



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
FOUR PENN CENTER – 1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PENNSYLVANIA 19103

BY OVERNIGHT MAIL

Mr. Dustin Fisher, Secretary and
Mr. Charles Mull, Corporate Environmental Manager
Kokosing Construction Company
17531 Waterford Road
Fredericktown, OH 43019
dfisher@kokosing.biz; CJM2@kokosing.biz

**Re: Administrative Order for Compliance
National Pollutant Discharge Elimination System (“NPDES”) Program
Corridor H Highway Project
H1 Site - Kerens to Parsons, WV and H2 Site - US219 to WV72
Docket No. CWA-03-2022-0084DN**

Dear Mr. Fisher and Mr. Mull:

On March 23, 2022, the U.S. Environmental Protection Agency, Region III (“EPA”) conducted a storm water compliance inspection of the Corridor H Project, at the H1 Site and H2 Site (collectively, “Sites”), in Randolph and Tucker Counties, West Virginia. The purpose of the inspection was to evaluate the Permittee’s compliance with applicable storm water requirements, including the conditions of the General Pollution Control Permit, No. WV 0115924 and the site-specific permits issued for the H1 Site (Permit No. WVR108594) and the H2 Site (Permit No. WVR110572), pursuant to section 402 of the Clean Water Act (“CWA”), 33 U.S.C. § 1342. An inspection report was generated after the inspection and is enclosed with this letter.

The inspection revealed instances in which Kokosing Construction Company (“Kokosing”), as Permittee, appeared not to have complied with the Permit’s requirements. EPA has authority under Section 309 of the CWA, 33 U.S.C. § 1319, to take enforcement actions, including seeking civil penalties, when violations of the Permit are identified. Further, multiple Notices of Violation have been issued to Kokosing by the West Virginia Department of Environmental Protection for noncompliance during the years 2021 and 2022 at the H1 and H2 sites. In response to the noncompliance identified, EPA believes it appropriate to issue the enclosed Administrative Order (“Order”) in order to reaffirm Kokosing's commitment to future compliance at the H1 and H2 sites. If Kokosing intends to comply with this Order, it must, within **fourteen (14) days** of receipt of this letter and Order, correct all deficiencies listed in the Order, and provide proof of documentation of corrections. If Kokosing would like to discuss the terms of the Order, please respond within five (5) days to request a virtual conference.

EPA encourages prompt compliance and is committed to settling this matter fairly and expeditiously. In addition, during the inspection, an EPA wetlands inspector with expertise in Section 404 of Clean Water Act, 33 U.S.C. § 1344, observed that approximately 250 - 300 linear feet of stream channel

(designated as UNTFR02-INT) had been filled with dirt and rock that had been discharged during earth-moving activities into the aquatic resources that was outside of the permitted boundary of the construction site. The extent and depth of the fill material discharged into UNTFR02-INT filled the natural stream channel bed and disturbed the in-stream habitat. The inspection observations for UNTFR02-INT are provided in the attached memorandum.

If you have any questions or comments, such as how to document corrective actions, please contact Chuck Schadel at schadel.chuck@epa.gov or 215-814-5761. If the Kokosing is represented by an attorney in this matter who has questions, please ask the attorney to contact Natalie Katz at katz.natalie@epa.gov or 215-814-2615.

Sincerely,

Karen Melvin, Director
Enforcement and Compliance Assurance Division

Enclosures:

Inspection Report
Administrative Order
Memorandum: Description and Observations of Unnamed Tributary to Fools Run

cc:

Chuck Schadel, EPA, (schadel.chuck@epa.gov)
Katelyn Almeter, EPA (almeter.katelyn@epa.gov)
Natalie Katz, EPA (katz.natalie@epa.gov)
Brad Wright, WVDEP, (brad.m.wright@wv.gov)
Susan Porter, USACE (Susan.A.Porter@usace.army.mil)