



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE CHAPTER 22, ARTICLE 11**

TO: Warm Springs PSD
Michael Crunkleton, General Manager
92 N. Washington Street
Berkeley Springs, WV 25411

DATE: July 22, 2026

ORDER NO.: 10413

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter “Director”), under the authority of West Virginia Code 22-11-1 et seq. to Warm Springs PSD (hereinafter “Warm Springs”).

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Warm Springs operates a wastewater treatment plant and a collection line located near Town of Bath (aka Berkeley Springs), Morgan County, West Virginia.
 - a. For the wastewater treatment plant and collection line, Warm Springs was reissued WV/NPDES Water Pollution Control Permit No. WV0027707 on May 15, 2023.
 - b. For construction of the sanitary system improvement project, Warm Springs was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR112393 on January 23, 2024. The WV/NPDES permit was reissued on October 29, 2024.
2. On September 16, 2025, West Virginia Department of Environmental Protection (WVDEP) personnel conducted a partial inspection of the sanitary system improvement

Promoting a healthy environment.

project, in response to a complaint regarding a fish kill (Spill Report No. 33-9162509). During the investigation, WVDEP personnel determined that sewage from a pump-around hose had been drained into Warm Springs Run on the previous day. In addition, violations of the following sections of the WV/NPDES Permit for Stormwater Associated with Construction Activities and WV Legislative Rules were observed and documented:

- a. Section II.F – Warm Springs failed to properly implement controls. Specifically, silt fencing was not trenched-in, and belted silt fence and rip rap were not installed in stream excavation areas.
- b. Section I.B – Warm Springs failed to comply with the approved Stormwater Pollution Prevention Plan (SWPPP). Active workspaces / disturbances instream of Warm Springs Run lacked the pump around or flume crossing indicated in the approved SWPPP.
- c. Section I.G – Warm Springs failed to prevent sediment-laden water from leaving the site without going through an appropriate device. This deficiency occurred due to the failure to install Best Management Practices (BMPs) indicated in the approved SWPPP.
- d. Section III.B – Warm Springs failed to conduct any site inspections.
- e. Section II.H – Warm Springs failed to properly implement the SWPPP by failing to provide training to the onsite contractors.
- f. 47CSR2 Sections 3.2.a. and e – Warm Springs caused conditions not allowable by creating distinctly visible settleable solids in waters of the State and by creating materials in concentrations which were harmful to aquatic life in waters of the State. The spill of sediment and sewage into Warm Springs Run resulted in a fish kill of approximately one hundred (100) fish.
- g. Section I.D.2 and 47CSR11 Section 2.2.a – Warm Springs failed to immediately report noncompliance which may have endangered human health or the environment and failed provide immediate notification of the aforementioned spill of pollutants into waters of the State. The incident was not reported by Warm Springs until the evening of September 16, 2025, after this inspection had been conducted.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W25-33-021-mkk was issued to Warm Springs.

3. On September 17, 2025, WVDEP personnel conducted a partial inspection of the sanitary system improvement project. During the inspection, violations of the following sections of the WV/NPDES Permit for Stormwater Associated with Construction Activities and WV Legislative Rules were observed and documented:

- a. Section II.F. – Warm Springs failed to properly implement controls. Specifically, silt fencing was not trenched-in, and belted silt fence and rip rap were not installed in stream excavation areas.
- b. Section I.B – Warm Springs failed to comply with the approved SWPPP. Active workspaces / disturbances instream of Warm Springs Run lacked the pump around or flume crossing indicated in the approved SWPPP.

- c. Section I.G – Warm Springs failed to prevent sediment-laden water from leaving the site without going through an appropriate device. This deficiency occurred due to the failure to install BMPs indicated in the approved SWPPP.
- d. 47CSR2 Section 3.2.a – Warm Springs caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in Warm Springs Run (39°37'26"N 78°13'49"W).

As a result of the aforementioned violations, NOV No. W25-33-079-KRA was issued to Warm Springs.

- 4. On September 23, 2025, WVDEP personnel conducted a partial inspection of the sanitary system improvement project, in response to a complaint. During the inspection, a violation of the following section of the WV/NPDES Permit for Stormwater Associated with Construction Activities was observed and documented:
 - a. Section I.G – Warm Springs failed to prohibit discharges of material other than stormwater. Concrete wastewater was not segregated from stormwater on the site. Concrete had been washed out onto the ground.

As a result of the aforementioned violation, NOV No. W25-33-080-KRA was issued to Warm Springs.

- 5. On December 23, 2025, WVDEP personnel conducted a site visit. During the site visit, WVDEP personnel observed and documented continuing and/or ongoing impacts to Warm Springs Run in the area downstream of the aforementioned construction activities.
- 6. On June 17, 2026, Warm Springs submitted a plan of corrective action (POCA) that outlined action items and completion dates for how and when Warm Springs would achieve compliance with all terms and conditions of the WV/NPDES permit and all permit laws and rules. The POCA was subsequently approved by WVDEP personnel.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

- 1. Warm Springs shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
- 2. Upon the effective date of this Order, Warm Springs shall begin complying with the aforementioned approved POCA and schedule, dated June 17, 2026. The POCA and schedule have been incorporated into and become part of this Order. Failure to adhere to the approved POCA and schedule is a violation of this Order.
- 3. Because of Warm Springs's WV Legislative Rule and WV/NPDES permit violations, Warm Springs shall be assessed a civil administrative penalty of fourteen thousand seven hundred ninety dollars (\$14,790) to be paid to the West Virginia Department of

Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

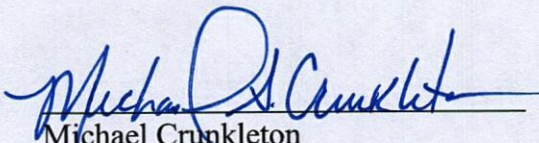
**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Warm Springs hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, Warm Springs agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Warm Springs does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Warm Springs other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Warm Springs shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Warm Springs becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Warm Springs shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Warm Springs intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Warm Springs (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Warm Springs of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and

conditions of this Order may subject Warm Springs to additional penalties and injunctive relief in accordance with the applicable law.

5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Warm Springs, its successors and assigns.
7. This Order shall terminate upon Warm Springs's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.


Michael Crunkleton
Warm Springs PSD

8/24/26
Date

Public Notice begin:

Date

Public Notice end:

Date

Jeremy W. Bandy, Director
Division of Water and Waste Management

Date

Warm Springs PSD Photo Log

9/16/25



Conditions not allowable in Warm Springs Run.



Sewage in Warm Springs Run from draining hoses.

Warm Springs PSD Photo Log



Sewage in Warm Springs Run from draining hoses.



Dead fish in Warm Springs Run.

Warm Springs PSD Photo Log



Dead fish in Warm Springs Run.



Dead fish in Warm Springs Run.

Warm Springs PSD Photo Log



The sewer pump-around.



Sewer pump-around with no erosion and sediment controls in place.

Warm Springs PSD Photo Log

9/17/25



Sediment-laden water discharging into Warm Springs Run, due to BMPs not being installed or operated/maintained correctly.



Sediment-laden water discharging into Warm Springs Run, due to BMPs not being installed or operated/maintained correctly.

Warm Springs PSD Photo Log



Sediment-laden water discharging into Warm Springs Run, due to BMPs not being installed or operated/maintained correctly.



Conditions not allowable in Warm Springs Run. No erosion and sediment controls were in place.

Warm Springs PSD Photo Log



Conditions not allowable in Warm Springs Run. No erosion and sediment controls were in place.



Offsite conditions not allowable in Warm Springs Run.

Warm Springs PSD Photo Log

9/23/25



Concrete washout area along Biser St., beside an unnamed tributary to Warm Springs Run.



Concrete washed out onto the ground. No concrete washout control on site.

Warm Springs PSD Photo Log

12/23/25



Continuing and/or ongoing impacts to Warm Springs Run due to the spillage of solids, as evidenced by excessive algal growth within the affected area downstream of construction activity.

