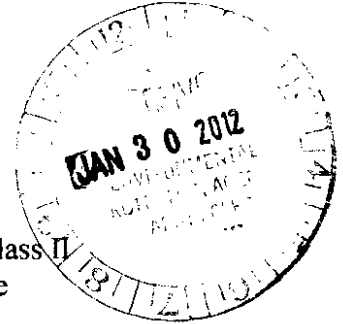


**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**



In The Matter of: )

Vico Construction Corporation )  
4001 S. Military Highway )  
Chesapeake, VA 23323-2905 )

Project known as )  
Jolliff Landing Commercial Center )

Jolliff Road and Portsmouth Blvd. )  
Chesapeake, VA 23321 )

Respondent )

Proceeding Under Class II )  
Section 309(g) of the )  
Clean Water Act )

Docket No. CWA-03-2011-0083 )

**CONSENT AGREEMENT  
AND FINAL ORDER**

**I. PRELIMINARY STATEMENT and STATUTORY AUTHORITY**

1. This Consent Agreement and Final Order ("CAFO") is entered into by the Director, Water Protection Division, United States Environmental Protection Agency, Region III ("Complainant"), and Vico Construction Corporation ("Vico" or "Respondent"), pursuant to Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules")*, 40 C.F.R. Part 22. The parties have agreed that this CAFO resolves Complainant's civil claims pertaining to violations of Section 402 of the Clean Water Act, 33 U.S.C. § 1342, alleged in an administrative Complaint filed on April 4, 2011. The parties further agree that the Administrative Order on Consent, EPA Docket No. 03-2012-0056DN ("AOC"), is being filed contemporaneously with this CAFO.
2. Pursuant to Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g), and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, any person violating the CWA is liable for an administrative penalty under Section 309(g) of the Act. Violations occurring after January 12, 2009 subject the violator to civil penalties in an amount not to exceed \$16,000 per day for each day the violation

continues, up to a maximum of \$37,500.

## **II. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS**

3. Respondent neither admits nor denies the factual allegations contained in Paragraphs 3 through 43 of the administrative Complaint filed on April 4, 2011.
4. Respondent agrees not to contest EPA's jurisdiction to issue and enforce the CAFO in any action by EPA to enforce the terms of the CAFO. Respondent further agrees not to contest EPA's jurisdiction to enforce Administrative Order for Compliance on Consent, Docket No. CWA-03-2012-0056DN.

## **III. CONCLUSIONS OF LAW**

5. As described in the Findings of Fact and Jurisdictional Allegations referred to in Section II, above, Respondent has violated Sections 301 of the Clean Water Act, 33 U.S.C. § 1311, and is 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), which Respondent neither admits nor denies.

## **IV. CONSENT AGREEMENT AND FINAL ORDER**

6. Respondent agrees not to contest EPA's jurisdiction to issue and enforce this CAFO.
7. Respondent hereby expressly waives its right to a hearing on any issue of law or fact in this matter pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and consents to issuance of this CAFO without adjudication.
8. Each party to this action shall bear its own costs and attorney fees.
9. The provisions of this CAFO shall be binding upon the Respondent, its officers, principals, directors, successors and assigns.
10. The parties agree that settlement of this matter is in the public interest and that entry of this CAFO is the most appropriate means of resolving this matter.
11. Based upon the foregoing and having taken into account the 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 pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), EPA HEREBY ORDERS AND Respondent CONSENTS to pay a civil penalty in the amount of one dollar (\$1.00), in full and final settlement of EPA's claims for civil penalties for the violations alleged herein. Failure to comply with any

aspect of the work required under the AO may result in EPA reopening the CAFO and seeking additional penalties thereunder.

12. Respondent shall pay the total administrative civil penalty of one dollar (\$1.00) for the violations alleged in this CAFO, and in consideration of the work required under the AO, within thirty (30) days of the effective date of this CAFO pursuant to 40 C.F.R. § 22.31(c), by mailing a cashier's check or certified check for the penalty to "Treasurer, United States of America":

By regular mail:

Regional Hearing Clerk  
U.S. EPA Region III  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

By overnight delivery:

U.S. Bank, Government Lock Box 979077  
US EPA Fines and Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
314-418-1028

By Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

By Automated Clearinghouse (ACH):

US Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - checking

Physical location of US Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Respondent shall send notice of such payment, including a copy of the check, to the Regional Hearing Clerk at the following address:

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

-and-

Pamela J. Lazos  
Mail Code 3RC20  
Office of Regional Counsel  
U.S. EPA Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

13. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. Nor does this CAFO constitute a waiver, suspension or modification of the requirements of the CWA, 33 U.S.C. §§ 1251, *et seq.*, or any regulations promulgated thereunder.
14. The following notice concerns interest and late penalty charges that will accrue in the event that any portion of the civil penalty is not paid as directed:

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 or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this CAFO is mailed or hand-delivered to Respondent. 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 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).

The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which 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).

15. This Consent Agreement and the accompanying Final Order resolve only the civil claims for the specific violations alleged herein. 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. In addition, 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. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.
16. Nothing in this CAFO shall be construed as prohibiting, altering or in any way eliminating the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violations of this CAFO or of the statutes and regulations upon which this CAFO is based or for Respondent's violation of any other applicable provision of law.
17. The penalty specified above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.
18. Entry of this CAFO is a final settlement of all civil violations alleged in the Complaint. EPA shall have the right to institute a new and separate action to recover additional civil penalties for the claims made in the Complaint if the EPA obtains evidence that the information and/or representations of the Respondent are false, or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, the EPA may have under law or equity in such event.
19. In addition, EPA shall have the right to seek additional penalties under this CAFO should Respondent fail to fulfill its obligations under this CAFO.
20. The undersigned representative of Respondent certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to

execute and legally bind that party to it.

21. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO, or one or more of its terms and conditions, is held invalid, or is not executed by all of the signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, then the entire CAFO shall be null and void.

#### **V. EFFECTIVE DATE**

22. This CAFO shall become final and effective, absent a petition for review, thirty (30) days after it is lodged with the Regional Hearing Clerk, pursuant to Section 309(g)(5), 33 U.S.C. § 1319(g)(5).

FOR RESPONDENT VICO CONSTRUCTION CORPORATION

By:

A handwritten signature in black ink, appearing to read 'S. Viola', is written over a horizontal line. The signature is stylized with large loops.


Name: Sam Viola

Title: President, Vico Construction Corporation

SO ORDERED, pursuant to 33 U.S.C. § 1319(g), and 40 C.F.R. Part 22,

this 30 day of January, 2012.



