

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

_____ :
In the Matter of: :

Balfour Beatty Construction, LLC :
11325 Random Hills Road, Ste. 500 :
Fairfax, VA 22030 :

Respondent :

Docket No. CWA-03-2020-0039

Facilities located at: :

Capitol Crossing Garage, East Concourse :
and Platform (**Utility Relocation**) :
222 Massachusetts Avenue NW :
Washington, D.C. 20001 :
Permit No. DCR12A189 :

**CONSENT AGREEMENT AND
FINAL ORDER**

Capitol Crossing Garage, East Concourse :
and Platform (**Highway**) :
222 Massachusetts Avenue, NW :
Washington, D.C. 20001 :
Permit No. DCR12A243 :

National Museum of the Marine Corps :
Expansion :
18900 Jefferson Davis Highway :
Triangle, VA 22172 :
Permit No. VAR10G914 :

Portals V :
1399 Maryland Avenue SW :
Washington, D.C. 20002 :
Permit No. DCR100009 :

Wharf Development Phase 2 :
640 Maine Avenue SW :
Washington, D.C. 20004 :
Permit No. DCR10005Z :
_____ :

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Balfour Beatty Construction, LLC (“Respondent”) (collectively the “Parties”), pursuant to Section 301(a) of the Act, *id.* § 1311(a) 33 U.S.C. § 1311, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The CWA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant’s civil penalty claims against Respondent under Section 301 of the CWA for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above
4. The Consolidated Rules of Practice, at 40 C.F.R. § 22.13(b) provide in pertinent part that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and Final Order simultaneously commences and concludes this administrative proceeding against Respondent.

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of

this CAFO.

8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
11. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the NPDES program under Section 402 of the Act, 33 U.S.C. § 1342.
14. "Discharge of a pollutant" includes "any addition of any pollutant or combination of pollutants to waters of the United States from any point source." Section 502(12) of the CWA, 33 U.S.C. § 1362; 40 C.F.R. § 122.2.
15. The term "point source" means any discernible, confined and discreet conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. 1362(14);40 C.F.R. 122.2
16. Federal regulations promulgated pursuant to the CWA define the phrase "waters of the United States" to include, among other things, (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) all interstate waters; (iii) all other waters such as intrastate lakes, rivers and streams, including intermittent streams, the use, degradation, or destruction of which would or could affect interstate commerce; (iv) tributaries of waters of the United States, and (v) all waters adjacent to these waters. 40 C.F.R. § 122.2.

17. “Storm water” is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
18. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.1 and 122.26 provide that facilities with storm water discharges associated with industrial activity are “point sources” subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).
19. “Storm water discharge associated with industrial activity” is defined as “the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant...”. The term includes storm water discharges from construction activity including clearing, grading and excavation. 40 C.F.R. § 122.26(b)(14)(x).
20. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.
21. An NPDES permit is required for construction activity, including clearing, grading, and excavation related to the site. *See* 33 U.S.C. § 1342, 40 C.F.R. §122.26(b)(14)(x).
22. Pursuant to Section 402(i) of the CWA, 33 U.S.C. §1342(i), EPA retains its authority to take enforcement action within the District of Columbia for NPDES permit violations.
23. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Commonwealth of Virginia NPDES program on March 31, 1975. The Virginia Department of Environmental Quality (“VADEQ”) was authorized to issue general NPDES permits on April 20, 1991.
24. Pursuant to Section 402(i) of the CWA, 33 U.S.C. §1342(i), EPA retains its authority to take enforcement action within the Commonwealth of Virginia for NPDES permit violations.
25. The 2012 General Permit for Discharges from Construction Activities, the 2012 Construction General Permit (2012 CGP), effective February 16, 2012, authorizes the discharge of stormwater from construction activity to surface waters of the District of Columbia provided that the owner of a source covered by the 2012 CGP filed a registration statement to be covered by the 2012 CGP and complied with all the requirements of the 2012 CGP.
26. The 2017 General Permit for Discharges from Construction Activities, the 2017 Construction General Permit (2017 CGP), effective February 16, 2017, authorizes the discharge of stormwater from construction activity to surface waters of the District of Columbia provided that the owner of a source covered by the 2017 CGP filed a registration statement to be covered by the 2017 CGP and complied with all the requirements of the 2017 CGP.

27. The General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities, the Stormwater Construction General Permit (SWCGP), general permit number VAR10, effective July 1, 2014, authorizes operators of construction activities to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in State Water Control Board regulations that prohibit such discharges.

