

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

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<b>In the Matter of:</b>	:	<b>Docket No. CWA-03-2020-0097</b>
	:	
<b>Midatlantic Realty Partners, LLC</b>	:	
<b>3050 K Street NW, Suite 125</b>	:	<b>Proceeding to Assess Class I</b>
<b>Washington, DC 20007</b>	:	<b>Administrative Penalty Under</b>
	:	<b>Section 309(g) of the Clean Water Act</b>
<b>Respondent</b>	:	
	:	
<b>Property known as:</b>	:	
	:	
<b>Riverfront Phase II</b>	:	
<b>71 Potomac Avenue SE</b>	:	
<b>Washington, DC 20003</b>	:	
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**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

- I. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (Complainant) and the Midatlantic Realty Partners, LLC (Respondent), pursuant to 33 U.S.C. § 1319(g) and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), authorizes the Administrator of the U.S. Environmental Protection Agency (EPA or the Agency) to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator of EPA Region III, who in turn has delegated this authority to the Complainant. This Consent Agreement and the attached Final Order resolve Complainant's civil penalty claims against Respondent under the Clean Water Act (CWA or the Act) for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(6) and 22.18(6)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding in accordance with 40 C.F.R. §§ 22.13(6) and 22.18(6)(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. Section 309(g)(1)(A) authorizes the assessment of a Class I or Class II civil penalty against any person who violates any National Pollutant Discharge Elimination System (NPDES) permit condition or limitation.
5. Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), provides that the amount of a Class I civil penalty, pursuant to Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1), may not exceed \$10,000 per violation, except that the maximum amount of any Class I civil penalty under this subparagraph shall not exceed \$25,000.
6. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), any person who has violated any NPDES permit condition or limitation between November 2, 2015 up to and through the present is liable for an administrative penalty not to exceed \$21,393 per violation up to a total civil penalty amount of \$53,484.
7. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. §§ 22.1 (a)(6) and 22.50.
8. Pursuant to Section 309(g)(1)(A), EPA has consulted with the District of Columbia Department of Energy and Environment ("DC DOEE") regarding this action and, subsequent to the Effective Date, EPA will mail a copy of this fully executed Consent Agreement and Final Order to the appropriate DC DOEE official.

### **GENERAL PROVISIONS**

9. For the purpose of this proceeding only, Respondent admits each jurisdictional allegation set forth in this Consent Agreement and Final Order.
10. Except as provided in Paragraph 9, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
11. 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 Consent Agreement and Final Order.
12. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
13. 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.
14. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

15. 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**

16. 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.
17. Section 502(5) of the Act, 33 U.S.C. §1362(5), provides: "The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State or any interstate body."
18. Respondent is a corporation and is a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).
19. At all times relevant to this Consent Agreement and Final Order, Respondent was the operator of construction activities at the Riverfront Phase II construction site located at 71 Potomac Avenue SE, Washington, DC 20003 (Facility).
20. 40 C.F.R. § 122.2 defines "point source" as: "any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged."
21. Section 402(p) of the Act, 33 U.S.C. §1342(p) and 40 C.F.R. §122.2 and 122.26 provide that, with some exceptions not relevant here, storm water discharges are "point sources" subject to NPDES permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).
22. Each conveyance from the Facility is a "point source" as that term is defined in 40 C.F.R. § 122.2.
23. 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.
24. 40 C.F.R. § 122.26(b)(13) defines "Storm water" as "storm water runoff, snow melt runoff and surface runoff and drainage."
25. 40 CFR § 122.26(b)(15) defines "Storm water discharge associated with small construction activity" to include: "(i) Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres..."