 Shawn M. Garvin  
Regional Administrator  
U.S. EPA Region III



**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I caused to be filed with the **Regional Hearing Clerk**, EPA Region III, the original Consent Agreement and Final Order, and that copies of this document were sent to the following individuals in the manner described below:

By first class mail:

Vico Construction Corporation  
4001 S. Military Highway  
Chesapeake, VA 23323-2905

And by pouch mail to:

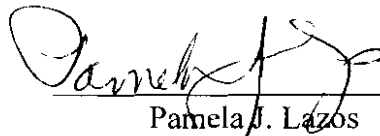
Spencer T. Nissen  
Administrative Law Judge  
U.S. EPA  
Office of the Administrative Law Judges  
1200 Pennsylvania Avenue, N.W. Mail Code 1900L  
Washington, D.C. 20460

Copy Electronically and by regular mail to:

Marina Liacouras Phillips, Esq.  
Kaufman and Canoles, P.C.  
150 West Main St.  
Suite 2100  
Norfolk, VA 23510

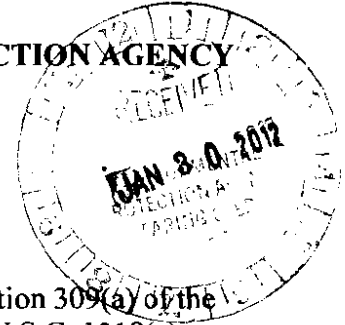
Date:

1/30/12



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

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



**IN THE MATTER OF:**

Vico Construction Corporation  
4001 South Military Highway  
Chesapeake, VA 23321

Project known  
Jolliff Landing Commercial Center

RESPONDENT

Proceeding under Section 309(a) of the  
Clean Water Act, 33 U.S.C. 1319(a)

**Docket No. CWA-03-2012-0056DN**

**ADMINISTRATIVE ORDER  
FOR COMPLIANCE ON CONSENT**

**I. STATUTORY AUTHORITY**

1. This Order for Compliance on Consent (“Order”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (hereinafter “EPA”) under Section 309(a) of the Clean Water Act (“CWA” or “the Act”), 33 U.S.C. § 1319(a). Authority has been delegated by the Administrator to the Regional Administrator of EPA, Region III, and redelegated to the Director, Water Protection Division of Region III, pursuant to Delegation No. 2-22 September 1, 2005.

**II. STATUTORY AND REGULATORY BACKGROUND**

2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant from a point source to waters of the United States except in compliance with, among other things, a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
3. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to him the Administrator finds that any person is in violation of any permit condition or limitation implementing certain CWA sections in a permit issued under section 402 of the Act, he shall issue an order requiring such person to comply with such section or requirement.

4. Section 402 of the Act, 33 U.S.C. § 1342, provides that the Administrator may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States, or may authorize states to issue such permits. The discharges are subject to specific terms and conditions as prescribed in the permit.
5. 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 stormwater 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).
6. The term “industrial activity” includes, among others, “[c]onstruction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more[.]” 40 C.F.R. § 122.26(b)(14)(x).
7. “Storm water” is defined as “storm water runoff, snow melt runoff and surface runoff and drainage,” 40 C.F.R. § 122.26(b)(13).
8. Owners and/or operators who discharge stormwater associated with construction activities to waters of the United States must comply with a NPDES permit.

### **III. EPA FINDINGS AND ALLEGATIONS**

9. Respondent neither admits nor denies the Findings and Allegations set forth herein.
10. Vico Construction Corporation (“Respondent”) is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.
11. The Commonwealth of Virginia has been authorized by EPA to administer the NPDES program in Virginia. Pursuant to that authority and the Virginia State Water Control Law, Virginia issues the Virginia Pollutant Discharge Elimination System (“VPDES”) Permit No. VAR10 (General Permit for Discharges of Storm Water from Construction Activities).
12. VPDES Permit No. VAR10 authorizes discharges of storm water associated with construction activities to waters of the United States (including discharges to, or through municipal separate storm sewer systems), but only in accordance with the conditions of the permit, the Stormwater Pollution Prevention Plan (“SWPPP”), and an approved final Erosion and Sediment Pollution Control (“E&S”) Plan.

13. The Permit, Section II.D.2.a.(1,2), requires the SWPPP to have an erosion and sediment control plan ("E&S Plan"). All control measures required by the plan shall be designed, installed, and maintained in accordance with good engineering practices and minimum standards of the Virginia Erosion and Sediment Control Law (§ 10.1-560 et seq. of Code of Virginia) and regulations (4VAC50-30).
14. Pursuant to Section II.A.4 of the Permit, all plans incorporated by reference into the SWPPP become enforceable under the permit.
15. On June 14, 2010, representatives of EPA, Region III conducted NPDES compliance inspections at two of the Respondent's permitted sites in Chesapeake, Virginia.
16. At the time of the June 14, 2010 inspections, Respondents did not have properly installed and maintained best management practices for the control of stormwater at the Site as set forth in the E&S Plan, SWPPP, and required by VPDES General Permit No. VAR10.

#### **IV. CONCLUSION OF LAW**

17. By failing to comply with the Permit, SWPPP, and E&S Plans, the Respondent is in violation of the VPDES Permit No. VAR10 and Section 301(a) of the Act, 33 U.S.C. § 1311(a), which Respondent neither admits nor denies.

#### **V. ORDER AND REQUEST**

AND NOW, pursuant to the Clean Water Act section 309(a)(1), 33 U.S.C. section 1319(a)(1), this 30 day of Jan, 2012 Respondent is hereby ordered and consents to immediately take all actions necessary to comply with its proposed Environmental Management Program (Attachment 1), all VPDES Permits and the Clean Water Act including, but not limited to, the following:

18. Respondent shall comply with all applicable terms and conditions of the Environmental Management Program ("EMP"), attached hereto as Exhibit "A", for all VPDES permitted sites.
19. Respondent shall execute all actions, fulfill all requirements and adhere to all conditions included in Paragraphs 1-7 in Section II of the EMP for all VPDES permitted sites.
20. Respondent shall provide an annual summary of the Storm Water Compliance Review and Oversight to the EPA representative in Paragraph 22 approximately 13 months after the effective date of this Order and for two additional years.
21. Within fifteen (15) days of the effective date of this Order, Respondent shall submit to

EPA certification by a responsible company official of Respondent's intent to comply with this Order. Provide certification, signed by a responsible corporate officer, as defined in 40 CFR § 122.22, that reads as follows:

*"I certify that the information contained in or accompanying this submission is true, accurate, and complete. As to the identified portion(s) of this submission for which I cannot personally verify its truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

Signed \_\_\_\_\_  
Title \_\_\_\_\_

The certification shall be submitted to:

Rebecca Crane  
Mail Code 3WP42  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### **VI. GENERAL PROVISIONS**

22. Issuance of this Order shall not be deemed an election by EPA to forego any administrative, civil, or criminal action to seek penalties, fines, or any other appropriate relief under the Act for the violations cited herein. EPA reserves the right to seek any remedy available under the law that it deems appropriate for the violations cited. Failure to comply with this Order or the Act may result in a civil judicial action initiated by the U.S. Department of Justice. If EPA initiates such an action, Respondent will be subject to civil penalties of up to \$37,500 per day of violation pursuant to 33 U.S.C. § 1319 and 40 C.F.R. Part 19.
23. If a criminal judicial action is initiated, and Respondent is convicted of a criminal offense under Section 309 of the Act, Respondent may be subject to a monetary fine and/or imprisonment, and may become ineligible for certain contracts, grants, or loans pursuant to Section 508 of the Act.
24. Respondent shall permit EPA or its authorized representative to inspect any site at reasonable times to confirm that Respondent is in compliance with this Order and with any applicable permit. In addition, EPA reserves all existing inspection authorities it may

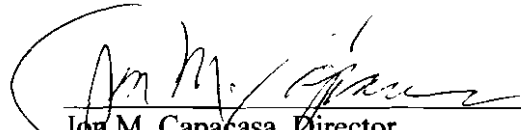
have under the statute.

- 25. This Order does not constitute a waiver or modification of the terms or conditions of any NPDES permit. Compliance with the terms and conditions of this Order does not relieve the Respondent of its obligations to comply with any applicable Federal, state, or local law or regulation.
- 26. Violation of the terms and conditions of this Order constitutes an additional violation of the Act, and may result in a civil action for injunctive relief and/or a penalty not to exceed \$37,500 per day of such violation, pursuant to Sections 309(b) and (d) of the Act, 33 U.S.C. §§ 1319(b) and (d). In addition, Section 309 provides criminal sanctions for knowing or negligent violations of the Act including imprisonment and fines of up to \$50,000 per day of violation.