600 Quarrier Street, Charleston, WV 25301
P.O. Box 1386, Charleston, WV 25325-1386
(304) 347-1100

Marc Mignault
Associate
mmignault@bowlesrice.com
T (304) 347-1172
F (304) 347-1746

9627 Tuscarora Pike
Martinsburg, WV 25403

125 Granville Square, Suite 400
Morgantown, WV 26501

501 Avery Street
Parkersburg, WV 26101

Southpointe Town Center
1800 Main Street, Suite 200
Canonsburg, PA 15317

480 West Jubal Early Drive, Suite 130
Winchester, VA 22601

June 17, 2026

bowlesrice.com

Brad Wright
West Virginia Department of Environmental
Protection
Environmental Enforcement
601 57th Street, SE
Charleston, West Virginia 25304
Brad.M.Wright@wv.gov

ELECTRONIC MAIL

Re: Warm Springs PSD - WV/NPDES Permit No. WV0027707, and WV/NPDES
Water Pollution Control Permit No. WV0115924, Registration No. WVR112393

Draft Consent Order No. 10413

Dear Chief Inspector,

In response to West Virginia Department of Environmental Protection's ("WVDEP") Draft Consent Order ("Order") dated January 15, 2026, the Warm Springs PSD ("WSPSD") hereby submits its proposed Plan of Corrective Action ("POCA") as per Order No. 10413.

Plan of Corrective Action

WVDEP's Order dated January 15, 2026, found the following:

1. Warm Springs operates a wastewater treatment plant and a collection line located near Town of Bath (aka Berkeley Springs), Morgan County, West Virginia.
 - a. For the wastewater treatment plant and collection line, Warm Springs was reissued WV/NPDES Water Pollution Control Permit No. WV0027707 on May 15, 2023.
 - b. For construction of the sanitary system improvement project, Warm Springs as issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration

No. WVR112393 on January 23, 2024. The WV/NPDES permit was reissued on October 29, 2024.

2. On September 16, 2025, West Virginia Department of Environmental Protection (WVDEP) personnel conducted a partial inspection of the sanitary system improvement project, in response to a complaint regarding a fish kill (Spill Report No. 33-9162509). During the investigation, WVDEP personnel determined that sewage from a pump-around hose had been drained into Warm Springs Run on the previous day. In addition, violations of the following sections of the WV/NPDES Permit for Stormwater Associated with Construction Activities and WV Legislative Rules were observed and documented:
 - a. Section 11.F - Warm Springs failed to properly implement controls. Specifically, silt fencing was not trenched-in, and belted silt fence and rip rap were not installed in stream excavation areas.
 - b. Section I.B - Warm Springs failed to comply with the approved Stormwater Pollution Prevention Plan (SWPPP). Active workspaces / disturbances instream of Warm Springs Run lacked the pump around or flume crossing indicated in the approved SWPPP.
 - c. Section I.G - Warm Springs failed to prevent sediment-laden water from leaving the site without going through an appropriate device. This deficiency occurred due to the failure to install Best Management Practices (BMPs) indicated in the approved SWPPP.
 - d. Section III.B - Warm Springs failed to conduct any site inspections.
 - e. Section II.H - Warm Springs failed to properly implement the SWPPP by failing to provide training to the onsite contractors.
 - f. 47CSR2 Sections 3.2.a. and e - Warm Springs caused conditions not allowable by creating distinctly visible settleable solids in waters of the State and by creating materials in concentrations which were harmful to aquatic life in waters of the State. The spill of sediment and sewage into Warm Springs Run resulted in a fish kill of approximately one hundred (100) fish.
 - g. Section I.D.2 and 47CSR11 Section 2.2.a — Warm Springs failed to immediately report noncompliance which may have endangered human health or the environment and failed provide immediate notification of the aforementioned spill of pollutants into waters of the State. The incident was not reported by Warm Springs until the evening of September 16, 2025, after this inspection had been conducted.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W25 -33- 021-mkk was issued to Warm Springs.

3. On September 17, 2025, WVDEP personnel conducted a partial inspection of the sanitary system improvement project. During the inspection, violations of the following sections of the WV/NPDES Permit for Stormwater Associated with Construction Activities and WV Legislative Rules were observed and documented:
 - a. Section II.F. - Warm Springs failed to properly implement controls. Specifically, silt fencing was not trenched-in, and belted silt fence and rip rap were not installed in stream excavation areas.
 - b. Section I.B - Warm Springs failed to comply with the approved SWPPP. Active workspaces / disturbances instream of Warm Springs Run lacked the pump around or flume crossing indicated in the approved SWPPP.
 - c. Section I.G - Warm Springs failed to prevent sediment-laden water from leaving the site without going through an appropriate device. This deficiency occurred due to the failure to install BMPs indicated in the approved SWPPP.
 - d. 47CSR2 Section 3.2.a - Warm Springs caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in Warm Springs Run (39°37'26"N 78°13'49"W).

As a result of the aforementioned violations, NOV No. W25-33-079-KRA was issued to Warm Springs.

4. On September 23, 2025, WVDEP personnel conducted a partial inspection of the sanitary system improvement project, in response to a complaint. During the inspection, a violation of the following section of the WV/NPDES Permit for Stormwater Associated with Construction Activities was observed and documented:
 - a. Section I.G - Warm Springs failed to prohibit discharges of material other than stormwater. Concrete wastewater was not segregated from stormwater on the site. Concrete had been washed out onto the ground.

As a result of the aforementioned violation, NOV No. W25-33-080-KRA was issued to Warm Springs.

5. On December 23, 2025, WVDEP personnel conducted a site visit. During the site visit, WVDEP personnel observed and documented continuing and/or ongoing impacts to Warm Springs Run in the area downstream of the aforementioned construction activities.

To address these alleged violations, WSPSD states as follows:

WSPSD'S RESPONSE:

In response to paragraphs 2 – 5 above from the Order, WSPSD notes the following facts and the steps taken in remediation of Warm Springs Run, any damages associated with the spill of sewage from a pump-around hose that had inadvertently drained into Warm Springs Run, and the other noted violations above:

At approximately 12:00 p.m. on September 16th, 2025, the Warm Springs Public Service District and The Thrasher Group, Inc. were notified by the Town of Bath of a potential spill into Warm Springs Run.

Upon notification, Guyer Brothers, Inc. (the "Contractor") was notified to halt operations to immediately investigate the report of a spill into Warm Springs Run.

Upon a field investigation and communications with Guyer Brothers, Inc. the location of the spill was identified in which the operations of temporary bypass pumping had failed, and sewage had escaped into Warm Springs Run.

Guyer Brother, Inc. took immediate action to prevent the spill any further by mending their failed temporary bypass pumping connection as well as beginning immediate cleanup operations.

The afternoon of September 16th, 2025, the West Virginia Department of Environmental Protection (WVDEP) responded to a report received at the spill hotline to conduct an on-site inspection. The Contractor was notified to meet with the WVDEP along with the Thrasher project representative and WSPSD and to comply with the WVDEP's requests.

The WSPSD held a special meeting at 4:30 p.m. on the day of September 16th, 2025, in which the Contractor was notified that no work was to be completed until the spill had been mitigated based on the corrective action plan discussed with the WVDEP and all erosion and sediment controls installed. See meeting minutes from this special meeting attached hereto as **Attachment A**.

On September 17th, 2025, Guyer Brothers, Inc. continued with mitigation of the spill by utilizing a vac truck to dispose of any contaminants in Warm Springs Run along with installing all necessary erosion and sediment controls as outlined in the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit.

Upon completion of this work, WSPSD and The Thrasher Group, Inc. authorized Guyer Brothers to continue their standard construction operations on September 18th, 2025.

Attached hereto as **Attachment B** is Thrasher's daily field reports and photographs of the remediation work conducted by Guyer Brothers Inc.

WSPSD's contractor, Guyer Brothers, Inc. ("Guyer Bros."), more specifically engaged in the following operations and remediation activities:

* All times are approximate

September 16th, 2025:

7:00 AM: Guyer Bros. crew began the day's activities by setting up a bypass pumping operation for the sanitary sewer between manhole S-3 and manhole S-1 to begin replacement of manhole S-1.1.

*11:45 AM: WSPSD informed Guyer Bros. that there were dead fish seen at Berkeley Springs Park. There was no flow in the stream due to the current drought. The fish were contained in small pockets of water. (See figures 1-10 in **Attachment C**)

*11:50 AM: Guyer Bros. began investigating to determine the cause of the report. Guyer Bros. checked our sanitary sewer by passing hose connections and the discharge point. Guyer Bros. found no deficiencies. Brody Reininger, James Goss, and Guyer Bros. walked along the stream between the worksite and the park to look for any sources of contamination. Guyer Bros. could not determine the source. After discussing with the crew, it was determined that the discharge hose on the bypass had become unsecured in the downstream manhole and was spraying into the stream that morning. Guyer Bros. shut down the bypass, secured the hose, and believed there was minimal, if any, discharge into the stream.

