&S Program duties during the construction phase of the project. Conduct an inspection of installed PCSM BMPs when performing a final site inspection in conjunction with a notice of termination. After project construction is complete and a notice of termination has been acknowledged by the district or DEP, forward all complaints related to PCSM BMPs to the appropriate DEP Regional Office service representative.
- F. In coordination with the appropriate DEP regional office, Level III delegated conservation districts may initiate enforcement actions on active NPDES permitted sites prior to the submittal and acknowledgment of the NOT.

Required Output Measures:

- A. Develop and conduct programs concerning the PCSM Program.
 1. Conduct PCSM educational programs in conjunction with E&S educational programs when and where applicable: general programs for school students, watershed groups, civic groups or the general public, specialized educational programs for the regulated community, training seminars on the correct procedures for completing NPDES and E&S Control Permit applications, PCSM Plan preparation, etc. (joint programs with neighboring districts will count as one credit for each sponsoring District).
 2. Issue a minimum of two news releases per calendar year (releases include newsletters, newspaper articles, TV and radio public announcements, etc.).
- B. Maintain an adequate supply of up-to-date applications and other forms developed by the Department on the PCSM Program.
- C. Respond to all PCSM complaints within 8 business days of their receipt on active construction projects with NPDES permits. For completed construction projects refer PCSM complaints to the appropriate Department Regional Office Service Representative within 5 business days of receipt.
- D. Document all complaints utilizing forms developed by the Department.
- E. Conduct site inspections of the active earth disturbance activity under the authority of this agreement to include NPDES active permitted sites and associated PCSM BMPs prior to the submittal and acknowledgement of the NOT. Document site conditions and violations of applicable laws and regulations on standard inspection report forms provided by the

Department, and attempt to attain voluntary compliance. When voluntary compliance cannot be attained, refer these cases to the appropriate Department Regional Office for appropriate enforcement action.

- F. Respond to and document situations where sediment pollution, or a danger thereof, is being observed, or where stormwater runoff water quality or quantity is not in compliance with the approved PCSM Plan or a violation of applicable laws or regulations has occurred.
- G. Use the criteria established by the Department for documentation and preparation of enforcement actions. Documentation could include actions, reports, letters of correspondence and other forms of documentation, including personal observations.
- H. The PE employed by the conservation district to conduct the engineering review of the PCSM plan will provide the Department with a record of decision.

Questions for other CCDs

1. Which permits/submissions do you complete PCSM Technical Reviews on?
2. How do you see your PCSM Technical Reviews interacting with stormwater reviews being completed by municipal engineers?
3. What's the management structure/organizational chart of your E&S/Urban Team? Where does the PE/engineering team fit into that structure?
4. How does your fee schedule account for the PCSM delegation? Do you simply charge larger fees across the board or do you target projects requiring a PCSM technical review for larger fees?
5. Are all E&S/Urban Team Members assisting with PCSM Technical Reviews or just the designated Engineers/PEs?
6. Does your PE/engineering team complete any field work or inspections?
7. Does your insurance policy specifically address the fact that you complete PCSM Technical Reviews? Does that involve additional policies or coverage?
8. What is your biggest frustration with the PCSM delegation?
9. For your District, the regulated community, & county residents, what benefits does the PCSM delegation provide? Do you notice any specific natural resource benefits provided by the delegation?
10. Anything else Lancaster CCD staff and board members should know?