CAPITOL CROSSING – UTILITY RELOCATAION

28. Respondent, Balfour Beatty Construction, LLC (“Respondent” or “Balfour Beatty”) is a limited liability corporation, and therefore a “person” within the meaning of Part 502(5) of the Act, 33 U.S.C. § 1362(5).
29. Balfour Beatty performed land disturbing activities at Capitol Crossing Garage/East Concourse + Platform (Utility), 222 Massachusetts Avenue, NW, Washington, D.C. 20001 (“Capitol Crossing Utility Relocation”). The Capitol Crossing Utility Relocation site is classified under NAICS Code 236220. The storm sewer drains surrounding the site are part of a municipal separate storm sewer system (MS4). The receiving water body for the MS4 is the Anacostia River, which is classified as an impaired water body, and the Potomac River. Both are a “waters of the United States” as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.
30. Respondent submitted an NPDES permit registration application on November 20, 2013, and on December 4, 2013 obtained authorization for its discharges of stormwater from the Capitol Crossing Utility Relocation site.
31. The project is permitted under the 2012 CGP, Permit No. DCR12A189.
32. On May 4, 2016, duly-authorized EPA personnel and their contractors, along with representatives from the District of Columbia Department of Energy and Environment (DOEE) (“Inspection Team”) conducted an inspection of Respondent’s Capitol Crossing Utility Relocation site, covering the surface street utility work which disturbed approximately 1.839 acres and began in March 2014.
33. An inspection report for this Capitol Crossing Utility Relocation site inspection was developed, finalized, and sent to Respondent on August 15, 2016. A response to the inspection report was received by EPA which addressed observations noted in this inspection report.
34. Based upon the May 4, 2016 Capitol Crossing Utility Relocation site inspection, EPA representatives identified the following violations of the 2012 CGP and the CWA as described below.

COUNT I

**Failure to Comply with the
Recordkeeping Provisions of the 2012 CGP**

35. The allegations of Paragraphs 1 – 34 are incorporated herein by reference.
36. **Failure to Authorize Discharges from Construction Support Activities in accordance with 2012 CGP Part 1.3(c).** The 2012 CGP has a requirement that construction support activity is required to have permit coverage and stormwater controls for stormwater discharges. At the time of the inspection, the Inspection Team observed two areas that were being used by the Respondent but were not included in the Stormwater Pollution Prevention Plan (SWPPP) or the erosion and sediment control plans. The “Verizon Lot” which was being used for equipment staging and material storage, and the highway access ramp belonging to the District of Columbia Department of Transportation (DDOT) that was being used by the Respondent’s construction vehicles for access to the highway level of the construction site, neither of which was outlined in the limit of disturbance in the SWPPP or permit plans. Failure to include these areas in the SWPPP and permit plans is a violation of the 2012 CGP.
37. **Failure to Post Notice of Permit Coverage in accordance with 2012 CGP Part 1.5.** The 2012 CGP requires that Respondent post a sign or other notice conspicuously and at a safe, publicly accessible location in close proximity to the project site and visible from the public road with a font large enough to be viewed from a public right-of-way. It must also include a point of contact name and phone number where additional information may be obtained. At the time of the inspection, the Inspection Team observed that the signs were not visible from a public area and had the incorrect contact information written on them since the point of contact no longer worked for the company. Failure to post notice of permit coverage is a violation of the 2012 CGP.
38. **Failure to Correctly Complete and Sign Self-Inspection Reports in accordance with Part 4.1.7 of the 2012 CGP.** Under the 2012 CGP, facility inspection reports must be completed and signed within 24 hours of an inspection and contain all the relevant information incidental to the inspection such as the date and time, name of inspecting official, and a summary of the findings. The Inspection Team found some of the inspection reports missing while others were not signed. Failure to correctly complete and sign inspection reports is a violation of the 2012 CGP.
39. **Failure to Include all Vehicle Exit Points and Construction Support Activities on the Project Site Map in accordance with Part 7.2.6.1 of the 2012 CGP.** Under the 2012 CGP, the SWPPP must include a legible site map, or series of maps that show the boundaries of the property and location of all construction activities, including earth-disturbing activities, location of construction materials and construction support activities, among other things. At the time of the inspection, the SWPPP did not include the Verizon Lot, and three vehicle exit points were also missing. Failure to include all construction support activities on the site map is a violation of the 2012 CGP.
40. **Failure to Describe All Stormwater Control Measures in the SWPPP in accordance**

with Part 7.2.10.1 of the 2012 CGP. Under the 2012 CGP, the SWPPP must describe all stormwater control measures that are or will be installed and maintained at the site to meet the requirements of Part 2 of the 2012 CGP which include the type of stormwater control measure to be installed and maintained, including design information, the specific sediment controls that will be installed, and use of perimeter controls, among other things. At the time of the inspection, the Respondent had silt fencing listed as a form of perimeter control, but no silt fencing was in place; vehicle construction points were to contain metal wash racks with 25 feet of 2 to 3-inch crushed aggregate on either side, but no specific stabilization methods were observed at the vehicle exit points; all storm drain inlets were to be protected with geotextile fabric held in place with wire mesh and stone, but only erosion socks were in place; and trees were to be boxed-in to prevent mechanical injury with protective measures extending beyond the dripline, however, representatives of Respondent indicated that extending controls out to tree driplines was not feasible in the urban setting of the construction site, yet the SWPPP had not been modified to indicate this, all in violation of the 2012 CGP.

