



TO: Dustin Anderson – Town Manager
FROM: Stephen Gunty – Public Works Director
SUBJECT: MS4 Compliance – Consultant Services
DATE: May 15, 2023

Purpose of Memo

To explain the Town's MS4 (Municipal Separate Storm Sewer System) program and a consulting proposal designed to help us achieve Federal/State IDEM MS4 compliance with several new MS4 related mandates.

Background

Untreated storm water run-off ends up in local rivers and streams and impairs 40 percent of surveyed U.S. water bodies. Common pollutants include oil and grease from roadways, pesticides from lawns, sediment from construction sites, and carelessly discarded trash such as cigarette butts, paper wrappers, and plastic bottles. This water pollution results in the destruction of fish, wildlife, aquatic habitats, a loss in aesthetic value, degradation of recreational waterways and threats to public health. Recognition of these impacts led to Federal and State regulation, historically as follows:

1987: Federal Clean Water Act (CWA) required stormwater discharges from large MS4s in urban populations over 100,000 to be permitted under the National Pollutant Discharge Elimination System (NPDES) program, in order to control polluted discharges from these larger cities.

1990: NPDES Phase 1 created a basic stormwater program for States to adopt.

1999: NPDES Phase II expanded to include any size community with an MS4 and the Town of Munster was designated as an MS4 entity.

2003: Indiana Department of Environmental Management (IDEM) instituted a Permit by Rule (aka Admin Code 327 IAC 15-13 Rule 13) requiring various reports at different intervals to achieve compliance with MS4 goals. Historically the Town relied on SEH Engineering to achieve compliance that included a Notice of Intent (NOI), 3-part Storm Water Quality Management Plan (SWQMP), and Annual Report showing Action Steps taken toward 6 Minimum Control Measures (MCMs) recognized as industry best practices to enhance stormwater quality, specifically:

MINIMUM CONTROL MEASURE (MCM) CATEGORIES

1. Public Education / Outreach
2. Public Involvement / Participation
3. Illicit Discharge Detection / Elimination
4. Construction Site Storm Water Run-Off Control
5. Post-Construction Stormwater Management
6. Pollution Prevention / Good Housekeeping for Municipal Operations

2022: IDEM transitioned from Permit by Rule 13 to a Master General Permit (aka MS4GP-INR040000) reducing multiple individual State permittees with similar characteristics to one standardized permit, a 44-page document of pertinent rules applicable to all State Phase II MS4 entities.

Methodology

IDEM's recent change to a General Permit created additional complex and expensive mandates in this USEPA sanctioned effort to enhance stormwater quality. Consulting firm BF&S Engineering created a detailed outline (**ATTACHED**) of the needed compliance steps under the new MS4 General Permit pertaining to Program Management and specific MCM actions. However, a summary of the MAJOR CHANGES required in this new permit are listed in order of priority and difficulty, as follows:

- Create a Water Quality Characterization Report (WQCR) and update yearly.
- Update the Stormwater Quality Management Plan (SWQMP) and update every 5 years.
- Submit an Annual Report describing compliance efforts of each MCM.
- Identify stormwater quality issues with residential, commercial & industrial construction.
- Increase Public Education & Involvement efforts.
- Create a more comprehensive Illicit Discharge Detection / Elimination (IDDE) plan.
- Conduct employee training on relevant MS4 compliance & stormwater quality issues.

The importance of these tasks are also highlighted by the consequences of non-compliance, which could affect Town eligibility for various Fed/State programs, grants, revolving loan fund, and Federal Highway \$.

A Notice of Intent (NOI) serves as the General Permit application and was submitted in June 2022. Three reports due by June 1, 2023 include: 1) Annual Report, 2) SWQMP update, and 3) WQCR. The consultant Ms. Reggie Korthals of BF&S Engineering (**Bio-ATTACHED**) is a nationally recognized expert in MS4 compliance and has worked with numerous communities throughout Indiana. Public Works met with Ms. Reggie Korthals to review their proposal (**ATTACHED**) to help the Town of Munster achieve compliance.

Chief components of the proposal to be performed by BF&S, are:

- 2022 MS4 Annual Report
- update the Stormwater Quality Management Plan (SWQMP)
- prepare a Water Quality Characterization Report (WQCR)
- create a Stormwater Pollution Prevention Plan (SWPPP) for any Town Owned/Operated Facility
- Employee Training & Website MS4 Updates
- Administration Assistance for MS4 program setup, compliance & 2023 IDEM Audit prep

Note: Future technical assistance needed would be re-analyzed in 2024 but the intent of this proposal is not only 2023 compliance but to ensure the max degree of self-reliance possible with our MS4 program.

Funding

The Sewer Maintenance Fund has approximately \$159,000 available that is replenished monthly by the Stormwater Utility Fee and recent sewer/storm rate increases. This created needed flexibility to now help us achieve these IDEM required "best management practices" compliance toward these issues. A recent \$17,000 windfall from a Monsanto Company "Round-Up" pollution related legal settlement was also added to this fund with stipulations on its use for stormwater improvement.

Conclusion

Because of these onerous mandates associated with the new MS4 General Permit, and the specialized nature of this work, and time being of the essence, we recommend hiring BF&S Engineering to help us achieve the needed compliance now. It also will help us: **a)** prepare for an upcoming October 2023 IDEM MS4 Audit, **b)** posture us for a better future by creating a manageable efficient MS4 program, **c)** increase our in-house competencies through training, and **d)** ultimately improve our stormwater quality.

Recommendation

Authorize the BF&S Engineering proposal in the lump sum amount of \$25,500 for known activity and up to \$20,500 additional on an hourly not-to-exceed basis (i.e. max total of \$46,000) for "2023 MS4 PERMIT COMPLIANCE AND PROGRAM IMPLEMENTATION ASSISTANCE" with SCOPE OF SERVICES described in Appendix "A-1", SCHEDULE described in Appendix "C" and COMPENSATION described in Appendix "D".