**VI. EFFECTIVE DATE**


- 27. This ORDER is effective upon receipt.

Date: 11/30/12

  
\_\_\_\_\_  
Jon M. Capacasa, Director  
Water Protection Division  
EPA, Region III

FOR RESPONDENT VICO CONSTRUCTION CORPORATION:

Date: 12-21-11



\_\_\_\_\_  
Sam Viola, President  
Vico Construction Corporation

**CERTIFICATE OF SERVICE**

I certify that on this date, I filed the original Order for Compliance with the Regional Hearing Clerk, via hand-delivery, at the following address:

Lydia Guy  
Regional Hearing Clerk,  
USEPA  
1650 Arch Street  
Philadelphia, PA 19103

A copy to Respondent sent via First Class mail, return receipt requested, to the following address:

Vico Construction Company  
4001 S. Military Hwy  
Chesapeake, Virginia 23321

And by pouch mail to:

Spencer T. Nissen  
Administrative Law Judge  
U.S. EPA  
Office of the Administrative Law Judges  
1200 Pennsylvania Avenue, N.W. Mail Code 1900L  
Washington, D.C. 20460

Copy Electronically and by regular mail to:

Marina Liacouras Phillips, Esq.  
Kaufman and Canoles, P.C.  
150 West Main St.  
Suite 2100  
Norfolk, VA 23510

\_\_\_\_\_/\_\_\_\_\_  
Pamela J. Lazos

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



**TABLE OF CONTENTS**

I.	DEFINITIONS.....	2
	1. Definitions .....	2-4
II	VICO's COMPLIANCE PROGRAM.....	4
	1. Compliance.....	4
	2. Designation of Storm Water Compliance Representatives.....	4
	3. Storm Water Plans and Records.....	6
	4. Pre-Construction Inspection and Review.....	6
	5. Inspections.....	7
	6. Maintenance.....	7
	7. Site Storm Water Compliance Review and Oversight.....	8
	8. Compliance Summary Report.....	8
	9. Storm Water Training Program.....	9
III	APPENDICES.....	11
	A. PRE-CONSTRUCTION INSPECTION AND REVIEW FORM.....	11
	B. SITE INSPECTION REPORT FORM.....	13
	C. QUARTERLY COMPLIANCE INSPECTION FORM.....	22
	D. ANNUAL COMPLIANCE SUMMARY REPORT.....	30

## I. DEFINITIONS

1. Definitions. Terms used in this document shall be defined in accordance with definitions in the Clean Water Act and regulations promulgated pursuant to the Clean Water Act. Whenever the terms listed below are used in this document, the following definitions apply:

- a. Action Item – a condition that requires action to be taken to achieve or maintain compliance with Storm Water Requirements.
- b. Applicable Permit – whichever of the following permits is applicable to a particular Site: (i) the Federal General Permit for Storm Water Discharges from Construction Activities; or (ii) in the case of an Authorized State, the Authorized State’s National Pollutant Discharge Elimination System (“NPDES”) construction general permit; or (iii) an individual NPDES permit issued by EPA or an Authorized State for storm water discharges associated with construction. This term applies to that permit in its current form or as it may be amended in the future.
- c. Best Management Practices (“BMPs”) – the definition in 40 C.F.R. § 122.2, in its current form or as it may be amended in the future. That definition currently is “schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of ‘water of the United States’. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage”.
- d. Vico Construction Corporation (Vico), the site work contractor.
- e. Business Day - any day other than a Saturday, Sunday, or State or Federal legal holiday. If a stated time period in the Decree expires on a Saturday, Sunday, or State or Federal legal holiday, it shall be extended to include the next Business Day.
- f. Clean Water Act (“CWA”) – the Federal Water Pollution control Act, as amended, 33 U.S.C. §§ 1251-1387.
- g. Contractor – any contractor (other than a Storm Water Consultant, a utility company or its contractor, or a contractor hired at the behest of a governmental entity or a utility company) that has a contract with Vico Construction Corporation (Vico) to perform work on a Site.
- h. Contractor Representative – a person with the authority and responsibilities required of Contractor. (Contractor and Storm Water Consultant Compliance).
- i. Date of Entry – the date the Consent Agreement and Final Order in the matter of Jolliff Landing Commercial Center, Docket No. CWA-03-2011-0083, is effective.
- j. Designee – a Vico employee who is Storm Water Trained, pursuant to Paragraph 7 (Storm Water Training Program), or a “Storm Water Consultant” as that term is defined in Paragraph 1.aa.
- k. EPA – the U.S. Environmental Protection Agency.
- l. Government Inspection – a state or federal inspection conducted to evaluate compliance with Storm Water Requirements. The term also includes local inspections conducted by a

local government entity to enforce an Applicable Permit if that entity has been delegated inspection or enforcement authorities for that permit.

- m. Vico Storm Water Compliance Representative – a Vico employee designated pursuant to Paragraph 2 (Designation of Storm Water Compliance Representatives).
- n. Notice of Termination (“NOT”) – notification that coverage under an Applicable Permit is ready for termination.
- o. Parties – the Federal Plaintiff and Vico.
- p. Project – any area where Vico engages in construction activity where coverage under an Applicable Permit is not required. Non-contiguous areas that are not part of a common plan of development are not considered part of a Project.
- q. Quarterly Compliance Inspection – an inspection of a Site, as required by Paragraph 6 (Site Storm Water Compliance Review and Oversight).
- r. Quarterly Compliance Inspection Form – a form such as the sample attached at Appendix D and as required by Paragraph 6 (Site Storm Water Compliance Review and Oversight).
- s. Quarterly Compliance Review – a compliance review of a site as required by Paragraph 6 (Site Storm Water Compliance Review and Oversight).
- t. Quarterly Reporting Period (or “QRP”) – the first Quarterly Reporting Period shall be from the Date of Entry until the end of the first three (3) full calendar months following the Date of Entry. Thereafter, the Quarterly Reporting Period shall be each successive period of three (3) calendar months. The last day of the last Quarterly Reporting Period will be three (3) years after the Date of Entry, even if this results in a Quarterly Reporting Period that is less than three (3) full calendar months.
- u. Record – any record, report, document, or photograph required to be created or maintained pursuant to Storm Water Requirements.
- v. Responsive Action – an action taken or that is necessary to be taken to achieve or maintain compliance with Storm Water Requirements.
- w. Site – any area where Vico engages in construction activity where coverage under an applicable permit is needed. Vico may treat non-contiguous areas that are part of a common plan of development as a single site.
- x. Site Inspection – an inspection of a Site, as required by Paragraph 4 (Inspections).
- y. Site Inspection Report – a form such as the sample attached at Appendix B and as required by Paragraph 4 (Inspections).
- z. Site Storm Water Compliance Representative – a Vico employee designated pursuant to Paragraph 2 (Designation of Storm Water Compliance Representative) to oversee storm water compliance activities at a Site.
- aa. Storm Water Compliance Representatives – the Site Storm Water Compliance Representative and the Executive Storm Water Compliance Representative.
- bb. Storm Water Consultant – a person or company who provides professional or expert assistance to Vico in complying with Storm Water requirements. Each person who is a Storm Water Consultant shall: (i) possess the skills to assess conditions at a Site that could impact the quality of storm water and non-storm water discharges and compliance with Storm Water Requirements; and (ii) be knowledgeable in the principles and practices of

sediment and erosion control and other BMPs. The term "Storm Water Consultant" does not include, for example, contractors hired exclusively to install, maintain, or repair BMPs. Such contractors are not Designees.