41. **Failure to Modify the SWPPP in Response to a Required SWPPP Modification in accordance with Parts 7.4.1.1 and 7.4.2 of the 2012 CGP.** The SWPPP requires that whenever new operators become active in construction activities, or changes are made to construction plans, stormwater control measures, pollution prevention measures, or other activities at the site that are no longer accurately reflected in the SWPPP, the SWPPP must be modified within seven (7) calendar days. At the time of the inspection, the Inspection Team discovered that the last modification was completed on June 27, 2014, and had not been modified to reflect the following changed conditions: the Verizon Lot was being used for equipment staging material storage, and two construction vehicle locations were not listed; there were no perimeter controls implemented along the site boundaries, though the SWPPP indicated that silt fence was to be installed in certain areas; the vehicle exit points did not have metal wash racks as specified by the SWPPP; the curb inlets were protected with erosion socks, but the SWPPP indicated curb inlets are to be protected with geotextile fabric held in place with wire mesh and stone; and the trees were protected with orange, mesh fencing, as opposed to the fencing included in the SWPPP. Failure to modify the SWPPP when required and within the seven-day deadline are violations of the 2012 CGP SWPPP modification requirements.

COUNT II
Failure to Comply with the
Good Housekeeping Provision of the 2012 CGP

42. The allegations of Paragraphs 1 – 41 are incorporated herein by reference.
43. **Failure to Maintain Erosion and Sediment Controls in accordance with 2012 CGP Part 2.1.1.4(a).** The 2012 CGP requires that all erosion and sediment controls required in this Part remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness. At the time of the inspection, the Inspection Team noticed unmaintained controls at vehicle exit points that

contained sediment-coated gravel, stockpiles covered with broken and ripped tarps, sediment-laden erosion socks and inlet filter fabric, inlets that were not fully protected with filter fabric and covered in silt and debris, and inlet filter fabric that contained holes. Respondent failed to ensure that erosion and sediment controls remained in effective operating condition in violation of the 2012 CGP.

44. **Failure to Install Perimeter Controls in accordance with Part 2.1.2.2(a) of the 2012 CGP.** The 2012 CGP requires installation of sediment controls along the perimeter areas of the site that will receive stormwater from earth disturbing activities. At the time of inspection, no perimeter controls were installed along the perimeter of the construction trailer area. The approved erosion and sediment control plans provided during inspection indicated that silt fence is to be installed at this location. In addition, no stormwater perimeter controls were installed at the Verizon Lot and no perimeter fencing had been installed since the beginning of its use. Failure to install perimeter fencing is a violation of the 2012 CGP.
45. **Failure to Minimize Sediment Track-Out in accordance with Part 2.1.2.3 of the 2012CGP.** The 2012 CGP requires minimization of track-out from vehicles exiting the construction site through various means, including restricting vehicle use to properly designated exit points; using appropriate stabilization techniques, using controls to remove sediment from tires prior to exiting, and removal of deposited sediment, among other things. At the time of the inspection, the Inspection Team noticed four deficient vehicle exit points that were not installed according to the SWPPP, so approved and appropriate stabilization techniques were not implemented, not designated in the approved erosion and sediment control plans, and not properly maintained, and that had sediment and gravel build-up and muddy water ponding where the concrete apron met the street. Respondent's failure to minimize track out is a violation of the 2012 CGP.
46. **Failure to Control Discharges from Stockpiled Sediment or Soil in accordance with Part 2.1.2.4 of the 2012 CGP.** The 2012 CGP requires stockpiles to be located outside of the natural buffer zone, physically separated from other storm water controls, and protected from contact using a temporary perimeter sediment barrier. Respondent must take action to avoid direct contact with precipitation and protect from wind and must not hose down soil or sediment accumulated on the pavement unless connected to a sedimentation basin, trap, or other control. The Inspection Team observed sediment piles that did not have a temporary perimeter sediment barrier and were not fully covered, piles of gravel, sand, and concrete debris that either had no temporary perimeter controls, had been covered with a white tarp that had large holes, or that were partially covered with portions exposed. Sediment-laden water was observed pooling around all the piles. Stormwater runoff from the piles flowed under the safety fence onto the street and ultimately to an unprotected inlet. Failure to control discharges from these stockpiles is a violation of the 2012 CGP.
47. **Failure to Protect Storm Drain Inlets in accordance with Part 2.1.2.9 of the 2012 CGP.** The 2012 CGP requires the installation of protection measures that remove sediment from discharge prior to entry into the storm drain inlet. To maintain these, the 2012 CGP requires cleaning, removal or replacement of the protection measures as

sediment accumulates and the filter becomes clogged and/or performance is compromised. Upon discovery, sediment must be removed by the end of the same day or by the end of the following day if removal by the same work day is not feasible. At the time of the inspection, the Inspection Team observed two inlets without any inlet protection and at least 15 inlets that were in need of maintenance. Failure to properly protect storm drain inlets is a violation of the 2012 CGP.

48. **Failure to Minimize the Exposure of Construction Products, Materials, and Wastes to Stormwater in accordance with Parts 2.3.3.3.(a), 2.3.3.3.(c)(i), and 2.3.3.3.(f) of the 2012 CGP.** Under the 2012 CGP, Respondent must provide cover for building products to prevent these products from coming into contact with rainwater. At the inspection, the Inspection Team observed a pallet of Sakrete™ bags (concrete mix) that were hardened, indicating that rainwater had come into contact with the product. The pallet was not stored within secondary containment. Additionally, under the 2012 CGP, Respondent must store chemicals in waterproof containers and provide cover, spill kits, or secondary containment. At the inspection, the Inspection Team observed an area with multiple uncovered containers including a fuel container, a hand sprayer with unknown contents, white buckets with unknown contents, and a container of Shell Rotella motor oil. None of the containers were stored under cover or within secondary containment. Failure to properly cover building materials, failure to store fuel, fluid and petroleum products in watertight containers or secondary containment, and failure to locate the portable toilets away from concentrated flow paths are violations of the 2012 CGP.