26. At all times relevant to this Consent Agreement and Final Order, storm water through point sources from the Facility discharged to: a) the Anacostia River and b) the "municipal separate storm sewer system" or "MS4", as that term is defined at 40 C.F.R. § 122.26(b)(8)(i), located in the District of Columbia (DC MS4) and through the DC MS4 to the Anacostia River.
27. The Anacostia River is a "navigable water", as that term is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7).
28. 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 any pollutant from a point source to the waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.
29. 40 C.F.R. § 122.2 states, in relevant part: "Discharge of a pollutant means: a) any addition of any 'pollutant' or combination of pollutants to waters of the United States from any point source... This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works..."
30. In accordance with Section 402(a) of the Act, 33 U.S.C. § 1342(a), EPA issued a NPDES General Permit for Discharges from Construction Activities (the Permit), which, for construction activities in the District of Columbia, became effective on February 16, 2017 and has remain effective at all times relevant to this Consent Agreement and Final Order. The Permit authorizes discharges of storm water associated with construction activities, but only in accordance with the conditions of the Permit.
31. At all times relevant to this Consent Agreement and Final Order, the Respondent was an "operator" as that term is defined at Section 1.1 (Eligibility Conditions) of the Permit.
32. At all times relevant to this Consent Agreement and Final Order, Respondent was an operator of a construction project meeting the eligibility criteria set forth at Section 1.1 of the Permit.
33. At all times relevant to this Consent Agreement and Final Order, the Facility was a construction site.
34. Part 1.4 (Submitting Your Notice Of Intent) of the Permit requires an applicant for coverage under the Permit to submit to EPA a complete and accurate Notice of Intent (NOI) for coverage prior to commencing construction activities.
35. On or about January 9, 2018, Respondent submitted a NOI for coverage under the Permit for discharges of pollutants resulting from construction activities affecting approximately 1.48 acres of the Facility during approximately January 2018 through January 2020.

36. EPA determined that the Facility was eligible for coverage under the Permit and permitted point source discharges of pollutants from the Facility under the Permit with NPDES ID OCR I0003R and coverage was effective on January 23, 2018.
37. In accordance with Section 13 (Prohibited Discharges) of the Permit, at all times relevant to this Consent Agreement and Final Order, the Permit allowed certain point source discharges to a water of the United States provided that appropriate stormwater controls are designed, installed, and maintained and such discharges included: Stormwater discharges, including storm water runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity under 40 C.F.R. § 122.26(b)(15)(i).
38. At all times relevant to this Consent Agreement and Final Order, there were storm water discharges associated with small construction activity defined pursuant to 40 CFR § 122.26(b)(15)(i) and subject to the Permit.
39. At all times relevant this Consent Agreement and Final Order, Respondent was subject to the requirements of the Permit at the Facility.
40. On June 25, 2019, representatives of EPA conducted a NPDES Construction Stormwater Non-Sampling Compliance Inspection at the Facility to evaluate Respondent's compliance with certain portions of the Permit (the Inspection).

### **Count I**

#### **Failure to Post Notice of Coverage Under the Permit**

41. The allegations of Paragraphs I through 40 of this Consent Agreement are incorporated herein by reference.
42. Part 15 (Requirement To Post A Notice Of Your Permit Coverage) of the Permit provides: "You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so that it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right-of-way. At a minimum, the notice must include:
  - a. The NPDES ID (i.e., permit tracking number assigned to your NOi);
  - b. A contact name and phone number for obtaining additional construction site information;
  - c. The Uniform Resource Locator (URL) for the SWPPP (if available), or the following statement: "If you would like to obtain a copy of the Stormwater Pollution Prevention Plan (SWPPP) for this site, contact the EPA Regional Office at [include the appropriate CGP Regional Office contact information found at <https://www.epa.gov/npdes/contact-us-stormwater#regional>];" and
  - d. The following statement "ffyou observe indicators of storm water pollutants in the discharge or in the receiving waterbody, contact the EPA through the following website: <https://www.epa.gov/enforcement/report-environmental-violations>."

43. During the Inspection, EPA inspectors observed that Respondent had not posted a notice of coverage under the Permit at the Facility.
44. On or about June 25, 2019, Respondent failed to properly post a sign or other notice of Respondent's permit coverage at a safe, publicly accessible location in close proximity to the construction site in violation of Part 15 of the Permit.
45. On June 25, 2019, Respondent's failure to post a sign or other notice of Respondent's permit coverage at a safe, publicly accessible location in close proximity to the construction site constituted a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