- cc. Storm Water Orientation Program – this term includes all of the orientation requirements set forth in Storm Water Orientation Program and Contractor and Storm Water Consultant Compliance.
- dd. Storm Water Pollution Prevention Plan ("SWPPP") – a plan for controlling pollutants in storm water and non-storm water discharges that meets Storm Water Requirements.
- ee. Storm Water Requirements – the terms and conditions of this Decree and the Applicable Permit for the particular Site, and the laws and regulations that apply, interpret, or enforce the Applicable Permit, in their current form or as any of the foregoing requirements may be amended in the future.
- ff. Storm Water Trained – an individual who: (i) is certified under the Storm Water Training Program pursuant to Paragraph 7 (ii) and (iii) (Storm Water Training Program); or (ii) is certified by CPESC, Inc. under the Certified Professional in Erosion and Sediment Control ("CPESC") program, maintains a current CPESC certification.
- gg. Storm Water Training Program – this term includes all of the training required by Paragraph 7 (Storm Water Training Program).
- hh. United States – shall mean the United States of America, acting on behalf of EPA.

## II. COMPLIANCE PROGRAM

1. Compliance. Vico shall comply with all applicable Storm Water Requirements at the Site and shall not violate the prohibition in Section 301(a) of the CWA by discharging pollutants in storm water without an Applicable Permit, or by making prohibited non-storm water discharges, to waters of the United States.

2. Designation of Storm Water Compliance Representatives.

a. Vico shall designate a Site Storm Water Compliance Representative for each Site. The Site Storm Water Compliance Representative shall:

- (i) Be a Vico employee;
- (ii) Be Storm Water Trained;
- (iii) Be authorized by Vico and have the responsibility to supervise all work necessary to meet Storm Water requirements at the Site, including work performed by contractors, sub-contractors and Storm Water Consultants;
- (iv) Be authorized by Vico and have the responsibility to order employees, Contractors, sub-contractors and Storm Water Consultants to take appropriate Responsive Action to comply with Storm Water requirements, including requiring any such person to cease or correct a

violation of Storm Water requirements, and to order or recommend such other actions or sanctions as necessary to meet Storm Water requirements;

(v) Be familiar with and have the authority and responsibility to update the Site's SWPPP;

(vi) Be the point of contact at the Site for regulatory officials, Vico employees, contractors, sub-contractors and Storm Water consultants regarding Storm Water requirements: and

b. Vico shall designate an Executive Storm Water Compliance Representative (who must be Storm Water Trained not later than sixty (60) days after the Date of Entry) for each Site prior to signing the Pre-Construction Inspection and Review Form such as the sample attached as Appendix A for that Site or within thirty (30) days of the Date of Entry. The Executive Storm Water Compliance Representative shall:

(i) Be a management position Vico employee;

(ii) Be Storm Water Trained;

(iii) Be authorized by Vico and have the responsibility to supervise all work necessary to meet Storm Water requirements at the Site, including work performed by contractors, sub-contractors and Storm Water Consultants;

(iv) Be authorized by Vico to order employees, Contractors, sub-contractors and Storm Water consultants to take appropriate Responsive Action to comply with Storm Water Requirements, including requiring any such person to cease or correct a violation of Storm Water Requirements, and to order or recommend such other actions or sanctions as necessary to meet Storm Water Requirements: and

(v) Be familiar with and have the authority to certify and amend the Site's SWPPP.

c. If a Storm Water Compliance Representative must be replaced and Vico replaces him or her within thirty (30) days of the vacancy, the gap in designation shall not be deemed a violation of Paragraph 7.a., b., c. or d. of this Decree. However, the gap in designation shall not excuse non-compliance with any other Storm Water Requirement. During the gap the Executive Storm Water Compliance Representative employee shall fulfill the signature requirements the Storm Water Compliance Representative

d. The Storm Water Compliance Representative may also hire Contractors to install, maintain or repair BMBs. Such Contractors need not be Designees to perform such tasks. Any such use of contractors does not relieve Vico of responsibility for the proper performance of any delegated task or for compliance with Storm Water requirements.

e. Vico shall post the name and contract information for all Site Storm Water Compliance Representatives for a Site at a conspicuous location at the Site, such as at the construction office, at an entrance or exit, in a designated mailbox if the Site does not have a construction office.

f. For purposes of this Paragraph 2, construction activity does not include geotechnical investigations, surveying, environmental testing, plant (vegetation) salvage, or the initial installation of storm water controls that are not sediment basins, provided that none of these activities involves significant soil disturbance.

### 3. Storm Water Plans and Records.

a. Vico shall prepare a site-specific SWPPP for each Site. This Paragraph 3 only applies to Sites at which the Pre-construction Inspection and Review Form is signed after the Date of Entry.

b. All SWPPP and SWPPP amendments shall comply with the terms and conditions of the Applicable Permit and this Decree. Each SWPPP shall:

- (i) Be site specific;
- (ii) Identify the BMPs that will be used for each anticipated major phase of construction;
- (iii) Incorporate the inspection frequency and routine maintenance deadlines under the Applicable Permit; and
- (iv) Include clear, concise descriptions of site-specific BMPs to implement the requirements of the Applicable Permit and to guide those responsible for overseeing implementation of the SWPPP at each stage of construction.

c. Each SWPPP shall contain a statement by the preparer that its development was guided by the requirements of this document and the National SWP Criteria attached hereto.

d. Each SWPPP shall be revised or amended in accordance with the Applicable Permit.

e. All SWPPP and SWPPP amendments shall be certified as required by the Applicable Permit.

f. All Site Storm Water Compliance Representatives shall review the SWPPP, and such review shall not be delegated.

g. The SWPPP and any Records required to be maintained at each Site by the Applicable Permit or Paragraphs 5 (Inspections) and 6 (Maintenance) shall be maintained at the relevant Site construction office if the Site has one. If there is no Construction office, the location of the SWPPP and these Records shall be maintained along with, or adjacent to, the contact information of the Site Storm Water Compliance Representative(s) required by Paragraph 2.e., in the Site mailbox.

4. Pre-Construction Inspection and Review.

a. For Sites where Vico commences construction activity more than thirty (30) days after the Date of Entry, a Storm Water Compliance Representative (who must be Storm Water Trained not later than sixty (60) days after the Date of Entry) shall perform a Pre-Construction Inspection and Review prior to Vico's commencement of construction activity at that Site.

b. For purposes of this Paragraph 4, the commencement of construction activity does not include geotechnical investigations, surveying, environmental testing, plant (vegetation) salvage, or the initial installation of BMPs that are not sediment basins, provided none of these activities involve significant soil disturbance.

c. The Pre-Construction Inspection and Review shall include an inspection of the entire Site and completion of the Pre-Construction Inspection and Review Form such as the sample attached as Appendix A hereto. Prior to the commencement of Vico's construction activity, a Responsive Action shall be completed for each Action Item on the Pre-Construction Inspection and Review Form, identified during the Pre-Construction Inspection and Review.

d. A Storm Water compliance Representative (who must be Storm Water Trained not later than sixty (60) days after the Date of Entry) shall review and sign the Pre-Construction Inspection and Review Form, a task that may not be delegated. The Pre-Construction Inspection and Review Form shall be located as provided by Paragraph 3.g.

