



# Burden Lake Conservation Association

Since 1960, working together to preserve the beauty of Burden Lake for future generations.

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FEB 14 2024

Mr. Anthony Luisi  
Director, NYS DEC Region 4  
1130 North Westcott Rd.  
Schenectady, NY 12306-2014

Mr. Luisi,

I write in regard to Burden Lake and NYR11H2332 and to ask for your assistance to obtain access to public information, as described in the Part VII.F of the "Construction General Permit."

**We are seeking information related to revision of the Stormwater Plan, the SWPPP, and the work completed at this site in July 2023.** As you may know, our efforts to obtain this information have been unsuccessful because the Owner/Operator has failed to fulfill their duty to provide information. I note that despite FOIL requests to your office, **as of this date we have been unable to obtain information concerning the required eNOI revision or weekly construction inspections for this work** This, despite your office's request to the Owner for the submission of these documents in July and August 2023.

This information is of particular interest because it has been noted that the "post construction" SMP constructed at the site last July, the level spreader, does not conform with your technical standards. Part III.B.2 of the Permit requires that equivalence to the technical standard be demonstrated. Your letter of Nov 6, 2023 refers to the BMPs on this site, **we would like to review the SWPPP documentation confirming that this spreader is, in fact, a BMP.**

Given the significant changes made to the drainage patterns on the site and ongoing turbid discharges to which the spreader discharge contributes, the specifics of the spreader constructed at this site are of particular concern.

**Further, it appears there are a number of concerns regarding the NOI filings for this site.** I believe your office is aware that there are several apparent discrepancies, related to the required water quality measures and the three NOI filings. The January 24, 2024 NOI submission indicates there are no water quality practices for this work, this disagrees with design requirements and the prior NOI filings. It also indicates that the entity responsible for the long term "O&M" for SMPs on the site is the Town of Nassau, this would also appear to be incorrect for this HOA owned site. The casual and apparent careless submission of these filings is troubling.

Although it does appear that there are ongoing turbid discharges associated with runoff from the spreader, there may be some misunderstanding about “pre-existing” drainage channels and runoff from the swale and spreader constructed last July. I provide here a “Photo Study” of the drainage course to Burden Lake from the swale and spreader that were constructed at this site last Summer. It includes important information regarding the conditions prior to this diversion of roadway drainage, as well as photos of a tracer dye test. For your information, property in the Subdivision was offered for sale last Summer and a prospective buyer commissioned a study of the drainage and its effect on one of the properties offered for sale. These photos are used here with permission.

An aerial photo taken on January 27, 2024 has been included for reference. In photo #5, it can be seen that a rip rap channel has been added below the spreader. **This calls into question the efficacy of the spreader and the stormwater analysis for it.** It raises concern about the conditions further below this added channel as well.

I hope your office can:

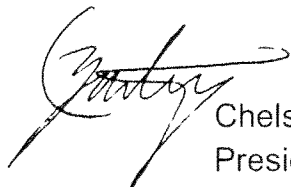
**Review the information and concerns presented here.** Further, I hope you can assist to **obtain or otherwise advise concerning access to SWPPP revisions and other documents** which the Owner/Operator has a duty to provide under Part VII.F. And, I hope to **obtain specific information regarding the spreader design.**

In as much as work may begin soon on individual lots under the Permit, these questions are urgent and not hypothetical.

I understand the expansive responsibilities of the Regional Office and our Association appreciates the challenges of oversight of Stormwater Permit activity in “non-MS4” communities.

I would appreciate the opportunity to discuss these concerns with you or an appropriate representative of your office. I hope you or your representative will contact me or Larry McKeough to address these issues.

For the Love of the Lake!



Chelsea Zantay  
President, BLCA

CC: Hon. Jake Ashby  
Hon. Scott Bendett  
Hon. David Fleming  
Tom West, Esq.