CAPITOL CROSSING – HIGHWAY

49. Respondent performed land disturbing activities at Capitol Crossing Garage/East Concourse + Platform (Highway), 222 Massachusetts Avenue, NW, Washington, D.C. 20001 (“Capitol Crossing Highway”). The Capitol Crossing Highway site is classified under NAICS Code 236220. The storm sewer drains surrounding the site are part of a municipal separate storm sewer system (MS4). The receiving water body for the MS4 is the Anacostia River, which is classified as an impaired water body, and the Potomac River. Both are a “waters of the United States” as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.
50. Respondent submitted a registration application on July 7, 2014, and on July 21, 2014 obtained authorization for its discharges of stormwater from the Capitol Crossing Highway site.
51. The project is permitted under the NPDES 2012 CGP, Permit No. DCR12A243.
52. On September 7, 2016, duly-authorized EPA personnel and their contractors, along with representatives from DOEE (“Inspection Team”) conducted an inspection of Respondent’s Capitol Crossing Highway site, covering the highway level work which disturbed approximately 17.27 acres and began in August 2014.
53. An inspection report for this Capitol Crossing Highway site inspection was developed,

finalized, and sent to Respondent on January 20, 2017. A response to the inspection report was received by EPA which addressed observations noted in this inspection report.

54. Based upon the September 7, 2016 Capitol Crossing Highway site inspection, EPA representatives identified the following violations of the 2012 CGP and the CWA as described below.

COUNT III
Failure to Comply with the
Good Housekeeping Provision of the 2012 CGP

55. The allegations of Paragraphs 1 – 48 are incorporated herein by reference.
56. **Failure to Install and Maintain Storm Drain Inlet Protection in accordance with Part 2.1.2.9 of the 2012 CGP.** Section 2.1.2.9 of the 2012 CGP requires that if you discharge to any storm drain inlet that carries stormwater flow from your site directly to a surface water and it is not first directed into a sediment basin, trap, or similar control, and you have authority to access the storm drain inlet you must install inlet protection measures that remove sediment and maintain the protection measures as sediment accumulates. Where evidence of sediment accumulation is found, it must be removed by the same workday or the end of the following day if same day is not feasible. At the time of the inspection, the Inspection Team observed six at-grade drop inlets that were only partially protected from stormwater runoff by filter fabric; the grates were covered with a filter fabric that did not fully cover the inlet opening, leaving gaps along the sides; the inlets were coated in sediment and needed maintenance; and there was silt and debris on the ground throughout the construction site. Additionally, eight inlets were observed to be in need of maintenance. Failure to install and maintain storm drain inlet protections are violations of the 2012 CGP.
57. **Failure to Prevent Building Products from Coming into Contact with Rainwater in accordance with Part 2.3.3.3(a) of the 2012 CGP.** The 2012 CGP requires that Respondent provide pollution prevention with regard to the storage, handling and disposal of construction products, materials and wastes such as providing cover or secondary containment to building products. At the time of the inspection, the Inspection Team observed bags of Sakrete, some opened, that did not have secondary containment, as well as bags of grout mix, various packaged building materials piled along the tunnel wall, and a bag of unknown material that was flat and hardened, many of which were located near stormwater inlets. Failure to provide cover or secondary containment is a violation of the 2012 CGP.
58. **Failure to Prevent Chemical Containers from Coming into Contact with Rainwater in accordance with Part 2.3.3.3(c)(i) of the 2012 CGP.** The 2012 CGP requires that Respondent provide pollution prevention with regard to the storage, handling and disposal of construction products, materials and wastes such as storing in a water-tight container and providing cover or secondary containment to petroleum products. At the time of the Inspection, the Inspection Team observed several fuel containers stored along

the west side of the I-395 North Tunnel where tiling work was being performed. The containers were not stored within secondary containment and the storage area was located slightly upslope and north of drop inlets, posing a threat to surface water via the Municipal Separate Sewer System (MS4). Failure to provide secondary containment of petroleum chemical containers is a violation of the 2012 CGP.

59. **Failure to Property Clean up and Dispose of Construction and Domestic Waste in accordance with Part 2.3.3.3(e) of the 2012 CGP.** The 2012 CGP requires the use of waste containers of sufficient size and number to contain construction and domestic wastes, which must be cleaned up and disposed of on work days and immediately if containers overflow. At the time of the inspection, the Inspection Team observed construction and domestic waste throughout the construction site. Specifically, there was trash located in the water-filled trench along the west side of the I-395 South tunnel and on/around multiple inlets. Failure to properly dispose of trash is a violation of the 2012 CGP.
60. **Failure to Conduct Site Inspections at a Correct Frequency in accordance with Part 4.1.2 of the 2012 CGP.** Under the 2012 CGP, site inspections must be conducted in accordance with one of two schedules unless subject to another part of the permit. Those schedules are either every 7 calendar days or once every 14 calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater. To determine the size of a rain event, Respondent must either keep a properly maintained rain gauge or obtain storm information from a representative weather station. For any day that rainfall is greater than 0.25 inches, total rainfall for the day must be recorded in accordance with Part 4.1.7.1.d. Self-inspection reports only covered the Capitol Crossing Highway (DCR12A243) permitted area every other week, and the Capitol Crossing Utility Relocation (DCR12A189) permitted areas were covered opposite weeks. Therefore, Respondent performed half the amount of self-inspections as the Permit requires. Failure to perform weekly reports is a violation of the 2012 CGP.