5. Inspections:

a. At a minimum, the Site Storm Water Compliance Representative shall inspect each Site at the frequency required by the Applicable Permit.

b. The Site Storm Water Compliance Representative (who must be Storm Water Trained not later than sixty (60) days after the Date of Entry) shall record Site Inspections on the Site Inspection Report form such as the sample attached as Appendix B hereto. If a designee conducts an inspection, the Site Storm Water Compliance Representative shall review and sign the completed Site Inspection Report, a task that may not be delegated. The Site Inspection Report shall be certified in accordance with the terms of the Applicable Permit.

c. The final Site Inspection Report generated prior to the submittal of a NOT shall be clearly labeled as such.

d. The Site Inspection Reports shall be kept with the SWPPP.

6. Maintenance:

a. Vico shall maintain each Site in accordance with Storm Water Requirements.

b. For every Action Item on the Site Inspection Report that is identified during a Site Inspection required by Paragraph 5 (Inspections) or on the Quarterly Compliance Inspection Form that is identified

during a Quarterly Compliance Inspection as required by Paragraph 7 (Site Storm Water Compliance Review and Oversight), the Site Storm Water Compliance Representative or a Contractor whose work is supervised by the Site Storm Water compliance Representative shall record the information required on the applicable forms or in another single, identifiable document or database. The information required includes: a specific reference to the Action Item including the date of the inspection, a brief description of the Responsive Action taken, and the date the Responsive Action was completed. The Site Storm Water Compliance Representative need not (but may) record Responsive Actions completed during the inspection when the Action Item was discovered. The responsive Action Log, Site Inspection Report, or the single identifiable document or date base referenced above shall be kept on Site as per Paragraph 3.g.

**7. Site Storm Water Compliance Review and Oversight.**

a. Vico shall provide for Site oversight and review by following the procedures in the subparagraphs below.

b. At least once during each Quarterly Reporting Period, the Executive Storm Water Compliance Representative shall conduct a Quarterly Compliance Inspection of each Site. The results shall be recorded on a Quarterly Compliance Inspection Form such as the sample attached as Appendix C hereto. The Quarterly Compliance Inspection shall not be conducted by the same person who conducted a Site Inspection under Paragraph 5 (Inspections) (other than a Quarterly Compliance Inspection under this Paragraph 6 that also serves as a Site Inspection under Paragraph 5) at the Site during that Quarterly Reporting Period.

c. No later than seven (7) days after the Quarterly Compliance Inspection, the Executive Storm Water Compliance Representative shall complete a Quarterly Compliance Review. Executive Storm Water Compliance Representative shall review the Quarterly Compliance Review Form with the Site Storm Water Compliance Representative for the Site, who shall sign the Quarterly Compliance Review Form. No task in this subparagraph may be delegated except as provided for elsewhere.

d. The Site Storm Water Compliance Representative shall be responsible for managing the completion of a Responsive Action for each Action Item on the form and identified during the Quarterly Compliance Inspection or Quarterly Compliance Review in the same manner as required under Paragraph 6 (Maintenance).

e. If a Quarterly Compliance Inspection and Review is missed, then the next Quarterly Compliance Review must include the information required by the Review for the missed Quarterly Reporting Period.

**8. Compliance Summary Report:**

a. In December of each year Vico shall prepare a Compliance Summary Report such as the sample report attached as Appendix D hereto.



b. The report shall be certified by the Executive Storm Water Compliance Representative and shall be submitted to the EPA.

9. Storm Water Training Program:

a. Vico shall implement the Storm Water Training Program set forth herein. The Storm Water Training Program shall include: employee storm water training; Storm Water Compliance Representative training; and annual refresher training. Training under this program may be live or provided through electronic media.

(i) Vico shall provide employee storm water training to all Vico employees who, in the field at the Site, primarily and directly supervise (or who primarily and directly assist in the supervision of) construction activity at a Site and who are not otherwise covered herein. Vico employees must complete the employee storm water training no later than thirty (30) days after beginning work at the Site. The employee storm water training program may be the same as the Storm Water Compliance representative training program.

(ii) Vico shall provide Storm Water Compliance representative training to all Storm Water Compliance Representatives and any Designee of such representative, who is a Vico employee. To be certified as Storm Water Trained under this subparagraph, all Storm Water Compliance Representatives and Designees, who are Vico employees, must complete the Storm Water Compliance Representative Training and pass a written, on-line, or computer-based test. All Storm Water Compliance representative and Designees, who are Vico employees, shall be certified as Storm Water Trained no later than sixty (60) days after the Date of Entry, or prior to being a designated Storm Water Compliance representative or Designee at a Site, whichever is later. Storm Water Compliance Representative training that meets the requirements of this consent Decree may be completed prior to the Date of Entry. Employees who have completed Storm Water Compliance Representative training within fifteen (15) months prior to the Date of Entry may be certified in compliance with this subparagraph by passing the test within sixty (60) days after the date of Entry. A certification under this subparagraph shall be valid for up to fifteen (15) months.

(iii) Vico shall provide annual refresher training for Storm Water Compliance Representatives and Vico employee Designees who were previously certified under subparagraph 9.a.(ii) and who continue to work as Storm Water representatives or Designees. Each such person shall complete an annual refresher training, and pass a written test. The renewal certification shall be valid for up to fifteen (15) months.

(iv) Vico shall maintain records of each Storm Water Compliance Representative's and Designee's certification.

b. Every instructor presenting Vico's Storm Water Training Program shall be either: (i) a Storm Water Consultant or (ii) a Storm Water Trained Builder employee.

c. Vico shall evaluate the Storm Water Training Program periodically and determine whether any changes to the Storm Water Training Program are necessary.

**APPENDIX A**

## Pre-Construction Inspection and Review Form

Site name: \_\_\_\_\_ Permittee: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State \_\_\_\_\_

Site Storm Water compliance Representative: \_\_\_\_\_

Division: \_\_\_\_\_ Division Storm Water Rep.: \_\_\_\_\_

Permit Coverage	Yes	No	N/A	Permit No./Identifier	Date of Coverage
1. Federal/State (circle one) permit Application filed and accurate?					
2. County					
3. City					
4. Special district (Other)					
5. If there are multiple storm water plans, including erosion and sediment control plans, for this site, check the plans for consistency.					
<b>Storm Water Plan ("SWP") Information</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Deficiency Identified</b>	<b>Date Fixed</b>
6. If required by the Applicable Permit, is the SWP properly certified?					
7. Has the Site Storm Water Compliance Representative reviewed the SWP?					
8. Does the SWP identify the stages of construction and the storm water controls called for at each stage?					
9. Does the SWP identify the site inspection frequency and routine maintenance deadlines required by the Applicable Permit?					
<b>SITE STATUS</b>	<b>Yes</b>	<b>NO</b>	<b>N/A</b>	<b>Deficiency Identified</b>	<b>Date Fixed</b>
10. Has the Site Storm Water compliance Representative(s) received training?					
11. Are storm water controls called for in the current phase of construction properly located and installed?					
12. As applicable, do the installed storm water controls appear to be working properly and are they appropriate for existing conditions at the Site?					