### **Count II**

#### **Failure to Properly Maintain Stormwater Controls**

46. The allegations of Paragraphs 1 through 45 of this Consent Agreement are incorporated herein by reference.
47. Part 2.1.4 of the Permit provides: "Ensure 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."
48. During the Inspection, EPA inspectors observed that multiple areas of silt fence throughout the site were in need of maintenance and had not remained in effective operating condition.
49. On June 25, 2019, the Respondent failed to ensure that all stormwater controls, including silt fences, at the Facility were maintained and remained in effective operating condition during permit coverage.
50. On June 25, 2019, Respondent's failure to ensure that all stormwater controls, including silt fences, at the Facility were maintained and remained in effective operating condition during permit coverage constitutes violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

### **Count III**

#### **Failure to Properly Implement Erosion and Sediment Control Requirements**

51. The allegations of Paragraphs 1 through 50 of this Consent Agreement are incorporated herein by reference.
52. Part 2.2. (Erosion and Sediment Control Requirements) of the Permit provides in relevant part: "You must implement erosion and sediment controls in accordance with the requirements to minimize the discharge of pollutants in stormwater from construction activities."
53. Part 2.2.3 of the Permit provides in relevant part: "Install sediment controls along any perimeter areas of the site that will receive pollutant discharges. Remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control. ..."

54. During the Inspection, EPA inspectors observed that, in two areas of the site, sediment had accumulated to greater than one-half of the above-ground height of two separate perimeter controls:
- a. along the western perimeter of the Facility, in multiple areas, sediment had accumulated to greater than one-half of the above-ground height of the respective silt fence site and
  - b. along the southern perimeter of the Facility, sediment had accumulated to greater than one half the height of hay bales installed as perimeter stormwater control.
55. On or about June 25, 2019, Respondent failed to remove sediment accumulated to greater than one-half of the above-ground height of certain perimeter stormwater control structures in a violation of Part 2.2 and 2.2.3.a. of the Permit.
56. On or about June 25, 2019, Respondent's failure to remove sediment accumulated to greater than one-half of the above-ground height of certain perimeter stormwater control structures constitutes violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

#### Count IV

##### Failure Properly Implement Pollution Prevention Requirements

57. The allegations of Paragraphs 1 through 56 of this Consent Agreement are incorporated herein by reference.
58. Part 2.3 (Pollution Prevention Requirements) of the Permit states: "You must implement pollution prevention controls in accordance with the following requirements to minimize the discharge of pollutants in stormwater and to prevent the discharge of pollutants from spilled or leaked materials from construction activities."
59. Part 2.3.3 (For storage, handling, and disposal of building products, materials, and wastes) states in relevant part: "... e. For construction and domestic wastes:
- i. Provide waste containers (e.g., dumpster, trash receptacle) of sufficient size and number to contain construction and domestic wastes;
  - ii. Keep waste container lids closed when not in use and close lids at the end of the business day for those containers that are actively used throughout the day. For waste containers that do not have lids, provide either (1) cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or (2) a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment) ... "
60. During the Inspection, the EPA inspectors observed an uncovered and open dumpster filled beyond the top edges with waste.
61. During the Inspection, EPA inspectors were informed by Facility representatives that dumpsters located at the Facility are not covered overnight.

62. On June 25, 2019, Respondent failed to ensure that each waste container, including each dumpster, is closed or covered when not in use, as required pursuant to Part 2.3.3. of the Permit, in accordance with the Permit.
63. On June 25, 2019, Respondent's failure to ensure that each waste container, including each dumpster, is closed or covered when not in use constitutes violations of the Permit and Sections 30 I and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

### Count V

#### Incomplete Stormwater Pollution Prevention Plan (SWPPP)

64. The allegations of Paragraphs 1 through 63 of this Consent Agreement are incorporated herein by reference.
65. Part 7.1. (General Requirements) of the Permit states in relevant part: "All operators associated with a construction site under this permit must develop a SWPPP consistent with the requirements in Part 7 prior to their submittal of the NOI... The SWPPP must be kept up-to-date throughout coverage under this permit."
66. Part 7.2 (SWPPP Contents) of the Permit states: "At a minimum, the SWPPP must include the information specified in this Part and as specified in other parts of this permit." Part 7.2 requires that the following relevant information must be included in the SWPPP:
  - a. Part 7.2.2. (Stormwater Team): "Identify the personnel (by name or position) that are part of the storm water team, as well as their individual responsibilities, including which members are responsible for conducting inspections."
  - b. Part 7.2.4 (Site Map): "Include a legible map, or series of maps, showing the following features of the site: ... b. Locations where construction activities will occur, including: ... v. Designated points where vehicles will exit onto paved roads ... "
  - c. Part 7.2.8 (Staff Training): "Include documentation that the required personnel were, or will be, trained in accordance with Part 6 of the Permit."
  - d. Part 7.2.10 (SWPPP Certification): "You must sign and date your SWPPP in accordance with Appendix I, Part I.11 of the Permit."
67. Appendix I, Part I.11 (Signatory Requirements) of the Permit provides in relevant part:

"L 11.1 All applications, including NOIs, must be signed as follows:

  - 1.11.1.1 For a corporation: By a responsible corporate officer. For the purpose of this subsection, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term



environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

J.11.1.2 For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; ...

I.11.2. Your SWPPP, including changes to your SWPPP, inspection reports, and any other compliance documentation required under this permit, must be signed by a person described in Appendix I, Subsection I.11.1 above or by a duly authorized representative of that person ... "

68. During the Inspection, EPA inspectors reviewed Respondent's Stormwater Pollution Prevention Plan and made the following observations:
- a. The SWPPP did not identify personnel (by name or position) that are part of the stormwater team, as well as their individual responsibilities, including which members are responsible for conducting inspections. The SWPPP misidentified two individuals as inspection personnel, who were not identified on the reviewed inspection reports for the Facility.
  - b. The SWPPP did not include an accurate site map identifying designated points where vehicles will exit onto paved roads. The site map reviewed by the EPA inspectors was inaccurate as it misidentified areas where vehicles exited onto paved roads.
  - c. The SWPPP did not include staff training logs.
  - d. The SWPPP was not signed by a person described in Appendix I, Subsection I.11.1 above or by a duly authorized representative of that person.
69. During at least January 23, 2018 through June 25, 2019, Respondent failed to meet the requirements of Part 7.2 of the Permit in that the SWPPP did not: a) accurately identify personnel that are part of the stormwater team, b) include an accurate site map identifying designated points where vehicles will exit onto paved roads, c) include staff training logs or d) include a signature by a person described in Appendix I, Subsection I.11.1 above or by a duly authorized representative of that person.
70. During at least January 23, 2018 through June 25, 2019, Respondent's failure to have a SWPPP, which: a) accurately identifies personnel that are part of the stormwater team, b) includes an accurate site map identifying designated points where vehicles will exit onto paved roads, c) includes staff training logs or d) includes a signature by a person described in Appendix I, Subsection I.11.1 above or by a duly authorized representative of that person, constitutes violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

### **CIVIL PENALTY**

71. As described above, EPA finds that Respondents have violated Section 301 (a) of the CWA, 33 U.S.C. § 1311 (a), and are therefore liable to the United States for a civil penalty in accordance with Section 309(g) of the Act, 33 U.S.C. § 1319(g).
72. 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 Six Thousand Six Hundred Eighty Dollars (\$6,680), which Respondent shall be liable to pay in accordance with the terms set forth below.
73. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g) of the Act, 33 U.S.C. § 1319(g), including the following: nature, 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. These factors were applied to the particular facts and circumstances of this case.
74. Payment of the civil penalty amount, 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 (Docket No. CWA-03-2020-0097).
  - 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:

Kathleen Root, Esq.  
Senior Assistant Regional Counsel  
U.S. EPA, Region III (3RC40)  
1650 Arch Street  
Philadelphia, PA 19103-2029  
Root.Kathleen@epa.gov

and

Regional Hearing Clerk  
U.S. EPA, Region III (3RC00)  
1650 Arch Street  
Philadelphia, PA 19103-2029

75. 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 of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
76. 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).
77. INTEREST: In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of the Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11 (a).
78. ADMINISTRATIVE COSTS: The costs of the 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-Case 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.
79. 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).
80. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

#### **GENERAL SETTLEMENT CONDITIONS**

81. 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.

82. 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**

83. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

#### **OTHER APPLICABLE LAWS**

84. 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 Act, 33 U.S.C. §§ 1251 et seq., or any regulations promulgated thereunder.

#### **RESERVATION OF RIGHTS**

85. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] 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 Act, 33 U.S.C. §§ 1251 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.

#### **PARTIES BOUND**

86. 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**

87. 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, filed with the Regional Hearing Clerk.