*12:30 PM: The Guyer Bros. crew worked on completing the manhole connection in the stream adjacent to the Coldwell Banker building parking lot so Guyer Bros. could shut down the bypass and concentrate on the cleanup. While the crew was doing this, Jack Curley, Superintendent for Guyer Bros., began forming a proposed action plan. (See Fig. 11 in **Attachment C**).

*1:30 PM: A conservation officer came to the site and walked the stream. The conservation officer and Guyer Bros. discussed the cause of the infiltration into the stream and a proposed action plan. Shortly after the conservation officer arrived, another officer arrived, believed to be from the fish commission. Guyer Bros. placed a straw bale filter across the stream at the bottom edge of the park. (See fig. 23 in **Attachment C**).

*6:00 PM: Guyer Bros. completed manhole connection, removed bypass pumping

equipment, and headed to the shop to get equipment for cleanup operations. The source of the contamination was undetermined. WSPSD called an emergency meeting at their office. WSPSD and Guyer Bros. discussed Guyer Bros. plan of action and responsibilities moving forward.

September 17th, 2025:

6:30 AM: Set up flagging operations on South Washington Street at the Park to access the stream with a vac truck. We used the Vac truck to vacuum out contaminants while personnel used push brooms to scrub the bottom of the stream and push the contaminants into the vacuum. We also had personnel working on the upper portion of the stream behind Coldwell Banker, St. Mark's Church, and house #27, Warren St., where the vac truck couldn't access. This crew had a 2" electric pump placed in the pockets of water and discharging into the sanitary sewer manholes. They utilized flat shovels and buckets to remove the heavy contaminants and push brooms to scrub the bottom of the stream and push the contaminants to the 2" pump. (see figures 12-22 in **Attachment C**).

3:00 PM: Completed cleanup and the crew installed an additional fabric and straw filter at the bottom of the tributary where it meets the stream in the Northwest corner of the Colwell Banker property. (See Fig. 24 in **Attachment C**)

*3:30 PM: I walked the lower portion of the stream through the park with representatives from the WSPSD to evaluate the effectiveness of the cleanup effort. The cleanup appeared successful, and there were no apparent signs of contamination in the stream. The Straw filter that was installed at the lower portion of the park was left in place and monitored for several days for signs of residual contaminants. There were no signs of contamination during this period and fish were observed in this portion of the stream on September 18th, 2025. (See Figures 24, 25 in **Attachment C**)

The following corrective action plan was discussed with the foreman and relayed to the crew by Guyer Bros. –

1- Bypass pump and all hose connections will be set outside the stream banks, and the stream will be protected from the pump and all hose connections by silt fence or filter sock for an extra layer of protection.

2- All connections will be verified as leak-proof immediately upon starting pumping procedures.

3- All discharge hoses that are open-ended will be double secured inside the downstream manhole and monitored continuously by a crew member dedicated to pumping operations.

4- All hose connections and pumps will be monitored continuously by a crew member dedicated to pumping operations.

5- When draining the discharge hose after pumping operations, the hose will be drained into an existing manhole to eliminate any spillage and contamination.

6- All temporary connections made for end-of-day or weekend shutdowns will be watertight.

Additional actions taken:

1. Replaced bypass pump hoses and gaskets that showed signs of wear. 11/18/2025
2. Discharged pump hoses into manholes that were outside the waterway when possible and added protection of silt socks between the hoses and stream in case of failure in the equipment. 11/18/2025 to completion on May 29, 2026.
3. Had a Vac Truck on-site at all times for use in the event of a spill. 11/18/2025 to completion on May 29, 2026.
4. Trained crew members on how to properly connect bypass hoses, proper pump set up, inspection of hoses and gaskets, how to identify failing equipment and emergency shutdown and containment procedures. 11/18/2025 to completion on May 29, 2026.
5. Had daily meetings and refreshers with crew regarding the above procedures. 11/08/2025 to completion on May 29, 2026.

The above remediation work was done promptly and at great expense to Guyer Brothers, Inc. of nearly \$19,000.00 as shown in **Attachment D**.

All of the above work noted and detailed by both Thrasher and Guyer Bros., including that work documented in **Attachments B and C**, was performed and completed between September 16, 2025 – September 18, 2025; and ultimately through completion of the project on May 29, 2026.

Per the above and the documentation provided in **Attachment B and C**, WSPSD has properly implement controls, specifically, trenched-in silt fencing, belted silt fence, and rip rap in stream excavation areas;

WSPSD has brought all activities and will continue to ensure all work meets the applicable Stormwater Pollution Prevention Plan (SWPPP);

WSPSD has had and will continue to ensure Best Management Practices (BMPs) are utilized for continuing work, as per the SWPPP;

WSPSD has and will continue to conduct site inspections at all work sites;

WSPSD has and will continue to provide training to the onsite contractors;

WSPSD promptly and fully remediated conditions which were harmful to aquatic life in waters of the State;

WSPSD responded to and reported the noncompliance as soon as it became aware of the subject spill. WSPSD will ensure that it does report any improper conditions or events as soon as they are found to WVDEP;

With respect to concrete wastewater, concrete use was limited to one day when grouting abandoned lines on 01/09/2026. WSPSD and Guyer Brothers ensured that concrete wastewater was segregated from stormwater on the site by utilizing disposable concrete washout bags were utilized when grouting lines.

WSPSD has fully remediated and will continue to ensure no further ongoing impacts to Warm Springs Run occur from its construction activities.

Based upon the above information and that provided in **Attachment A**, **Attachment B**, **Attachment C**, and **Attachment D** WSPSD believes that it has and will perform all required work to bring its improvement project and operations around Warm Spring Run within compliance of its NPDES Permit and DEP's Order.

If further information is needed, please let us know.

Respectfully submitted by Warm Springs PSD, by counsel



Marc Mignault (WYSB #12785)
BOWLES RICE LLP
Post Office Box 1386
Charleston, West Virginia 25325-1386
304-347-1100
mmignault@bowlesrice.com

ATTACHMENT A

Minutes

Warm Springs Public Service District

September 16, 2025

An emergency meeting of the Public Service Board of the Warm Springs Public Service District (WSPSD) was held at 5:00 PM on September 16, 2025. The meeting was held at the Warm Springs PSD Office, Berkeley Springs, West Virginia. This emergency meeting was held to address an incident involving sewage entering the Warm Springs Run, believed to be connected to ongoing construction activities performed by Guyer Brothers, the contractor.

Chairman Jenkins called the meeting to order at 5:10 PM with all members attending. Mr. Mike Jenkins – Chairman; Mr. Charles Johnson – Treasurer; and Mr. Thomas Stinebaugh-Secretary, were present at the meeting. Also present was Michael Crunkleton, General Manager of the WSPSD; Chase Riley, The Thrasher Group by phone; Jack Curley, Guyer Brothers; Christian Tallman, The Thrasher Group.

The first order of business was to discuss Contractor remediation and suspension of construction. Chairman Jenkins moved to advise Guyer Brothers that no additional construction will be performed until all required Erosion and Sediment (E&S) controls are installed and approved by: Thrasher Engineering, The West Virginia DEP, and the Warm Springs PSD with Director Johnson to second, the motion passed unanimously.

Item 2 on the agenda was to discuss sewage spill and remediation plan. It was confirmed that sewage discharge had entered the Warm Springs Run, likely due to a contractor pumping issue. Discussion ensued on immediate remediation steps and whether to call for a vacuum (vac) truck to assist cleanup. Members discussed possible alternate contractors (e.g., Taylor's or Miller Environmental, Hagerstown) in case Guyer Brothers could not respond promptly. DEP recommendations were reviewed, emphasizing the importance of rapid mitigation before forecasted rainfall.

Item 3 on the agenda was the Contractor (Guyer Brothers) report. Jack Curley of Guyer Brothers provided the following updates: crews were actively installing silt fencing and cleaning the affected stream area. DEP had suggested that a vacuum truck may be required to remove residual sewage. Guyer Brothers agreed to take full responsibility for the incident for associated remediation costs. The issue was attributed to a pumping hose dislodging from a manhole, leading to sewage overflow. Jack confirmed that cleanup crews were working by hand and with pumps to remove material and if necessary a vac truck would be obtained. The company planned to install all required erosion controls by the end of the day.