**A Storm Water Compliance Representative must review and sign this Pre-Construction Inspection and Review Form. Do not sign this form until a responsive action has been completed for each deficiency identified on this form and the completion date of the responsive action noted. Do not commence construction activity until this form has been signed. For purposes of this form, construction activity does not include geotechnical investigations, surveying, environmental testing, plant (vegetation) salvage, or the initial installation of BMPs that are not sediment basins, provided that none of these activities involve significant soil disturbance.**

Name and Title

Signature

Date

**Please note that this form must be kept with the SWPPP.**

**APPENDIX B**

## User Instructions for Site Inspection Report

- This form consists of the Site Inspection Report and Responsive Action Log. These are legal documents.
- Only the Site Storm Water Compliance Representative or his/her Designee, including a Storm Water Consultant, is permitted to undertake the inspection required by this form. If you are not this person, you must contact the Division Storm Water Compliance Representative immediately.
- Each Action Item must have a corresponding Responsive Action. An Action Item is a condition that requires action to be taken to achieve or maintain compliance with the Storm Water Requirements. A Responsive Action is an action taken to address an Action Item or to achieve or maintain compliance with Storm Water Requirements.
- Before proceeding with any inspection, you must first verify that the immediately previous inspection was conducted and the Site Inspection Form completed. You must also determine whether all Responsive Actions identified from the prior inspection, if any, were undertaken within the time period allowed by the Applicable Permit.
- You must restate or carry over to the current Responsive Action Log any Responsive Action not completed since the last inspection regardless of the time period allowed by the Applicable Permit. For each Responsive Action carried forward, you should make a note in the prior Responsive Action Log that the Responsive Action has been carried forward. **Do not leave any blanks in a prior Responsive Action Log.**
- You must answer every question. Check "Yes," "No," or "N/A" for each question as appropriate. A response of "N/A" is only permitted where the designated area under "N/A" is not shaded.

### GENERAL INSTRUCTIONS

- A Copy of each completed Site Inspection Report and Responsive Action Log must be kept with the SWP.
- You must sign and date the completed Site Inspection Form. If you are a Storm Water Consultant or a Designee for the Site Storm Water Compliance Representative and you complete this form, the Site Storm Water Compliance Representative must review and sign the completed form as well.

- At the conclusion of the Site Inspection, file a copy of the Site Inspection Report and Responsive Action Log with the Storm water plan ("SWP").

- You must record the following information on each Site Inspection Report:

- √ Site Name Insert the name that is recorded on the Notice of Intent.
- √ Permittee. Enter the name that appears on the Applicable Permit or the Notice of Intent
- √ Inspection Date. Insert the date on which the inspection is being performed.
- √ Inspector. Enter the name of the person performing the inspections.
- √ Weather conditions. Circle the appropriate description that best describes current weather conditions.
- √ Type of Inspection. Circle the inspection type that represents the purpose of the inspection. Only one inspection type may be circled. A Regular inspection is one conducted according to the regular schedule of inspections for a Site. A Precipitation inspection is one conducted, when required by the Applicable Permit, after a rainfall event as specified in the Applicable Permit. A quarterly Inspection is one conjunction with the quarterly oversight for the Site. A Final Inspection is the last inspection planned prior to filing a Notice of Termination.

- If you check "No" for any question (other than Question C). You must provide a reference number under the "Responsive Action Log Reference #" column for each Action Item identified. Reference numbers have a letter and a number. The first character matches the letter designation of the applicable question. The second character is numerical starting with number 1. Responsive Action reference numbers shall be successive thereafter as to the numerical portion, for example, F-1, F-2, F3.... G-1, G-2, H1. I1, etc.

**INSTRUCTIONS FOR COMPLETING INDIVIDUAL QUESTIONS**

- You must respond to all of the following questions on each and every Site inspection Report.

**A. Is the Storm Water Plan ("SWP") on site or its location posted?** – you must verify that the SWP is either at the construction office if the Site has one, or that the location of the SWP is posted with contact information for the Site Storm Water Compliance Representative.

- B. If required under the Applicable Permit, is the Applicable Permit and /or NOI on Site?** – You must verify that the Applicable Permit and notification letter (if applicable) are on Site if required under the applicable Permit. Maintain a complete copy of the Applicable Permit in the SWP Binder.
- C. Is contact information provided on site and is it correct?** – You must verify that the name and phone number of the Site Storm water Compliance representative are located in a conspicuous place on Site and are correct and legible.
- D. Since the last site inspection, has Vico received notice of a federal, state or local inspection evaluating compliance with the Applicable Permit (i.e., the NPDES or State equivalent storm water permit)?** The notice contemplated by this question is written notice from a federal, state, or local entity regarding a storm water inspection evaluating compliance with the Applicable Permit (Le., the NPDES or State equivalent storm water permit). Local inspections evaluating compliance with local programs (e.g. post-construction stormwater management or locally approved erosion and sediment control) do not require an answer of yes to this question. If, however, Vico has received written notice of a federal, state, or local inspection evaluating compliance with the Applicable Permit, you must record the name of the agency that performed the inspection, the name and position of the person that performed the inspection for the agency, and the date of the inspection. Further, you must include on the Responsive Action Log a description of alleged violations based on the federal, state, or local inspection, whether or not Vico intends to challenge the alleged violations
- E. Was the Site Inspection Report for the last inspection signed by the Site Storm Water Compliance Representative and certified if and as required by the Applicable Permit?** - You must verify that the Site Inspection Report for the prior inspection was signed and, if required under the Applicable Permit, certified by the person undertaking that inspection, whether that person was the Storm Water Consultant Designee or the Site Storm Water Compliance Representative. You must also verify the Site Storm Water Compliance Representative reviewed and signed the form if the Storm Water Consultant Designee conducted the Site Inspection.
- F. Have Action Items from last Site Inspection been addressed? If not, describe why not on Responsive Action Log for this Site Inspection.** -You must verify whether or not all Responsive Actions recorded on the prior Responsive Action Log have been completed. If not, explain on the Responsive Action Log for the current Site Inspection the reasons why these actions have not been accomplished, what actions remain to be taken and whether our response to date satisfies applicable permit requirements. **Do not leave any blanks in a prior Responsive Action Log.**



- **Maintenance** -Assign a separate reference number to each Action Item identified within the following categories and briefly describe the Responsive Action required to address the Action Item.
- G. **Is there an excess of sediment or an excess of other pollutants exiting the Site?** -You must verify that neither an excess of sediment nor an excess of other pollutants is exiting the Site. You should check applicable BMPs such as outfalls, exit/entrance controls, site perimeter controls, receiving water courses and adjacent offsite areas for excessive sediment or other excessive pollutant discharges. You should determine and record the source of the excessive sediment or other pollutants. If an off-site property is discharging sediment or other pollutants onto the Site, record that information and whether the off-site source is contributing to the excessive discharge from the Site.
- H. **Are off-Site roads/gutters free of excessive sediment from the Site?** – You must verify that the roads adjacent to the Site are free of excessive sediment. You should determine and record the source of the excessive sediment. If any off-site property is contributing to or causing the excessive sediment in the off-Site roads or gutters, record that information.
- I. **Are exit/entrance controls properly located and in working condition, with no repairs necessary?** – You must verify that exit/entrance controls are properly located, in working condition, and no repairs necessary. You should check that exit/entrance controls, such as stone pads, rumble grates, and the like, for the construction entrances and other access points are in place and are maintained pursuant to the SWP.
- J. **Are exposed areas stabilized as required?** – You must verify that exposed areas are stabilized as required. Exposed areas are any areas that have been disturbed or have otherwise lost natural cover. You should check that areas where construction activity has ceased or has been temporarily suspended are stabilized in accordance with the SWP.
- K. **Are stockpiles located and stabilized as required?** – You must verify that stockpiles located and stabilized as required. You should check that stockpiles are located in areas where they may minimize the potential for discharging excessive sediment from the Site or onto any road or gutter and that they have been stabilized in accordance with the SWP.
- L. **Are other BMPs properly located, in working condition, and no repairs necessary?** – You must verify that BMPs are properly located and in working condition and that no repairs are necessary. You should check that BMPs (including by way of illustration, linear barriers, soil stabilization techniques, sediment ponds/traps and inlet protection) are properly placed, appear to be working, and are maintained in accordance with the SWP.