COUNT IV
Failure to Comply with the
Recordkeeping Provisions of the 2012 CGP

61. The allegations of Paragraphs 1 – 60 are incorporated herein by reference.
62. **Failure to Correctly Complete and Sign Self-Inspection Reports in accordance with Part 4.1.7.1 of the 2012 CGP.** The 2012 CGP requires inspection reports to be completed and signed within 24 hours. At the time of the inspection, the self-inspection report dated June 3, 2016 that was provided electronically by the Project Manager was not signed. Failure to correctly complete and sign inspection reports is a violation of the 2012 CGP.

NATIONAL MUSEUM OF THE MARINE CORPS EXPANSION

63. Respondent performed land disturbing activities at the National Museum of the Marine Corps Expansion site, 18900 Jefferson Davis Hwy, Triangle, VA 22172 (“Marine Corps Museum”). The Marine Corps Museum site is classified under NAICS Code 236220. The receiving water bodies for this site is King Highway Pond and Joplin Pond, which are classified as impaired water bodies and are a “waters of the United States” as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.
64. Respondent submitted a registration application to the VADEQ on March 4, 2015, tracking number VAR10G914 under VPDES Stormwater Construction General Permit (SWCGP) and on June 2, 2015 obtained authorization for its discharges of stormwater from the Marine Corps Museum site.
65. On September 8, 2016, duly-authorized EPA personnel and their contractors, along with representatives from VADEQ (“Inspection Team”) conducted an inspection of Respondent’s Marine Corps Museum site.
66. The Marine Corps Museum site is a building expansion that approximately doubles the size of the original museum. This site disturbed approximately 14.8 acres and began on July 20, 2014.
67. An inspection report for this Marine Corps Museum site inspection was developed, finalized, and sent to Respondent on March 15, 2017. A response to the inspection report was received by EPA which addressed observations noted in the Inspection Report.
68. Based upon the September 8, 2016 Marine Corps Museum site inspection, EPA representatives identified the following violations of the SWCGP and the CWA as described below.

COUNT V

**Failure to Comply with the
Good Housekeeping Provisions of the 2014 SWCGP**

69. The allegations of Paragraphs 1 – 68 are incorporated herein by reference.
70. **Failure to Conduct Inspections at the Required Frequency in accordance with 2014 SWCGP Part I.B.4.** The SWCGP has the requirement to conduct inspections once every four business days or at least every five business days and within 48-hours after storm events for sites that discharge to impaired waters. The Inspection Team observed that seven out of the previous ten self-inspections had date gaps greater than five business days. Failure to conduct inspections at the required frequency is a violation of the SWCGP.
71. **Failure to Properly Implement the SWPPP in accordance with the 2014 SWCGP Part II.E.** The 2014 SWCGP has the requirement to implement the SWPPP, including that all control measures must be properly maintained in effective working condition in

accordance with good engineering practices and manufacture specifications. The Inspection Team observed:

- a. The construction entrance was not stabilized per Virginia state specifications such as improper size, improper stone aggregate, and the lack of filter fabric underliner.
- b. Curb inlet protection was not installed per Virginia state specifications such as an erosion sock falling into the inlet and an erosion sock laden with sediment and debris, rendering it in ineffective working condition.
- c. Four drop inlets that had evidence of sediment and debris potentially flowing into the inlet.
- d. Super silt fencing was not installed per the required Virginia state specifications since it had joints that were overlapping and stapled together, instead of spliced together at a support post and securely sealed.
- e. Super silt fencing was not in effective working condition since sections were collapsed, installed at an incorrect height, and had too much sediment accumulation per Virginia state specifications.
- f. Silt fencing perimeter controls were collapsed, had sediment accumulation to the top of the filter fabric, and lack of structural controls to prevent sediment movement from a stockpile to a sediment trap.

Failure to properly implement the SWPPP is a violation of the SWCGP.

COUNT VI
Failure to Comply with the
Recordkeeping Provisions of the 2014 SWCGP

72. The allegations of Paragraphs 1 – 71 are incorporated herein by reference.
73. **Failure to have a Signed Copy of the VPDES Permit Registration Statement Included in the Onsite SWPPP in accordance with the 2014 SWCGP Part II.A.1.a.** The 2014 SWCGP has the requirement to have a signed copy of the VPDES registration statement in the SWPPP document. There was no signed VPDES Registration statement on site for the Inspection Team to review at the time of the inspection. Failure to have a signed registration statement on site is a violation of the SWCGP.
74. **Failure to Conspicuously Post a Copy of the Notice of Coverage Letter Near the Main Entrance of the Construction Activity in accordance to 2014 SWCGP Part II.C.** The 2014 SWCGP has the requirement to post conspicuously a copy of the notice of coverage letter near the main entrance of the construction activity. There was no such notice of coverage at the time of the inspection. Failure to properly post notice of permit coverage is a violation of the SWCGP.