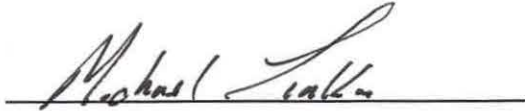
Item 4 on the agenda was DEP coordination. DEP requested copies of daily inspection reports from Christian Tallman for review. Chase Riley will review and forward the reports, including photo documentation, to the PSD. DEP indicated that containment measures such as hay bales, silt fences, and straw barriers should be installed immediately to prevent further contamination.

Item 5 on the agenda was to discuss stream conditions. Concerns were raised about environmental impact on aquatic life and potential fish kills if the sewage was not removed promptly. Members discussed the oxygen depletion in the stream due to low water levels and contamination. Consensus was reached that remediation should proceed as soon as possible, with costs ultimately billed to Guyer Brothers.

Public comments: No Public comments.

The next Board meeting will be held on October 9, 2025, at 10:00 PM, in the Morgan County Commission meeting room, at the Morgan County Courthouse, Berkeley Springs, West Virginia.

Chairman Jenkins adjourned the meeting at 5:45 PM.

A handwritten signature in black ink, appearing to read "Michael Jenkins", written over a horizontal line.

Michael Jenkins, Chairman

Attest: 

A handwritten signature in blue ink, appearing to read "Thomas Stinebaugh", written over a horizontal line.

Thomas Stinebaugh, Secretary

ATTACHMENT B

February 17th, 2026

Marc Mignault
Bowles Rice LLP
600 Quarrier Street
Charleston, WV 25301

***RE: Warm Springs Public Service District
Berkeley Springs Sanitary System Improvements Project
The Thrasher Group Project #020-01508
Spill Timeline***

Dear Mr. Mignault:

This document reflects on the events that transpired following the notification of a spill that occurred during the construction of the Berkeley Springs Sanitary Sewer Improvements project in which the Contractor is Guyer Brothers, Inc.

- At approximately 12:00 p.m. on September 16th, 2025, the Warm Springs Public Service District and The Thrasher Group, Inc. were notified by the Town of Bath of a potential spill into Warm Springs Run.
- Upon notification, the Contractor was notified to halt operations to immediately investigate the report of a spill into Warm Springs Run.
- Upon a field investigation and communications with Guyer Brothers, Inc. the location of the spill was identified in which the operations of temporary bypass pumping had failed, and sewage had escaped into Warm Springs Run.
- Guyer Brother, Inc. took immediate action to prevent the spill any further by mending their failed temporary bypass pumping connection as well as beginning immediate cleanup operations.
- The afternoon of September 16th, 2025, the West Virginia Department of Environmental Protection (WVDEP) responded to a report received at the spill hotline to conduct an on-site inspection. The Contractor was notified to meet with the WVDEP along with the Thrasher project representative and WSPSD and to comply with the WVDEP's requests.
- The WSPSD held a special meeting at 4:30 p.m. on the day of September 16th, 2025, in which the Contractor was notified that no work was to be completed until the spill had been mitigated based on the corrective action plan discussed with the WVDEP and all erosion and sediment controls installed.
- On September 17th, 2025, Guyer Brothers, Inc. continued with mitigation of the spill by utilizing a vac truck to dispose of any contaminants in Warm Springs Run along with installing all necessary erosion and sediment controls as outlined in the National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit.
- Upon completion of this work, WSPSD and The Thrasher Group, Inc. authorized Guyer Brothers to continue their standard construction operations on September 18th, 2025.

If you have any comments or questions or you need any additional information, please feel free to contact me at cmriley@thethrashergroup.com or 304-669-2363.

Sincerely,

THE THRASHER GROUP, INC.



Chase M. Riley
Project Engineer

Daily Field Report

Christian Tallman
Created Thu, 18 Sep 2025, 9:03 AM (UTC-04)

PROJECT # 020-01508

PROJECT NAME: Warm Springs PSD

LOCATION:	Berkeley Springs WV
COORDINATES:	
INSPECTOR NAME:	Christian Tallman

DATE	START TIME	END TIME	TIME ON SITE
Tue, 16 Sep 2025	7:00 am	5:00 pm	10.00

A.M. WEATHER:	72 Sunny	P.M. WEATHER:	78 Sunny
---------------	----------	---------------	----------

CONTRACTOR:	Guyer Brothers	SUBCONTRACTOR:	N
SITE SUPERINTENDENT:	Kurtis Horton	CONTRACTOR PHONE #:	N
PROJECT MANAGER:	Chase Riley	PM PHONE #:	N

SITE VISITORS: Yes

Notes: Scott Crunkleton- Warm
Springs PSD Michael Kanehl -
WVDEP Keith Allison - WVDEP

CONSTRUCTION OBSERVATION

Guyer Brothers digging crew was onsite to install MH S-1 . However due to improper pump around with the sewer system a spill occurred in the stream. A small release of sewage entered the stream. Because of this the WV Department of Environmental Protection was called and an investigation began. With the DEP on-site multiple violations were found and work was stopped until the clean up and other violations were addressed.

Guyer Brothers Off-Site 5pm

E & S CONTROLS EVALUATION: N/A

EQUIPMENT USED ON SITE
TODAY Reline trailer
Camera Truck
Skidsteer

EQUIPMENT IDLE ON SITE N/A

SERVICE(S) PERFORMED: Construction Observation

IMMEDIATE ATTENTION ITEMS: N/A

WORK PLANNED FOR THE NEXT
SHIFT Continue manhole replacement along route 522

Construction Pictures

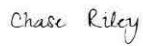
Photo	Description	Location
	Guyer Brothers digging crew was onsite to install MH S-1. However due to improper pump around with the sewer system a spill occurred in the stream. A small release of sewage entered the stream. Because of this the WV Department of Environmental Protection was called and an investigation began. With the DEP on-site multiple violations were found and work was stopped until the clean up and other violations were addressed.	Sheet 1
See photos attached at end of PDF		

Project Representative



Christian Tallman , Thu, 18 Sep 2025, 9:13 am

Project Manager



Chase Riley, Fri, 19 Sep 2025, 8:15 am

Administrative Assistant

Not signed yet.

"THINK SAFETY FIRST"



*(Pre-Job Review must be conducted in the work area at least once daily;
before work begins each morning and again whenever the scope of work
changes throughout the day)*

Date Tue, 16 Sep 2025

Time 7:00am

Company / Contractor	Thrasher Group
Project Name	Warm Springs PSD
Location	Berkeley Springs WV
Conducted by JHA	Christian Tallman

1. Describe the task(s) to be conducted Construction Observation

2. Address the following "Key Questions"

Basic Job Steps?	Hazards/Error Likely Situations?	Required Safe Work Procedure for each task?
Observe work being performed and note taking	Moving equipment,Slips trips and falls,Civilian Traffic	Operational Awareness

3. Name additional equipment, precautions, PPE and controls needed/implemented to perform job safely and protect workers Hard Hat, Boots , Safety Vest

4. Workers new to the job site/crew received a site walk down with supervisor to review hazards and/or site conditions? Yes

5. Was three-way communication/repeat back used during review of hazards and controls? Yes

6. Crew was engaged/interactive in JHA and is confident/clear in job assignments, potential hazards and controls? Yes

7. Have ALL crew members reviewed the JHA and/or Safety Procedures developed for the task(s)? Yes

8. Crew Members: (With my signature I acknowledge that I have reviewed the JHA(s) Safety procedures for the tasks and understand the hazards and controls needed to perform my work safely.)

SIGNATURE

Christian Tallman



Thrasher

Thu, 18 Sep 2025, 9:12 am

9. Weather Conditions

Temperature	Conditions
76	Sunny

10. Nearest Medical Facility and Directions

1 Healthy Way
Berkeley Springs, WV 25411
United States

11. Axiom Card w/ Emergency Procedure

Yes

12. CPR/1st Aid Trained

Yes

13. Fire Extinguisher

Yes

14. 1st Aid Kit/Contact Numbers/Accident Forms

Yes

15. Additional Comments

16. SWA

Yes

17. Review for Quality


Chase Riley

Christian Tallman , Thu, 18 Sep 2025, 9:13 am

Chase Riley, Fri, 19 Sep 2025, 8:15 am

PURPOSE:

In order to identify, eliminate, or control hazards before they arise, JHA's are required. It's important not to rush into a job without first considering the hazards associated with it and to assure safe work practices are followed.