- M. **Are washouts properly located, in working condition, and no repairs necessary?** – You must verify that concrete, paint, and other washouts are properly placed, appear to be working, and are maintained in accordance with the SWP.
- N. **Are Hazardous materials managed as required?** – You must verify that hazardous materials are managed as required. You should check that storage and containment areas and controls and that management of hazardous materials (including leaks and spills) are implemented in accordance with the SWP.
- O. **Are trash, construction debris, and other solid wastes managed as required?** – You must verify that trash, construction debris, and other solid wastes are managed as required. You should check that controls for the collection and storage of trash, construction debris and other solid wastes are properly placed, appear to be effective, and are maintained in accordance with the SWP.
- P. **Are portable toilets provided and properly located?** – You must verify that portable toilets are provided and properly located. You should check that portable toilets are located off roads and away from gutters and inlets and are properly anchored and maintained.
- Q. **Are the Site Storm Water BMPs and the SWP consistent with each other?** – You must verify that Site BMPs and the SWP are consistent with each other. You should check that the BMPs shown on the SWP for the current stage of construction exist on Site and that the BMPs that exist on Site are shown on the SWP. In particular, you must make sure that any map or figure within the SWP is consistent with what has been installed on the ground. Even if we have installed additional BMPs not originally called for in the SWP, the additional BMPs must be shown on the map.

#### **INSTRUCTIONS FOR COMPLETING THE RESPONSIVE ACTION LOG**

- You must record each reference number from the first page under “Responsive Action Log Reference #” on the Responsive Action Log in the first column under “Responsive Action Log Reference #.” Each reference number must be listed on a separate line.
- For each recorded reference number, you must identify in the “Responsive Action” column the Responsive Action taken or to be taken.
- If a condition relates to a BMP, you must identify the applicable BMP by type and location and state the action necessary to achieve or maintain compliance with the SWP. If a condition relates to anything other than a BMP, you must briefly describe the condition that requires action and the action necessary to achieve or maintain compliance with the SWP.
- You must record the date the Action Item was first identified in the “Date to Noted” column.
- The date recorded for a Responsive Action under the “Date Noted” column will not change, even if the Responsive Action is carried over to subsequent Responsive Logs. When a Responsive Action is restated or carried over to a new Responsive

Action Log, you must restate or carry over the date of the Responsive Action as identified on the first Responsive Action Log on which the Responsive Action appeared.

- The Site Storm Water Compliance representative or the Storm Water Consultant Designee is responsible for recording and initialing the date each Responsive Action is completed. If the Site Storm Water Compliance representative or the Storm Water consultant Designee actually performed the Responsive Action, he or she should date and initial the Responsive Action Log the same day as the Responsive Action is completed. If a contractor performs the Responsive Action, the site Storm Water Compliance Representative or the Storm Water consultant Designee must confirm that the Responsive Action has been completed and record the date the Responsive Action was completed by the Contractor.

### Site Inspection Report

Site Name: \_\_\_\_\_ Permittee: \_\_\_\_\_

Division: \_\_\_\_\_ Inspection date: \_\_\_\_\_ Inspector: \_\_\_\_\_

Weather Conditions (Circle one):    Dry                      Rain                      Snow                      Icy

Inspections type (Circle one):        Regular                  Precipitation        Quarterly                  Final

<b>General</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>Responsive Action Log Reference #</b>
A. Is the Storm Water Plan ("SWP") on Site or its location posted?				
B. If required under the Applicable Permit, is the Applicable Permit and/or NOI on Site?				
C. Is contract information provided on Site and is it correct?				
D. Since the last site inspection, has Vico received notice of a federal or state inspection evaluating compliance with the Applicable Permit?				
E. Was the Site Inspection Report for the last inspection signed by the Site Storm Water Compliance representative and certified if and as required by the Applicable Permit?				
F. Have Action items from last Site Inspection been addressed? If not, describe why not on responsive Action Log for this Site inspections.				
<b>Maintenance</b>	<b>YES</b>	<b>NO</b>	<b>N/A</b>	<b>Responsive Action Log Reference #</b>
G. Is there an excess of sediment or an excess of other pollutants exiting the Site?				
H. Are off-Site roads/gutters free of excessive sediment from the Site?				
I. Are exit/entrance controls properly located and in working condition, with no repairs necessary?				
J. Are exposed areas stabilized as required?				







**APPENDIX C**

**Quarterly Compliance Inspection**

Site Name: \_\_\_\_\_ Permittee: \_\_\_\_\_

Division: \_\_\_\_\_ Inspection date: \_\_\_\_\_ Inspector: \_\_\_\_\_

Weather conditions (Circle one):      Dry                      Rain                      Snow                      Icy

Inspection type (circle one):              Regular                      Precipitation                      Quarterly Final

**Please note that this form must be kept on-site with the Storm Water Plan ("SWP").**

<b>General</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Responsive Action Log Reference #</b>
A.	Is the Storm Water Plan ("SWP") on Site or its location posted?				
B.	If required under the Applicable Permit is the Applicable Permit and /or not on Site?				
C.	Is contact information provided on Site and is it correct?				
D.	Since the last site inspection, has Vico received notice of a federal or state inspection evaluating compliance with the Applicable Permit?				
E.	Was the Site inspection Report for the last inspection signed by the Site Storm Water Compliance Representative and certified if and as required by the Applicable Permit?				
F.	Have Action items from last Site inspection been addressed? If not, describe why not on Responsive Action Log for this Site inspection.				
<b>MAINTENANCE</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Responsive Action Log Reference #</b>
G.	Is there an excess of sediment or an excess of other pollutants exiting the site?				
H.	Are off-Site roads/gutters free of excessive sediment from the site?				
I.	Are exit/entrance controls properly located and in working condition, with no repairs necessary?				
J.	Are exposed areas stabilized as required?				
K.	Are stockpiles located and stabilized as required?				
L.	Are other DMPs properly located, in working condition, and no repairs necessary?				
M.	Are washouts properly located, in working condition, and no repairs necessary?				
N.	Are hazardous materials managed as required?				
O.	Are trash, construction debris, and other solid wastes managed as required?				
P.	Are portable toilets provided and properly located?				
Q.	Are the Site Storm Water BMPs and the SWP consistent with each other?				

\_\_\_\_\_  
 Name and Title of inspector                      Signature of Inspector                      Date

**{INSERT CERTIFICATION IF AND AS REQUIRED BY THE APPLICABLE PERMIT}**

\_\_\_\_\_  
 Name and Title of Certifying Party                      Signature                      Date



### RESPONSIVE ACTION LOG

Site Name: \_\_\_\_\_ Inspection date: \_\_\_\_\_

Permittee: \_\_\_\_\_ Division: \_\_\_\_\_

Responsive Action Log Reference #		Responsive Action	Date Noted	Date Responsive Action Completed	Initials

**Please note that this form must be kept with the SWPPP.**

Quarterly Compliance Review for (\_\_\_\_\_/20\_\_ to \_\_\_\_/20\_\_)

Site Name: \_\_\_\_\_

Date of Review: \_\_\_\_\_

Site Inspected By: \_\_\_\_\_

Executive Storm Water  
Compliance Representative(s): \_\_\_\_\_

If the Executive Storm Water Compliance Representative conducts the Quarterly Compliance Inspection:

- The Division Storm Water Compliance Representative must complete boxes 1 and 2 for each of the topics listed below.

If a Designee (e.g. a storm water consultant) conducts the Quarterly Compliance Inspection:

- The Designee must complete boxes 1 and 2 for each of the topics listed below and
- The Executive Storm Water Compliance Representative must complete box 3 for each of the topics listed below.