**ENTIRE AGREEMENT**

88. This 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.

EPA LOCKET NO. CWA-03-2020-0001

FOR RELEASE TO: Midatlantic Realty Partners, LLC

By signing this Consent Agreement and Final Order, I acknowledge that I am 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.

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print Name:

Title:

Midatlantic Realty Partners, LLC

*John Beget*  
*John Beget*  
*Authorized Member*

In Re: MRP Residential  
EPA Docket No. CWA-03-2020-0097

FOR RESPONDENT: Midatlantic Realty Partners, LLC

By signing this Consent Agreement and Final Order, I acknowledge that I am 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.

Date: 5/14/20

By: *John Begert*

Name: John Begert  
Title: Authorized Member  
Midatlantic Realty Partners, LLC

FOR EPA:

For the Complainant:

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: \_\_\_\_\_

**KAREN MELVIN** Digitally signed by KAREN MELVIN  
Date: 2020.07.27 15:55:01 -04'00'  
By: \_\_\_\_\_  
Karen Melvin  
Director, Enforcement and Compliance Assurance Division  
U.S. EPA - Region III  
Complainant

Attorney for Complainant:

Date: \_\_\_\_\_

**KATHLEEN ROOT** Digitally signed by KATHLEEN ROOT  
Date: 2020.07.23 07:23:38 -04'00'  
By: \_\_\_\_\_  
Kathleen J. Root  
Sr. Assistant Regional Counsel  
U.S. EPA - Region III



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

**In the Matter of:**

**Docket No. CWA-03-2020-0097**

**Midatlantic Realty Partners, LLC  
3050 K Street NW, Suite 125  
Washington, DC 20007**

**Proceeding to Assess Class I  
Administrative Penalty Under  
Section 309(g) of the Clean Water Act**

**Respondent**

**Property known as:**

**Riverfront Phase II  
71 Potomac Avenue SE  
Washington, DC 20003**

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Midatlantic Realty Partners, LLC (Respondent), 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 (with specific reference to [Sections 22.13(b) and 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 statutory factors set forth in Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d).

**NOW, THEREFORE, PURSUANT TO** Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and Section 22.18(b)(3) of the Consolidated Rules, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of Six Thousand Six Hundred Eighty Dollars (\$6,680), in accordance with the payment provision set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Water Act, 33 U.S.C. §§ 1251 et seq., and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after this Final Order is filed with the Regional Hearing Clerk, pursuant to 33 U.S.C. § 1319(g)(5) or ten (10) days after conclusion of the public notice and comment period described in 40 C.F.R. § 22.45(b), whichever is later.

**JOSEPH LISA** Digitally signed by JOSEPH LISA  
Date: 2020.07.30 10:59:14 -04'00'

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

Date: \_\_\_\_\_

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

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<b>In the Matter of:</b>	:	<b>Docket No. CWA-03-2020-0097</b>
	:	
<b>Midatlantic Realty Partners, LLC</b> <b>3050 K Street NW, Suite 125</b> <b>Washington, DC 20007</b>	:	<b>Proceeding to Assess Class I</b> <b>Administrative Penalty Under</b> <b>Section 309(g) of the Clean Water Act</b>
	:	
<b>Respondent</b>	:	
	:	
<b>Property known as:</b>	:	
	:	
<b>Riverfront Phase II</b> <b>71 Potomac Avenue SE</b> <b>Washington, DC 20003</b>	:	
	:	

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**CERTIFICATE OF SERVICE**

I certify that on July 30, 2020, 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 Email to:

Mr. John Begert, Principle  
MidAtlantic Realty Partners, LLC  
Suite 125, 3050 K Street, NW  
Washington, DC 20007  
(202) 719-9000  
[jbegert@mrprealty.com](mailto:jbegert@mrprealty.com)

Kathleen Root, Esq.  
Senior Assistant Regional Counsel  
ORC – 3RC40  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103  
[root.kathleen@epa.gov](mailto:root.kathleen@epa.gov)

Date: July 30, 2020

**BEVIN**  
**ESPOSITO**  
Digitally signed by  
BEVIN ESPOSITO  
Date: 2020.07.30  
13:07:27 -04'00'  
Regional Hearing Clerk  
U.S. EPA, Region III