



Pennsylvania
**Department of
Environmental Protection**

March 5, 2026

CERTIFIED MAIL NO.: 7020 1810 0000 0380 2877

Upper Bern Township
25 N. 5th Street
Shartlesville, PA 19554

Re: Administrative Order
3501 Mountain Road
GASCD Warehouse Development
Upper Bern Township, Berks County

Enclosed please find an Administrative Order issued by the Commonwealth of Pennsylvania, Department of Environmental Protection relating to the Department of Homeland Security's proposed use of the above-referenced site.

Please contact me at rdigilarmo@pa.gov or 717-705-4900 if you have any questions.

Sincerely,

Robert M. DiGilarmo, II
Regional Director
Southcentral Regional Office

Enclosure: Administrative Order

c: J. Mattucci, jomattucci@pa.gov
M. Bebenek, mbebenek@pa.gov
J. Ryder, jryder@pa.gov
James H. Percival, General Counsel, U.S. Mail
(U.S. Department of Homeland Security)

RMD: dw

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Upper Bern Township	:	3501 Mountain Road
25 N. 5th Street	:	GASCD Warehouse Development
Shartlesville, PA 19554	:	Upper Bern Township
	:	Berks County

ADMINISTRATIVE ORDER

NOW, this 5th day of March 2026, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), has found and determined:

A. To protect waters of the Commonwealth, Pennsylvania has enacted the Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 (“Clean Streams Law”); the Pennsylvania Sewage Facilities Act, Act of January 24, 1965, P.L. 1535, No. 537, 35 P.S. §§ 750.1-750.20a (“Sewage Facilities Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”). Pennsylvania also has promulgated regulations implementing each statute.

B. The Department is the executive agency of the Commonwealth with the duty and authority to administer and enforce these statutes and regulations.

C. Upper Bern Township is a municipality organized under the laws of the Commonwealth of Pennsylvania located in Berks County, Pennsylvania, and has a business address of 25 N. 5th Street, Shartlesville, PA 19554 (“Township”).

D. The United States Department of Homeland Security (“DHS”), is an executive department of the United States, established pursuant to the Homeland Security Act, 6 U.S.C. §§ 101-681g, that has an office and mailing address at: DHS, U.S. Immigration and Customs Enforcement Facilities Management Division, 500 12th Street SW, Suite 3000, Washington D.C. 20250.

E. On or about February 2, 2026, DHS purchased real property and a warehouse located at 3501 Mountain Road in Upper Bern Township, Berks County (hereinafter “Property”) for \$87,402,500.00.

F. While DHS has not communicated with the Department about the Property, DHS has announced in documents made public that it plans to use facilities like the warehouse at the Property as detention centers to incarcerate as many as 1,500 people detained by Immigration and Customs Enforcement (“ICE”) as part of its “ICE Detention Reengineering Initiative.”¹ The Department is aware that representatives of DHS have made similar comments about their intended use of the Property to local officials.

G. The Department is aware that on or around January 21, 2026, DHS sent a letter to the Pennsylvania Historical and Museum Commission to initiate review under Section 106 of the National Historical Preservation Act in which DHS described the purchased warehouse at the Property to be used “in support of ICE operations.”

H. DHS has represented that the objective of the ICE Detention Reengineering Initiative is to secure facilities for the “civil detention of aliens in ICE custody, while helping ICE effectuate mass deportations.” These facilities “will be built to handle the immediate surge capacity and sustained long-term operations.”

I. “ICE plans to activate all facilities” acquired under the Detention Reengineering Initiative “by November 30, 2026.”

J. Despite that expedited timeline, DHS has not contacted the Department regarding the Property or planned detention center.

¹ ICE Detention Reengineering Initiative (Feb. 13, 2026).

Sewage Planning

K. On August 18, 2006, the Township adopted an official sewage facilities plan for the Township, titled "Upper Bern Township 537 General Plan" ("Sewage Plan") that provides for the area of the Property to be served by a public sewage system. The Department approved the Sewage Plan on January 9, 2006.

L. On September 10, 2019, in response to a request from the Township, the Department notified the Township that the proposed development of a warehouse facility at the Property comprised of office space and warehouse storage space with a total anticipated sewage flows of 8,000 gallons per day was exempt from the requirement to revise the Sewage Plan if the flows were collected by an existing sewer line running along Mountain Road for conveyance to the treatment facilities of the Township Wastewater Treatment Plant ("2019 Sewage Approval").

M. The 2019 Sewage Approval was based on a certification from the Township that the 8,000 gallons per day of sewage from the Property would not create a hydraulic or organic overload or a 5-year projected overload of the Township Wastewater Treatment Plant.