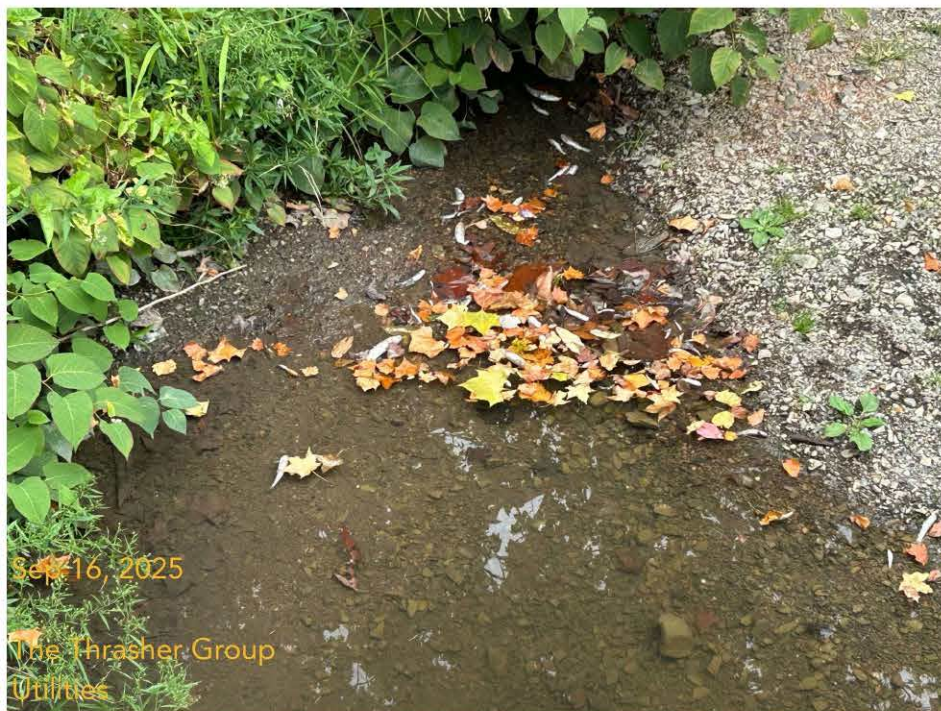
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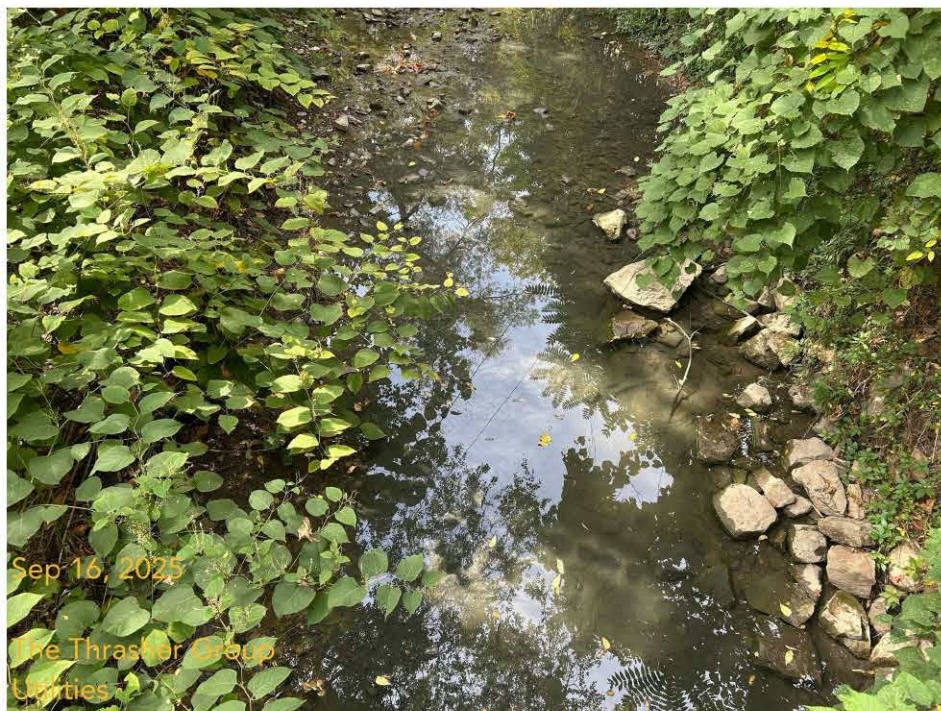
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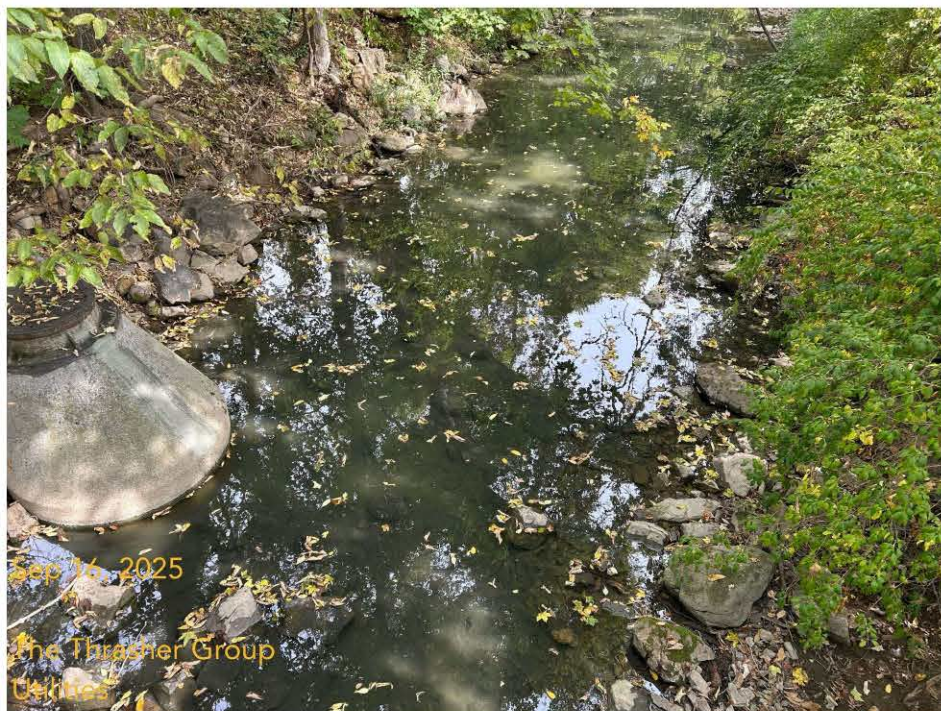
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Daily Field Report

Christian Tallman
Created Tue, 23 Sep 2025, 5:59 AM (UTC-04)

PROJECT # 020-01508

PROJECT NAME: Warm Springs PSD

LOCATION:	Berkeley Springs WV
COORDINATES:	
INSPECTOR NAME:	Christian Tallman

DATE	START TIME	END TIME	TIME ON SITE
Wed, 17 Sep 2025	7:00 am	5:00 pm	10.00

A.M. WEATHER:	73 Rain	P.M. WEATHER:	72 Rain
---------------	---------	---------------	---------

CONTRACTOR:	Guyer Brothers	SUBCONTRACTOR:	N
SITE SUPERINTENDENT:	Kurtis Horton	CONTRACTOR PHONE #:	N
PROJECT MANAGER:	Chase Riley	PM PHONE #:	N

SITE VISITORS: Yes

Notes: Scott Crunkleton- Warm
Springs PSD Michael Kanehl -
WVDEP Keith Allison - WVDEP

CONSTRUCTION OBSERVATION

Guyer Brothers digging crew was onsite to continue clean up of the stream along 522. Guyer brothers also installed additional environmental controls after WVDEP recommendations. Due to rain no progress was made other than cleanup.

