



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

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Secretary of Natural and Historic Resources

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Director

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT ACTION - ORDER by CONSENT

ISSUED to

Manhattan Construction Company LLC

FOR

ANC Southern Expansion Phase II Operations Complex

VPDES PERMIT No. VAR10

REGISTRATION No. VAR10S884

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, 62.1-44.15:48, and 62.1-44.32 for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms used in this Consent Order have the meanings assigned to them in Va. Code § 62.1-44.2 *et seq.*, § 62.1-44.15:24 *et seq.*, § 10.1-1182 *et seq.*, 9VAC25-880-1 *et seq.*, and 9VAC25-875-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

Responsible Party	Manhattan Construction Company LLC		Permit Coverage Issuance Date	March 18, 2025	
Site Address	Street Address/Coordinates		Intersection of Columbia Pike & S Joyce St		
	City/County	Arlington	VA	Zip Code	22204
Inspection Date(s)	4/16/25; 5/13/25; 6/6/25; 6/18/25; 7/2/25; 7/15/25		Receiving Water Information	Pimmit Run & Potomac River	
Warning Letter(s) and Notice(s) of Violation		NOV No. SW2025-05-NRO-003 issued on May 29, 2025			
The General Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater From Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, (Permit) was re-issued under the State Water Control Law and Regulations, 9 VAC 25-880-1, <i>et seq.</i> , on July 1, 2024 and expires June 30, 2029.					
The Responsible Party is a “person” within the meaning of Va. Code § 62.1-44.3.					

Responsible Party has obtained Permit coverage, which allows the Responsible Party to discharge stormwater associated with construction activities from the Site to the receiving water in strict compliance with the terms and conditions of the Permit.

Va. Code § 62.1-44.5 states: Except in compliance with a certificate issued by the [Department], it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances or discharge stormwater into state waters from land disturbing activities.

The Regulation, at 9 VAC 25-880-70, also states that except in compliance with a VPDES permit, or another permit issued by the [Department], it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.

Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.

The receiving water is a surface water located wholly or partially within the Commonwealth and is a “state water” under State Water Control Law.

Violation	Observations and Legal Requirements ¹	Civil Charge	Subtotal
	1. Land-disturbing activities greater than one acre or part of a common plan of development or sale that will disturb one or more acres have occurred at the Site in an area subject to stormwater runoff. Responsible Party (RP) has not obtained coverage under the Permit and no other certificate, agreement in lieu, or permit was issued for the discharge of stormwater from construction activities at the Site. Va. Code §62.1-44.15:34; Va. Code §62.1-44.5(A)	Blank # of Occurrences	\$ 0
✓	2. Unpermitted discharge to state waters or discharge to state waters not in compliance with a permit. Va. Code §62.1-44.5(A); 9 VAC 25-875-870(A)	Marginal # of Occurrences	\$ 2,646
✓	3. The Responsible Party failed to report or timely report unpermitted discharge to state waters. Va. Code §62.1-44.5(B); 9 VAC 25-875-870(B)	Marginal # of Occurrences	\$ 2,600
	4. The Responsible Party failed to develop a Stormwater Pollution Prevention Plan (SWPPP). Permit Part II(A) and (B); 9VAC25-875-500	Blank # of Occurrences	\$ 0
	5. The Responsible Party’s SWPPP or SWPPP component was not available: <input type="checkbox"/> On-site for use by those having responsibilities under the SWPPP. Permit Part II(E)(1) <input type="checkbox"/> To the Department upon the request of DEQ staff and/or if an on-site location was unavailable to store the SWPPP when no personnel were present, notice of the SWPPP’s location was not posted near the main entrance. Permit Part II(E)(2); 9 VAC 25-875-500(A) and (G)	Blank # of Occurrences	\$ 0

¹ Chapters 758 and 68 of the 2016 Acts of Assembly combined the Stormwater Management Act and Erosion and Sediment Control Law to create the Virginia Erosion and Stormwater Management Act and the regulations were combined into the Virginia Erosion and Stormwater Management Regulations. Prior to July 1, 2024, the regulatory citations were located at 9VAC25-870-10 et seq. and 9VAC25-840-10 et seq.