PORTALS V

75. Respondent performed land disturbing activities at the Portals V site, 1399 Maryland

Avenue SW, Washington, D.C. 20002. The Portals V site is classified under NAICS Code 236220. The storm sewer drains surrounding the site are part of a municipal separate storm sewer system (MS4). The receiving water body for the MS4 is the Anacostia River, which is classified as an impaired water body, and the Potomac River. Both are a “waters of the United States” as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.

76. Respondent submitted a registration application on March 13, 2017, and on March 27, 2017 obtained authorization for its discharges of stormwater from the Portals V site.
77. The project is permitted under the NPDES 2017 CGP, Permit No. DCR100009.
78. On November 29, 2017, duly-authorized EPA personnel and their contractors, along with representatives from DOEE (“Inspection Team”) conducted a construction stormwater inspection of the Portals V site.
79. The project consisted of the construction of a residential building with 14 above-ground levels, and 3 below-ground parking levels. During the inspection, the Inspection Team observed E&S best management practices (BMPs), areas of disturbance, stormwater discharge points, materials handling and storage areas, construction entrances/exits, and stormwater drainage/conveyance areas. This site disturbed approximately 2 acres and began in May of 2017.
80. An inspection report for this Portals V site inspection was developed, finalized, and sent to Respondent on January 30, 2018. A response to the inspection report was received by EPA which addressed observations noted in this inspection report.
81. Based upon the November 29, 2017 Portals V site inspection, the Inspection Team identified the following violations of the 2017 CGP and the CWA as described below.

COUNT VII
Failure to Comply with the
Recordkeeping Provisions of the 2017 CGP

82. The allegations of Paragraphs 1 – 81 are incorporated herein by reference.
83. **Failure to Post Notice of Permit Coverage in accordance with 2017 CGP Part 1.5.**
The 2017 CGP has the requirement to post a sign or other notice conspicuously and at a safe, publicly accessible location in close proximity to the project site and visible from the public road with a font large enough to be viewed from a public right-of-way, and a point of contact name and phone number where additional information may be obtained. At the time of the inspection, the Inspection Team observed that the Respondent had not posted a notice of coverage at or in close proximity to the site. There was a generic “erosion, runoff, or stormwater pollution” posting at the site, but it did not include any information about CGP coverage. Failure to post notice of permit coverage is a violation of the 2017 CGP.

- 84. Failure to Modify the SWPPP in Accordance with Current Site Conditions in accordance with 2017 CGP Part 7.4.1.** The 2017 CGP has a requirement to modify the SWPPP within seven days of when changes are made to construction plans, stormwater controls, or other activities at the site that are no longer accurately reflected in the SWPPP. The Inspection Team observed that the site's erosion and sediment site map was not reflective of current site conditions at the time of the inspection. Specifically, the erosion and sediment map showed that the south stabilized construction entrance/exit had been removed, but it was in place at the time of the inspection. Additionally, silt fence was not installed along the entirety of the west perimeter of the site as called for on the Erosion and Sediment drawing. Failure to modify the SWPPP when site conditions change is a violation of the 2017 CGP.

COUNT VIII
Failure to Comply with the
Good Housekeeping Provisions of the 2017 CGP

85. The allegations of Paragraphs 1 – 84 are incorporated herein by reference.
- 86. Failure to Ensure that all Stormwater Controls are Maintained and Remain in Effective Operating Condition in accordance with 2017 CGP Part 2.1.4.** The 2017 CGP has a requirement that all stormwater controls are maintained and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness. The Inspection Team noted that the silt fence installed along the west perimeter of the site had several collapsed sections of the silt fence, and the discharge point from the portable sediment tank associated with the onsite dewatering operation was constructed from two inverted traffic cones catching the effluent and discharging it to the storm sewer, which differs from the site's erosion and sediment control plans. Failure to maintain stormwater controls in operating condition is a violation of the 2017 CGP.
- 87. Failure to Properly Minimize Sediment Track-Out in accordance with 2017 CGP Part 2.2.** The 2017 CGP has a requirement to implement erosion and sediment controls to minimize the discharge of pollutants in stormwater from construction activities. Specifically, to restrict vehicle use to properly designated exit points, use appropriate stabilization techniques at all points that exit onto paved roads, implement additional track-out controls as necessary to ensure that sediment removal occurs prior to vehicle exit, and the removal of deposited sediment by the end of the same business day in which the track-out occurs. The Inspection Team observed that the vehicle entrance/exit was not properly stabilized and there was no geotextile fabric under the stone (according to site representatives) and the stone was not the proper size or depth. Additionally, sediment track-out from the entrance/exit onto 14th Street SW was observed. Failure to minimize sediment track-out is a violation of the 2017 CGP.
- 88. Failure to Implement Proper Pollution Prevention Procedures in accordance with 2017 CGP Part 2.3.** The 2017 CGP has a requirement to store chemicals in water-tight

containers and provide cover or secondary containment, immediate clean-up of spills, and proper removal and disposal of hardened concrete. The Inspection Team observed multiple 55-gallon drums containing form release treatment were stored in the north area of the site without cover or secondary containment, multiple petroleum product stains, trash in a secondary containment structure outside of a designated waste container, and spilled/dumped concrete in multiple locations. Failure to implement proper pollution prevention procedures is a violation of the 2017 CGP.