Guyer Brothers Off-Site 5pm

E & S CONTROLS EVALUATION: N/A

EQUIPMENT USED ON SITE
TODAY Reline trailer
Camera Truck
Skidsteer

EQUIPMENT IDLE ON SITE N/A

SERVICE(S) PERFORMED: Construction Observation

IMMEDIATE ATTENTION ITEMS: N/A

WORK PLANNED FOR THE NEXT
SHIFT Continue manhole replacement along route 522

Construction Pictures

Photo	Description	Location
 See photos attached at end of PDF	Guyer Brothers digging crew was onsite to continue clean up of the stream along 522. Guyer brothers also installed additional environmental controls after WVDEP recommendations. Due to rain no progress was made other than cleanup.	Sheet 1

Project Representative

 Christian Tallman , Tue, 23 Sep 2025, 6:03 am

Project Manager

 Chase Riley, Tue, 23 Sep 2025, 8:10 am

Administrative Assistant

Not signed yet.

"THINK SAFETY FIRST"



*(Pre-Job Review must be conducted in the work area at least once daily;

before work begins each morning and again whenever the scope of work
changes throughout the day)*

Date Wed, 17 Sep 2025

Time 7:00am

Company / Contractor	Thrasher Group
Project Name	Warm Springs PSD
Location	Berkeley Springs WV
Conducted by JHA	Christian Tallman

1. Describe the task(s) to be conducted Construction Observation

2. Address the following "Key Questions"

Basic Job Steps?	Hazards/Error Likely Situations?	Required Safe Work Procedure for each task?
Observe work being performed and note taking	Moving equipment, Slips trips and falls, Civilian Traffic	Operational Awareness

3. Name additional equipment, precautions, PPE and controls needed/implemented to perform job safely and protect workers Hard Hat, Boots , Safety Vest

4. Workers new to the job site/crew received a site walk down with supervisor to review hazards and/or site conditions? Yes

5. Was three-way communication/repeat back used during review of hazards and controls? Yes

6. Crew was engaged/interactive in JHA and is confident/clear in job assignments, potential hazards and controls? Yes

7. Have ALL crew members reviewed the JHA and/or Safety Procedures developed for the task(s)? Yes

8. Crew Members: (With my signature I acknowledge that I have reviewed the JHA(s) Safety procedures for the tasks and understand the hazards and controls needed to perform my work safely.)

SIGNATURE

Christian Tallman



Thrasher

Tue, 23 Sep 2025, 6:03 am

9. Weather Conditions

Temperature	Conditions
72	Rain

10. Nearest Medical Facility and Directions

1 Healthy Way
Berkeley Springs, WV 25411
United States

11. Axiom Card w/ Emergency Procedure

Yes

12. CPR/1st Aid Trained

Yes

13. Fire Extinguisher

Yes

14. 1st Aid Kit/Contact Numbers/Accident Forms

Yes

15. Additional Comments**16. SWA**

Yes

17. Review for Quality

Christian Tallman , Tue, 23 Sep 2025, 6:03 am

Chase Riley

Chase Riley, Tue, 23 Sep 2025, 8:10 am

PURPOSE:

In order to identify, eliminate, or control hazards before they arise, JHA's are required. It's important not to rush into a job without first considering the hazards associated with it and to assure safe work practices are followed.

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ATTACHMENT C

Berkeley Springs Timeline

September 16th, 2025:

7:00 AM: Crew began the day's activities by setting up a bypass pumping operation for the sanitary sewer between manhole S-3 and manhole S-1 to begin replacement of manhole S-1.1.

*11:45 AM: WSPSD informed us that there were dead fish seen at Berkeley Springs Park. There was no flow in the stream due to the current drought. The fish were contained in small pockets of water. (See figures 1-10)

*11:50 AM: We began investigating to determine the cause of the report. We checked our sanitary sewer by passing hose connections and the discharge point. We found no deficiencies. Brody Reininger, James Goss, and I walked along the stream between the worksite and the park to look for any sources of contamination. We could not determine the source. After discussing with the crew, it was determined that the discharge hose on the bypass had become unsecured in the downstream manhole and was spraying into the stream that morning. They shut down the bypass, secured the hose, and believed there was minimal, if any, discharge into the stream.

*12:30 PM: The Crew worked on completing the manhole connection in the stream adjacent to the Coldwell Banker building parking lot so we could shut down the bypass and concentrate on the cleanup. While the crew was doing this, I began forming a proposed action plan. (See Fig. 11)

*1:30 PM: A conservation officer came to the site and walked the stream. Then we discussed the cause of the infiltration into the stream and a proposed action plan. Shortly after the conservation officer arrived, another officer arrived, I believe from the fish commission. Crew placed a straw bale filter across the stream at the bottom edge of the park. (See fig. 23)

*6:00 PM: crew completed manhole connection, removed bypass pumping equipment, and headed to the shop to get equipment for cleanup operations.

The source of the contamination was undetermined. WSPSD called an emergency meeting at their office. We discussed Guyer Brothers' plan of action and responsibilities moving forward.

September 17th, 2025:

6:30 AM: Set up flagging operations on South Washington Street at the Park to access the stream with a vac truck. We used the Vac truck to vacuum out contaminants while personnel used push brooms to scrub the bottom of the stream and push the contaminants into the vacuum. We also had personnel working on the upper portion of the stream behind Coldwell Banker, St. Mark's Church, and house #27, Warren St., where the vac truck couldn't access. This crew had a 2" electric pump placed in the pockets of water and discharging into the sanitary sewer manholes. They utilized flat shovels and buckets to remove the heavy contaminants and push brooms to scrub the bottom of the stream and push the contaminants to the 2" pump. (see figures 12-22)

3:00 PM: Completed cleanup and the crew installed an additional fabric and straw filter at the bottom of the tributary where it meets the stream in the Northwest corner of the Colwell Banker property. (See Fig. 24)

*3:30 PM: I walked the lower portion of the stream through the park with representatives from the WSPSD to evaluate the effectiveness of the cleanup effort. The cleanup appeared successful, and there were no apparent signs of contamination in the stream. The Straw filter that was installed at the lower portion of the park was left in place and monitored for several days for signs of residual contaminants. There were no signs of contamination during this period and fish were observed in this portion of the stream on September 18th, 2025, as seen in video 27. (See Figures 24,25 and video 27)

* All times are approximate

The following **corrective action plan** was discussed with the foreman and relayed to the crew.

- 1- Bypass pump and all hose connections will be set outside the stream banks, and the stream will be protected from the pump and all hose connections by silt fence or filter sock for an extra layer of protection.
- 2- All connections will be verified as leak-proof immediately upon starting pumping procedures.
- 3- All discharge hoses that are open-ended will be double secured inside the downstream manhole and checked at regular intervals for movement and possible spraying into the stream
- 4- All hose connections and pumps will be checked periodically for possible leaks.
- 5- When draining the discharge hose after pumping operations, the hose will be drained into an existing manhole to eliminate any spillage and contamination.
- 6- All temporary connections made for end-of-day or weekend shutdowns will be watertight.

(Please see the folder with photos in chronological order according to the timeline of this document.)

Jack Curley

Superintendent

Guyer Brothers Inc.