N. The 2019 Sewage Approval was also based on plans for the Property that showed that the sewage from the warehouse facility would be collected in a private grinder pump on the Property and conveyed to the Township public sewer system via a private 2-inch diameter force main designed to handle 8,000 gallons per day of sewage.

O. After reaching the Township public sewer system, sewage from the Property would be conveyed through a pump station owned and operated by the Township to the Township's Wastewater Treatment Plant.

P. The warehouse at the Property was constructed but has not been occupied or otherwise operated as office space or warehouse storage space and has had unverifiable, if any, sewage flows.

Sewage Collection and Treatment

Q. The Township provides public sewage service in Upper Bern Township through a collection system that conveys the sewage to the Township Wastewater Treatment Plant.

R. The Township's Wastewater Treatment Plant maximum hydraulic capacity of 206,000 gallons per day of sewage was established under Water Quality Management Permit No. 0600408 A-3 issued by the Department on October 6, 2022.

S. In 2024, the three-month maximum hydraulic sewage load for the Upper Bern Wastewater Treatment Plan was approximately 116,300 gallons per day and the highest monthly average maximum was approximately 131,000 gallons per day in January 2024.

T. In 2025, the three-month maximum hydraulic sewage load for the Upper Bern Wastewater Treatment Plant was approximately 85,700 gallons per day and the highest monthly average maximum was approximately 114,000 gallons per day in May 2025.

U. On August 29, 2025, the Township submitted to the Department a corrective action plan to address a suspected hydraulic sewage overload at the Township's pump station after the Department observed simultaneous pump operation. The Township proposed an implementation schedule of testing and reporting to monitor and study the sources of the problem and implement solutions and the Department approved the Township's proposal on September 24, 2025.

V. DHS's intended use of the warehouse at the Property to incarcerate 1,500 people would likely produce 112,500 to 225,000 gallons of sewage per day.

Permitting Requirements

W. Section 202 of the Clean Streams Law, 35 P.S. § 691.202, prohibits a person from discharging or permitting the discharge of sewage in any manner, directly or indirectly, into the waters of this Commonwealth unless such discharge is authorized by the rules and regulations of the Department or such person or municipality has first obtained a permit from the Department.

X. Under Section 202 of the Clean Streams Law, 35 P.S. § 691.202, a discharge of sewage into the waters of the Commonwealth includes a discharge of sewage by a person or municipality into a sewer system or other facility owned, operated or maintained by another person or municipality and which then flows into the waters of the Commonwealth and a discharge of sewage without a permit or contrary to the terms and conditions of a permit or contrary to the rules and regulations of the Department is declared to be a nuisance.

Y. Under Section 207 of the Clean Streams Law, 35 P.S. § 691.207, a sewer extension that is constructed, connected or maintained contrary to the rules and regulations of the Department, contrary to the terms and conditions of a permit, inconsistent with the approved official plan for the municipality or contrary to any conditions imposed by the Department, municipality or municipal authority is also declared to be a nuisance.

Z. DHS is a “person” as that term is defined in the Clean Streams Law, 35 P.S. § 691.1, and the Sewage Facilities Act, 35 P.S. § 750.2.

AA. Section 7 of the Sewage Facilities Act, 35 P.S. § 750.7, prohibits a person from connecting to a community sewage system or occupying any building or structure for which a community sewage system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of the Sewage Facilities Act and the standards adopted thereunder. 35 P.S. § 750.7(a)(1).

BB. The Township is a “municipality,” as defined in Section 2 of the Sewage Facilities Act, 35 P.S. § 750.2.

CC. Under 25 Pa. Code § 71.51, a municipality shall revise its official sewage plan when, among other things, newly discovered facts, conditions or circumstances make the plan inadequate to meet the sewage needs of new land developments.

DD. Section 10 of the Sewage Facilities Act, 35 P.S. 750.10, authorizes the Department to, among other things, order the implementation of official plans and revisions thereto.

EE. Under 25 Pa. Code § 71.51, a revision to the official sewage plan is not required if a development is connecting to an existing public sewer and if, among other things, the applicant has provided written certification from the permittees of the collection, conveyance and treatment facilities to the municipality in which the subdivision is located and the Department or delegated agency with jurisdiction over the municipality in which the subdivision is located that there is capacity to receive and treat the sewage flows from the applicant's proposed new land development and that the additional wasteload from the proposed new land development will not create a hydraulic or organic overload or 5-year projected overload.

FF. Under 25 Pa. Code § 71.63(c), holding tanks can be used in lieu of other methods of sewage disposal only when certain conditions are met, including that the applicable official plan or revision thereto indicates the use of holding tanks for that lot and provides for replacement by adequate sewerage services in accordance with a schedule approved by the Department.