THE WHARF DEVELOPMENT PHASE 2

89. Respondent performed land disturbing activities at the Wharf Development Phase 2 site, 640 Maine Avenue SW, Washington, D.C. 20004. The Wharf Development Phase 2 site is classified under NAICS Code 236220. The storm sewer drains surrounding the site are part of a municipal separate storm sewer system (MS4). The receiving water body for the MS4 is the Washington Ship Channel, a tributary to the Anacostia River, which is classified as an impaired water body and is a “waters of the United States” as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.
90. Respondent submitted a registration application on December 3, 2018, and on December 17, 2018 obtained authorization for its discharges of stormwater from the Wharf Development Phase 2 site.
91. The project is permitted under the NPDES 2017 CGP, Permit No. DCR10005Z.
92. On June 26, 2019, duly-authorized EPA personnel and their contractors (“Inspection Team”) conducted a construction stormwater inspection of the Wharf Development Phase 2 site.
93. The project consisted of a mixed-use development of residential units, hotel rooms, a park, office space, retail space and two parking garages below grade. During the inspection, the Inspection Team observed E&S best management practices (BMPs), areas of disturbance, stormwater discharge points, materials handling and storage areas, construction entrances/exits, and stormwater drainage/conveyance areas. This site disturbed approximately 9.5 acres and began in March of 2019.
94. An inspection report for this Wharf Development Phase 2 site inspection was developed, finalized, and sent to Respondent on August 28, 2019. A response to the inspection report was received by EPA which addressed observations noted in this inspection report.
95. Based upon the June 26, 2019 Wharf Development Phase 2 site inspection, the Inspection Team identified the following violations of the 2017 CGP and the CWA as described below.

COUNT IX Failure to Comply with the Recordkeeping Provisions of the 2017 CGP

96. The allegations of Paragraphs 1 – 95 are incorporated herein by reference.

97. Failure to Post Notice of Permit Coverage in accordance with 2017 CGP Part 1.5.

The 2017 CGP has the requirement to post a sign or other notice conspicuously and at a safe, publicly accessible location in close proximity to the project site and visible from the public road with a font large enough to be viewed from a public right-of-way, and a point of contact name and phone number where additional information may be obtained. At the time of the inspection, the Inspection Team observed that the Respondent had not posted a notice of coverage at or in close proximity to the site. There was a generic “erosion, runoff, or stormwater pollution” DOEE posting at the site, but it did not include any information about CGP coverage. Failure to post notice of permit coverage is a violation of the 2017 CGP.

COUNT X

**Failure to Comply with the
Good Housekeeping Provisions of the 2017 CGP**

98. The allegations of Paragraphs 1 – 97 are incorporated herein by reference.

99. Failure to Ensure that all Stormwater Controls are Maintained and Remain in Effective Operating Condition in accordance with 2017 CGP Part 2.1.4. The 2017 CGP has a requirement that all stormwater controls are maintained and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness. The Inspection Team noted that the silt fence installed adjacent to Maine Avenue SW and Water Street SW was in need of maintenance due to observations of teared and collapsed silt fencing. Additionally, the Inspection Team observed an inlet along Water Street SW that was in need of maintenance due to aggregate accumulation on top of the structure and the inlet protection had fallen into the inlet. Third, the Inspection Team observed inlet protection on Maine Avenue SW that was in need of maintenance due to having a gap between the inlet and the inlet protection, with the accumulation of sediment in front of and adjacent to the inlet. Failure to maintain stormwater controls in operating condition is a violation of the 2017 CGP.

100. Failure to Properly Minimize Sediment Track-Out in accordance with 2017 CGP Part 2.2. The 2017 CGP has a requirement to implement erosion and sediment controls to minimize the discharge of pollutants in stormwater from construction activities. Specifically, to restrict vehicle use to properly designated exit points, use appropriate stabilization techniques at all points that exit onto paved roads, implement additional track-out controls as necessary to ensure that sediment removal occurs prior to vehicle exit, and the removal of deposited sediment by the end of the same business day in which the track-out occurs. The Inspection Team observed sediment track-out on Maine Avenue SW from the construction entrance. Additionally, there was heavy sediment accumulation in the stabilized construction entrance. Failure to minimize sediment track-out is a violation of the 2017 CGP.

101. **Failure to Implement Proper Pollution Prevention Procedures in accordance with 2017 CGP Part 2.3.** The 2017 CGP has a requirement to store chemicals in water-tight containers and provide cover or secondary containment, immediate clean-up of spills, and proper removal and disposal of hardened concrete. The Inspection Team observed a piece of heavy equipment with a leaking diesel tank. The diesel leaked from the tank to the ground with no drip pan or other method of containing the leak. Additionally, the Inspection Team observed an oil container, small portable diesel containers, buckets filled with used oil, and an oil drip pan on the ground at the site. None of the containers were in covered areas or had other means to effectively minimize pollutant discharge. Failure to implement proper pollution prevention procedures is a violation of the 2017 CGP.