Cell: (814)737-2365

Email: jack@guyerbros.com

Figure 1



Figure 2



Figure 3



Figure 4



Figure 5



Figure 6

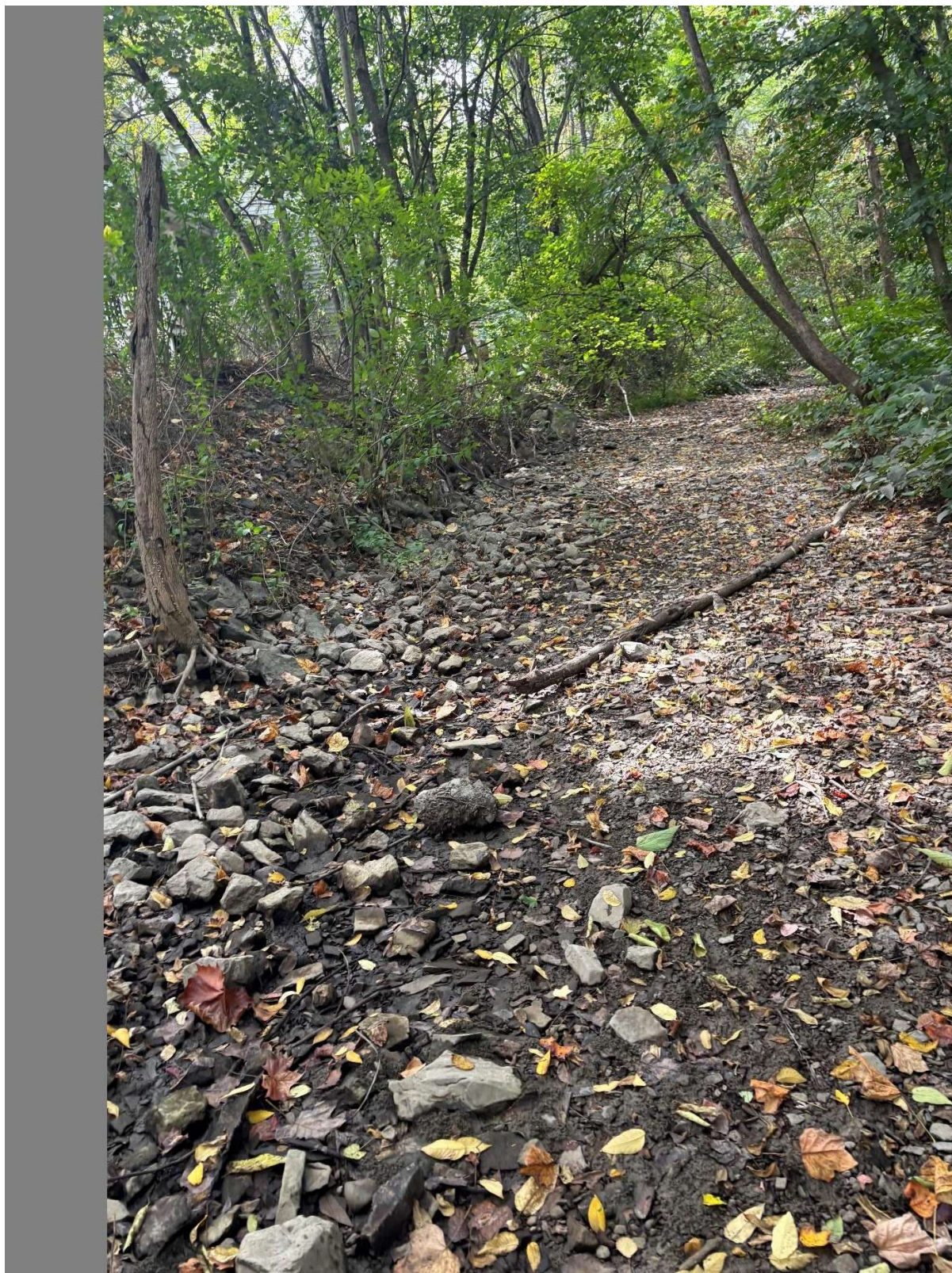


Figure 7



Figure 8



Figure 9



Figure 10



Figure 11



Figure 12



Figure 13



Figure 14



Figure 15



Figure 16

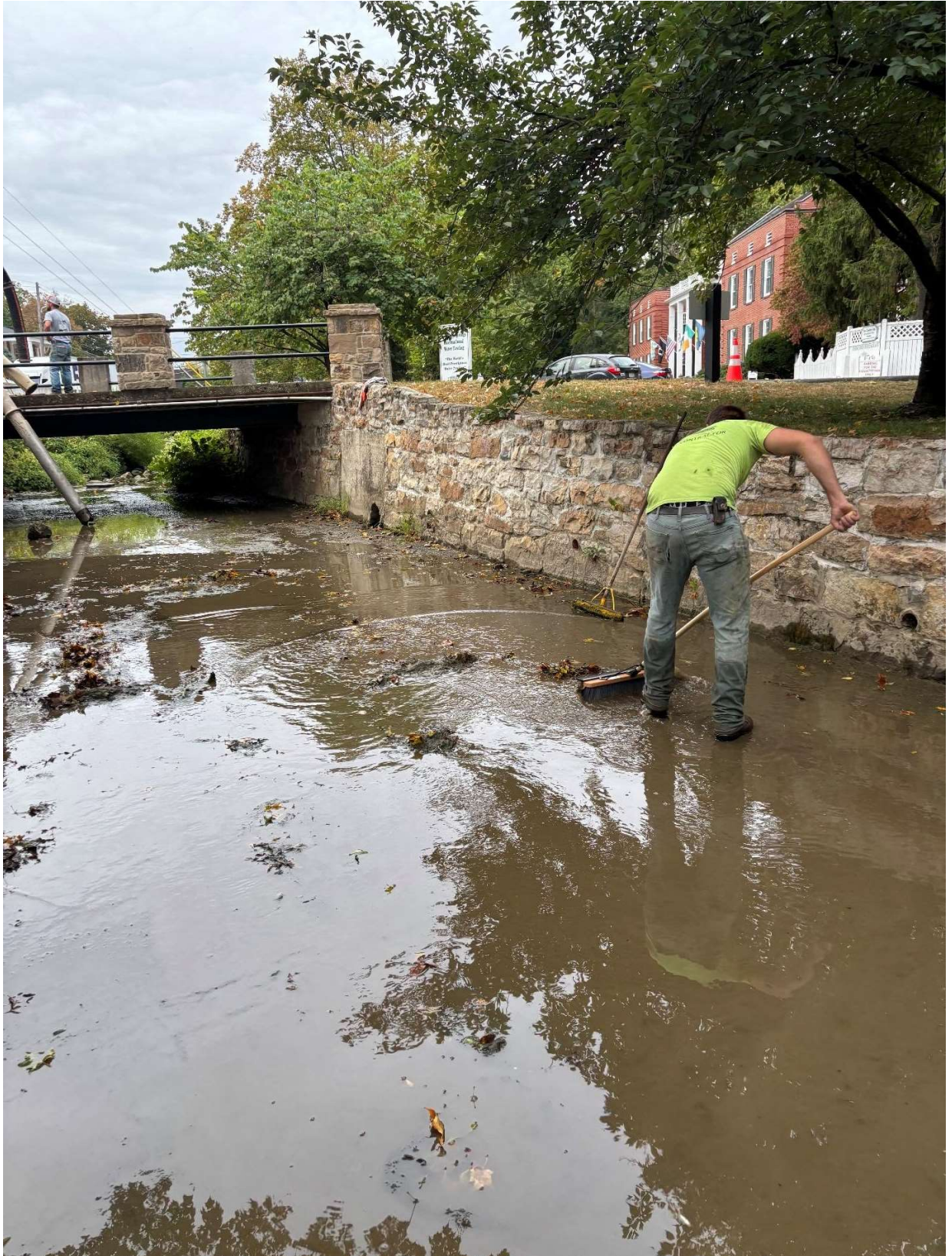


Figure 17



Figure 18

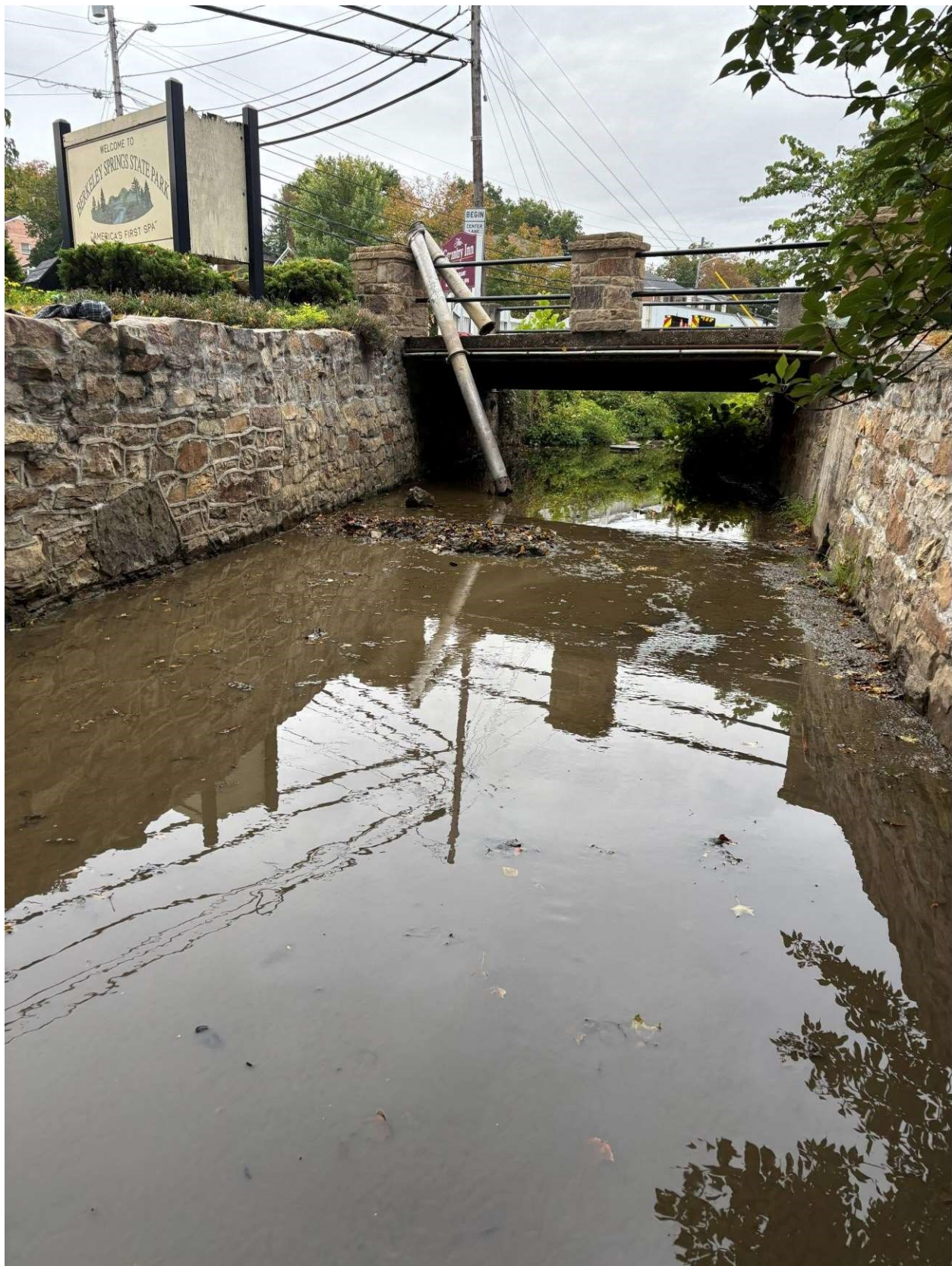


Figure 19



Figure 20 (Double Click to View)



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Figure 21



Figure 22



Figure 23

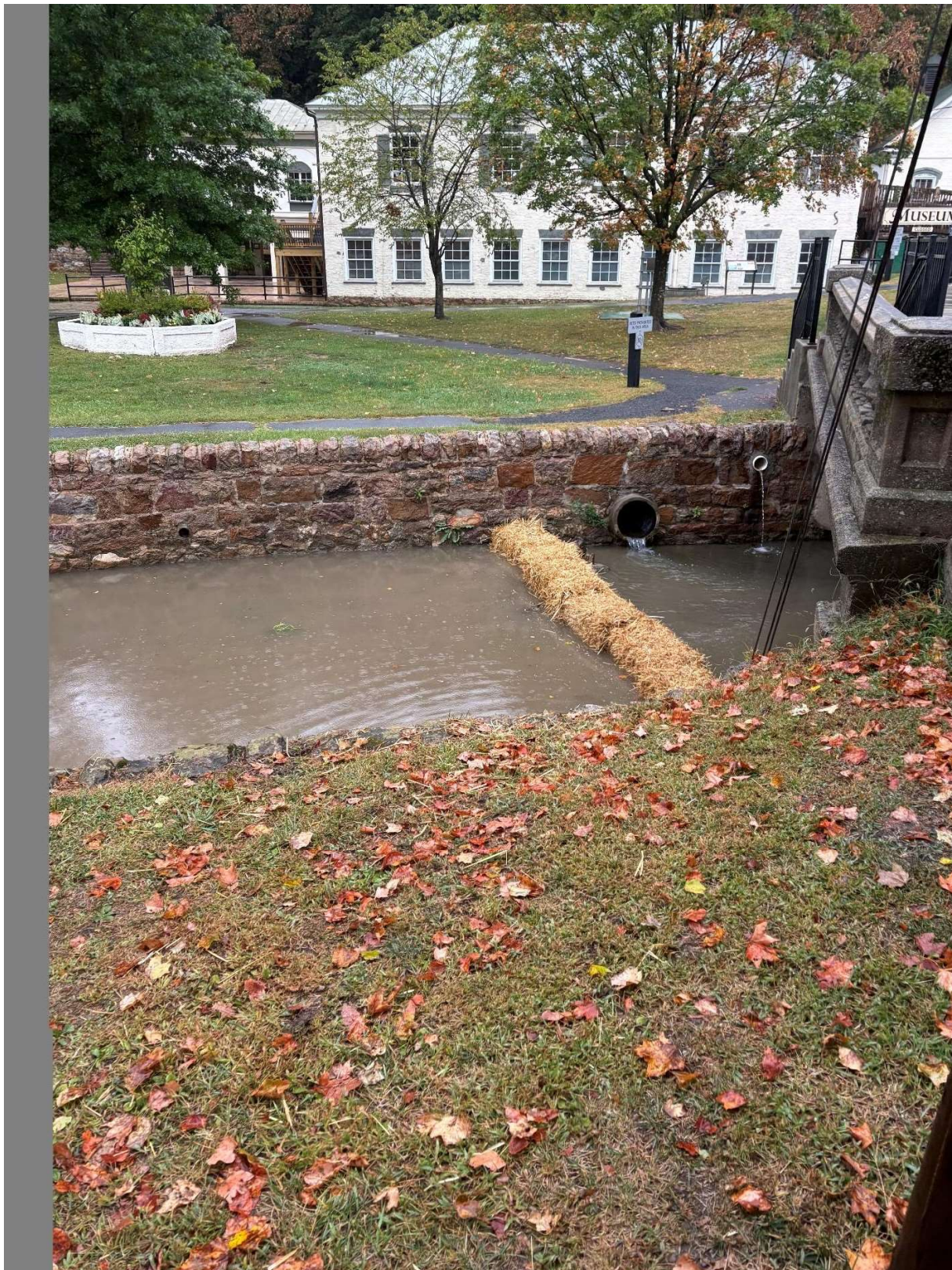


Figure 24



Figure 25



Figure 26



Figure 27 (Double Click to View)



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Figure 28 (Double Click to View)

Figure 29



Figure 30



Figure 31



Figure 32



Figure 33



Figure 34



Figure 35



Figure 36



ATTACHMENT D



** Includes 7 man crew, vac truck, service truck, pickups, pumps, excavator, loader etc.

[illegible]

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Warm Springs PSD

Receiving Stream:

Warm Springs Run

Treatment System Design Maximum Flow: MGD**Treatment System Actual Average Flow:** MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			2a, 3a	2b, 3b	2d	2e	2f	2g	3d	4a				
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1				
b)	Toxicity of Pollutant	0 to 3	1	1	0	0	1	0	1	1				
c)	Sensitivity of the Environment	0 to 3	1	1	0	0	1	0	1	1				
d)	Length of Time	1 to 3	1	1	3	1	1	1	1	1				
e)	Actual Exposure and Effects thereon	0 to 3	1	1	0	0	3	0	1	1				
	Average Potential for Harm Factor		1	1	0.8	0.4	1.4	0.4	1	1	No	No	No	No
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	3	3	3	3	3	1	3	3				

Potential for Harm Factors:

1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)

1)d - Length of Time of Violation

1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly, >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

[illegible]

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2a, 3a	Minor	Major	\$2,000	1	\$2,000
2b, 3b	Minor	Major	\$2,000	1	\$2,000
2d	Minor	Major	\$1,900	1	\$1,900
2e	Minor	Major	\$1,700	1	\$1,700
2f	Moderate	Major	\$4,400	1	\$4,400
2g	Minor	Minor	\$400	1	\$400
3d	Minor	Major	\$2,000	1	\$2,000
4a	Minor	Major	\$2,000	1	\$2,000
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
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0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$16,400

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$1,640
6.2.b.4 - Compliance/noncompliance history -			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$1,640)
6.2.b.3 - Cooperation with the Secretary		10	(\$1,640)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			(\$1,610)
Penalty =			\$14,790

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments: Economic benefit not warranted.	