GG. Section 402 of the Clean Streams Law, 35 P.S. 691.402, authorizes the Department to issue an order whenever the Department finds that any activity, not otherwise requiring a permit under this act, including but not limited to the impounding, handling, storage, transportation, processing or disposing of materials or substances, creates a danger of pollution of the waters of the Commonwealth or that regulation of the activity is necessary to avoid such pollution.

HH. Section 610 of the Clean Streams Law, 35 P.S. § 691.610, authorizes the Department to issue orders as may be necessary and appropriate for the enforcement of the provisions of the Clean Streams Law.

II. Any violation of the Clean Streams Law, its attendant regulations, or any order or permit of the Department constitutes unlawful conduct under Section 611 of the Clean Streams Law,

35 P.S. § 691.611, and a statutory nuisance under Section 601 of the Clean Streams Law, 35 P.S. § 691.601.

JJ. The Sewage Plan provides that sewage from the Property will be managed by a public sewer system.

KK. The sewage expected to be produced at the Property far exceeds the 8,000 gallons per day in the 2019 Sewage Approval.

LL. The 112,500 gallons to 225,000 gallons per day of sewage that is likely to be produced from DHS's planned use of the warehouse at the Property will overwhelm the existing sewage collection system and pump station and hydraulically overload the Township Wastewater Treatment Plant.

MM. Sending 112,500 to 225,000 gallons per day of sewage from the Property to the Township Wastewater Treatment Plant will result in the uncontrolled discharge of untreated or inadequately treated sewage to Wolf Creek from the Township Wastewater Treatment Plant, in violation of the Township's NPDES permit, the Clean Water Act and the Clean Streams Law.

NN. The lack of adequate sewage collection and treatment facilities to receive the sewage generated by DHS's use of the warehouse at the Property for incarceration of up to 1,500 people will create a danger of water pollution from untreated sewage running off or being discharged at the Property.

OO. Because the approved sewage plan for the Township provides that sewage from the Property will be conveyed and treated at the Township's Wastewater Treatment Plant, DHS cannot use on-site equipment, such as holding tanks, retaining tanks, privies, or chemical toilets, to manage sewage at the Property without the Township amending the Sewage Plan and getting approval from the Department.

PP. DHS's use of the warehouse at the Property to incarcerate 1,500 people without first obtaining a permit indicating that the site and the plans and specifications of the warehouse sewage system are in compliance with the provisions of the Sewage Facilities Act and the standards adopted thereunder will violate Section 7 of the Sewage Facilities Act , 35 P.S. § 750.7, will violate Section 207 of the Clean Streams Law, 35 P.S. § 691.207, and will be a statutory nuisance.

QQ. DHS's unauthorized discharge of sewage into the Township's collection system, pump station, and the Township Wastewater Treatment Plant from its use of the warehouse at the Property to incarcerate 1,500 people will violate Section 202 of the Clean Streams Law, 35 P.S. § 691.202, will be a statutory nuisance, creates a danger of pollution of the waters of the Commonwealth, and regulation of DHS's activity is necessary to avoid such pollution.

ORDER

NOW, THEREFORE, under Sections 5, 402, and 610 of the Clean Streams Law, 35 P.S. §§ 691.5, 691.402, and 2691.610; Section 10 of the Sewage Facilities Act, 35 P.S. § 750.10; and Section 1917-A of the Administrative Code of 1929, 71 P.S. § 510-17; the Department hereby ORDERS the Township as follows:

1. The Township shall not issue any permits for, or allow the occupancy of, the warehouse on the Property for any use other than a commercial warehouse unless the Township first revises the Sewage Plan to provide for proper sewage management at the Property and obtains the approval of the revision by the Department.

2. The Township shall not issue any permits for, or allow the use of holding tanks, retaining tanks, privies or chemical toilets to manage sewage from the Property unless the Township first revises the Sewage Plan to provide for proper sewage management at the Property and obtains the approval of the revision by the Department.

3. The Township shall not allow more than 8,000 gallons per day of sewage to flow from the Property to the Township sewage collection system, pump station or the Township Wastewater Treatment Plant without first obtaining an amended Water Quality Management Permit from the Department.

4. The Township shall not apply for an amended Water Quality Management Permit from the Department before the Department approves a revision to the Sewage Plan for the sewage from DHS's use of the Property as a detention center.

5. The Township shall not accept sewage or other wastewater from the use of holding tanks, retaining tanks, privies or chemical toilets to manage sewage at the Property.

6. ***Correspondence with Department.*** All correspondence with the Department concerning this Order shall be addressed to:

Brian Schlauderaff
Environmental Group Manager
Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue
Harrisburg PA 17110-8200

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board ("Board") pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa. C.S.A. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within thirty (30) days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <https://ehb.pa.gov/> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN THIRTY (30) DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Robert M. DiGiarmo II
Regional Director
Southcentral Region