CIVIL PENALTY

102. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of one hundred thousand (\$100,000) which Respondent shall be liable to pay in accordance with the terms set forth below.
103. The civil penalty is based on a number of factors, including the penalty criteria set forth in Section 309(g) of the Act, 33 U.S.C. § 1319(g): circumstances, extent and gravity of the violation(s), Respondent's ability to pay, prior history of compliance, degree of culpability, economic benefit or savings resulting from the violations, and such other matters as justice may require, as well as *EPA's Interim Clean Water Act Settlement Penalty Policy* dated March 1, 1995.
104. Payment of the civil penalty, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action; CWA-03-2020-0039
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed to:
U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
 - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Pamela J. Lazos
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029
lazos.pamela@epa.gov

105. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
106. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
107. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
108. ADMINISTRATIVE COSTS: The costs of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
109. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

110. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

111. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
112. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission, true, accurate, and complete, and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

113. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with the Administrative Order on Consent between Respondent and EPA, Docket No. CWA-03-2020-0039 which addresses the violations alleged herein.

OTHER APPLICABLE LAWS

114. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251 *et seq.*, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

115. This Consent Agreement and Final Order resolves only the civil claims for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. 22.18(c). EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. § 301 *et seq.*, the regulations promulgated thereunder, and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION/PARTIES BOUND

116. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

117. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.


ENTIRE AGREEMENT

118. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

In Re: Balfour Beatty Construction, LLC
EPA Docket No. CWA-03-2020-0039

FOR RESPONDENT, BALFOUR BEATTY CONSTRUCTION, LLC

Date: 5/14/20


Name: MIKE PHILLIPS
Title: PRESIDENT

In Re: Balfour Beatty Construction, LLC
EPA Docket No. CWA-03-2020-0039

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 5/27/20

**KAREN
MELVIN** Digitally signed by
KAREN MELVIN
Date: 2020.05.27
12:54:14 -04'00'

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
US EPA Region III
Complainant

Date: 5/26/20

**PAMELA
LAZOS** Digitally signed by
PAMELA LAZOS
Date: 2020.05.26
16:21:09 -04'00'

Pamela J. Lazos
Senior Assistant Regional Counsel
US EPA Region III

In Re: Balfour Beatty Construction, LLC
EPA Docket No. CWA-03-2020-0039

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:	:	
	:	
Balfour Beatty Construction, LLC	:	
11325 Random Hills Road, Ste. 500	:	
Fairfax, VA 22030	:	
	:	
Respondent	:	Docket No. CWA-03-2020-0039
	:	
Facilities located at:	:	
	:	
Capitol Crossing Garage, East Concourse	:	
and Platform (Utility Relocation)	:	
222 Massachusetts Avenue NW	:	
Washington, D.C. 20001	:	
Permit No. DCR12A189	:	
	:	
Capitol Crossing Garage, East Concourse	:	
and Platform (Highway)	:	
222 Massachusetts Avenue, NW	:	
Washington, D.C. 20001	:	
Permit No. DCR12A243	:	
	:	
National Museum of the Marine Corps	:	
Expansion	:	
18900 Jefferson Davis Highway	:	
Triangle, VA 22172	:	
Permit No. VAR10G914	:	
	:	
Portals V	:	
1399 Maryland Avenue SW	:	
Washington, D.C. 20002	:	
Permit No. DCR100009	:	
	:	
Wharf Development Phase 2	:	
640 Maine Avenue SW	:	
Washington, D.C. 20004	:	
Permit No. DCR10005Z	:	

In Re: Balfour Beatty Construction, LLC
EPA Docket No. CWA-03-2020-0039

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Balfour Beatty Construction, LLC have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, Sections 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the *Consolidated Rules of Practice*, 40 C.F.R. Part 22, EPA's Interim Clean Water Act Settlement Penalty Policy (March 1, 1995), and the statutory factors set forth in Section 309(g)(3) of the CWA, 33 U.S.C § 1319(g)(3).

NOW, THEREFORE, PURSUANT TO Section 309 of the Clean Water Act ("CWA"), 33 U.S.C. § 1319, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of one hundred thousand dollars (\$100,000) in accordance with the payment provisions set forth in the Consent Agreement, and in compliance with the terms and conditions of the Consent Agreement.

This Consent Agreement and Final Order shall become final and effective 30 days after it is filed with the Regional Hearing Clerk, pursuant to Section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5).

JOSEPH
LISA

Digitally signed by
JOSEPH LISA
Date: 2020.05.28
07:26:33 -04'00'

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA, Region III

5/28/20

Date

CERTIFICATE OF SERVICE

I certify that on 5/28/20, the original and one (1) copy of the foregoing ***Consent Agreement and Final Order***, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via electronic delivery to:

Anne Carpenter, Esq.
Baker Botts L.L.P.
1299 Pennsylvania Ave, N.W.
Washington, D.C. 20004
Anne.carpenter@bakerbotts.com

with additional copies served via electronically to:

Pamela J. Lazos
Senior Assistant Regional Counsel
ORC – 3RC40
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

Mike Greenwald
Environmental Engineer
ECAD – 3ED32
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103

Dated: 5/28/20

BEVIN
ESPOSITO 
Digitally signed by BEVIN ESPOSITO
Date: 2020.05.28 09:02:20 -0400

Bevin Esposito
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III