Upon completion of the Quarterly Compliance Inspection, each of the following topics should be reviewed with all of the Site Storm Water Compliance Representatives. When the review is completed, the Executive and all of the Site Storm water Compliance Representatives must sign the form in the space provide below.

**A. Physical Condition of the Site and BMP's**

1. Are there compliance issues related to the physical conditions of the Site or BMPs?  
(Circle one) Y or N If "yes" what are the issues? What are the causes?
  
2. If "yes" is circled in question 1, recommended actions to address these issues include:
  
3. If "yes" is circled in question 1 and the Quarterly Compliance Inspection was conducted by a Designee, does the Executive Storm Water Compliance Representative have additional recommendations?  
Y or N If "yes", list recommendations.

**B. Adequacy of the Site Storm Water Plan and Recordkeeping Procedures**

1. Are there inadequacies in the Storm Water Plan or the recordkeeping procedures? (Circle One) Y or N  
If "yes", describe any inadequacies.
  
2. If "yes" is circled in question 1, recommended actions to address these issues include:
  
  
  
  
  
  
  
  
  
  
3. If "yes" is circled in question 1 and the Quarterly Compliance Inspection was conducted by a Designee. Does the Executive Storm Water Compliance Representative have additional recommendations?  
Y or N If "yes" list recommendations:

**C. Contractor Compliance with Storm Water Requirements**

1. Are there any storm water compliance issues being caused by contractors or subcontractors?  
(Circle one) Y or N If "yes" what are the issues? What are the causes?
  
  
  
  
  
  
  
  
  
  
2. If "yes" is circled in question 1, recommended actions to address these issues include:
  
  
  
  
  
  
  
  
  
  
3. If "yes" is circled in question 1 and the Quarterly Compliance Inspection was conducted by a Designee. Does the Executive Storm Water Compliance Representative have additional recommendations?  
(Circle one) Y or N If "yes" list recommendations:

**D. Number of Responsive Actions not Performed in the Time and Manner Required by the Applicable Permit**

1. Are there compliance issues with the number of Responsive Actions not performed in the time and manner required by the Applicable Permit? (circle one) Y or N If yes, what are the issues? What are the causes?
  
2. If "yes" is circled in question 1, recommended actions to address these issues include:
  
  
  
  
  
  
  
  
  
  
3. If "yes" is circled in question 1 and the Quarterly Compliance inspection was conducted by a Designee. Does the Executive Storm Water Compliance Representative have additional recommendations? Y or N If "yes" list recommendations:

**E. Recurring Compliance Issues at the Site**

1. Are these recurring compliance issues at the Site? (Circle one) Y or N If yes, what are the issues? What are the causes?
  
  
  
  
  
  
  
  
  
  
2. If "yes" is circled in question 1, recommended actions to address these issues include:
  
  
  
  
  
  
  
  
  
  
3. If "yes" is circled in question 1 and the Quarterly Compliance Inspection was conducted by a Designee. Does the Executive Storm Water compliance Representative have additional recommendations? Y or N If "yes" list recommendations:

Quarterly Compliance Review Summary for ( \_\_\_\_\_/20\_\_\_\_\_ to \_\_\_\_\_/20\_\_\_\_\_ )

1. Was there a failure to obtain coverage for this Site under an Applicable Permit prior to commencement of construction? If yes, how many days of discharge of pollutants from the Site to a water of the US occurred during the quarter covered by this Quarterly Compliance inspection and review and prior to obtaining coverage under an Applicable Permit?

Yes            No            N/A            if yes, total number of days during quarter: \_\_\_\_\_

2. If this is the first Quarterly compliance Inspection and Review conducted for the Site, was there a failure to perform or material failure to document the Pre-Construction Inspection and Review?

Yes            No            N/A

3. Was the Site Storm Water Compliance Representative trained in accordance with Vico's Storm Water training program at the time of this Quarterly compliance Inspection and Review?

Yes            No

4. Site Inspections:

Total Number of all Site inspections required during the quarter \_\_\_\_\_

Total Number of missed or undocumented Site inspections: \_\_\_\_\_

Percentage Compliance: \_\_\_\_\_

Total number of times a SWP was not available (or its location posted) during a Site inspection: \_\_\_\_\_

Percentage Compliance: \_\_\_\_\_

5. Responsive Actions:

Total number of Responsive Actions identified during quarter: \_\_\_\_\_

Total number of Responsive Actions not addressed within the time allowed by the Applicable Permit. \_\_\_\_\_

Percentage Compliance: \_\_\_\_\_

The Executive Storm Water Compliance Representative must review Compliance Review Form with the Site Storm Water Compliance Representative(s), all of whom must sign the Quarterly Compliance Review Form.

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Name:	Signature	Date
Executive Storm Water Compliance Representative		

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Name:	Signature	Date
Site Storm Water Compliance Representative		

**APPENDIX D**

**ANNUAL COMPLIANCE SUMMARY REPORT**

**I. Overview**

[PROVIDE A BRIEF AND GENERAL DISCUSSION OF THE DATA PRESENTED IN THIS REPORT.]

**II. Information for Categories of Self-Reported Stipulated Penalties**

\_\_\_\_\_ Number of days of discharge of pollutants from a Site to a water of the United States prior to obtaining coverage under an Applicable Permit.

<b>NAME of Site</b>	<b>State</b>	<b>#of days</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_ Number of failures to perform or, if performed, a material failure to document a required Pre-Construction inspection and Review.

\_\_\_\_\_ Total number of required Site Inspections

\_\_\_\_\_ Percentage failure to perform or, if performed, a material failure to document a required Site inspection.

\_\_\_\_\_ Total number of required Quarterly Compliance Inspections and Quarterly Compliance Reviews.

\_\_\_\_\_ Percentage failure to perform or, if performed, a material failure to document a required Quarterly Compliance Inspection or Review.

\_\_\_\_\_ Number of Company Wide compliance Summary Reports prepared 1-7 days after deadline.

\_\_\_\_\_ Number of Company Wide Compliance Summary Reports prepared 8-30 days after deadline.

\_\_\_\_\_ Number of Company Wide Compliance Summary Reports prepared 31-90 days after deadline.

\_\_\_\_\_ Number of failures to have a Storm Water Trained Site Storm Water Compliance Representative at the time of a Quarterly Compliance Inspection and Review.





## CERTIFICATE OF SERVICE

I hereby certify that on this day, I caused to be filed with the **Regional Hearing Clerk**, EPA Region III, the original Administrative Order for Compliance on Consent, and that copies of this document were sent to the following individuals in the manner described below:

By first class mail:

Vico Construction Corporation  
4001 S. Military Highway  
Chesapeake, VA 23323-2905

And by pouch mail to:

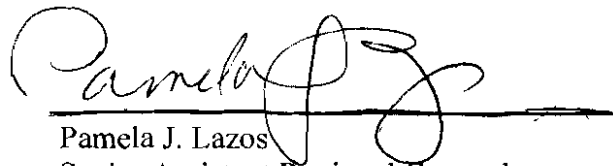
Spencer T. Nissen  
Administrative Law Judge  
U.S. EPA  
Office of the Administrative Law Judges  
1200 Pennsylvania Avenue, N.W. Mail Code 1900L  
Washington, D.C. 20460

Copy Electronically and by regular mail to:

Marina Liacouras Phillips, Esq.  
Kaufman and Canoles, P.C.  
150 West Main St.  
Suite 2100  
Norfolk, VA 23510

Date:

1/30/12



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