Violation	Observations and Legal Requirements	Civil Charge		Subtotal
	<p>6. The Responsible Party's SWPPP was incomplete.</p> <p><input type="checkbox"/> No approved stormwater management plan 9 VAC 25-875-500(A) and (C); Permit Part II(B)(3)</p> <p><input type="checkbox"/> No pollution prevention plan and/or plan not complete 9 VAC 25-875-500(A) and (D); 9 VAC 25-875-520; Permit Part II(B)(4)</p> <p><input type="checkbox"/> Construction support activity not included Permit Part II(A)</p> <p><input type="checkbox"/> Missing Component(s) required by Permit Part II(B)</p> <p><input type="checkbox"/> Missing Component(s) required by Permit part II(C)</p> <p><input type="checkbox"/> Missing Component(s) required by Permit Part II(F)</p>	Blank	# of Occurrences	\$ 0
✓	<p>7. Responsible Party failed to properly install and/or maintain control measures.</p> <p><input checked="" type="checkbox"/> Failure to design and implement an erosion and sediment control plan consistent with the requirements of the erosion and sediment control minimum standards. 9 VAC 25-875-500(B); 9VAC25-875-550(A); Permit Part II.B.2.c.9; 9VAC 25-875-560:</p> <p><input type="checkbox"/> N/A <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> 6 <input checked="" type="checkbox"/> 7</p> <p><input checked="" type="checkbox"/> 8 <input type="checkbox"/> 9 <input checked="" type="checkbox"/> 10 <input checked="" type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15</p> <p><input type="checkbox"/> 16 <input checked="" type="checkbox"/> 17 <input type="checkbox"/> 18 <input checked="" type="checkbox"/> 19 a__</p> <p><input checked="" type="checkbox"/> Failure to maintain all control measures in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. Permit Part II(F)(1),; 9VAC25-875-300(G)</p>	Moderate	# of Occurrences	4 \$ 10,584
	<p>8. Inspections and/or inspection reports were not completed in accordance with Permit requirements.</p> <p><input type="checkbox"/> Inspections were not conducted by an individual identified as the qualified personnel by the operator in the SWPPP. Permit Part II(G)(1)</p> <p><input type="checkbox"/> Inspections required by the SWPPP were not conducted at the required frequency, including a modified frequency for impaired water(s), approved TMDL(s), and exceptional waters when applicable. Permit Part II(G)(2) and Part II(B)(5)(b)(3)</p> <p><input type="checkbox"/> Inspection reports were not completed and signed in accordance with the Permit. Permit Part II(G)(3-6)</p>	Blank	# of Occurrences	\$ 0

Violation	Observations and Legal Requirements	Civil Charge		Subtotal
	<p>9. Responsible Party failed to comply with record and/or reporting requirements:</p> <p><input type="checkbox"/> Information for public access to the SWPPP was not posted near the main entrance of the construction activity or, for linear projects, at a publicly accessible location near an active part of the project. Permit Part II(E)(3)</p> <p><input type="checkbox"/> A copy of the notice of coverage letter was not posted near the main entrance of the construction activity or, for linear projects, at a publicly accessible location near an active part of the project. Permit Part II(D)</p>	Blank		\$ 0
		# of Occurrences		
✓	<p>10. Responsible Party failed to comply with SWPPP and/or plan requirements and/or other requirements.</p> <p><input checked="" type="checkbox"/> Corrective actions identified as a result of an inspection were not implemented as soon as practicable but no later than five business days after discovery or longer period as approved by the VESMP authority. Permit Part II(F) and/or Permit Part II(H)</p> <p><input checked="" type="checkbox"/> Failure to take actions required by the Permit when the operator must make the same repairs more than two times to the same control at the same location. Permit Part II(F)</p> <p><input checked="" type="checkbox"/> Sequencing of the project was not implemented in accordance with the approved erosion and sediment control plan and/or stormwater management plan. 9 VAC 25-875-500(B) and (C)</p> <p><input type="checkbox"/> Failure to properly select, install, implement and/or maintain control measures at each dewatering location prior to discharging into a stormwater conveyance system or surface water Permit Part II(B)</p> <p><input type="checkbox"/> Failure to immediately cease the construction dewatering discharge at the location that exceeds the turbidity benchmark or where visual monitoring indicates a change in the characterization of the effluent discharge and/or determine whether construction dewatering controls are operative effectively or need routine maintenance or alternative control measures and/or make any necessary adjustments, additions, repairs, or replacements to the controls. Permit Part II(H)(2)</p>	Moderate		\$ 10,584
		# of Occurrences	8	

Violation	Observations and Legal Requirements	Civil Charge	Subtotal
	11. The Responsible Party does not have an approved an erosion and sediment control plan or agreement in lieu of a plan for the Site. Va. Code §62.1-44.15.55; 9 VAC 25-875-500(A) and (B)	Blank # of Occurrences	\$ 0
	12. Permanent control measures included in the SWPPP and/or stormwater management plan were not installed and/or functioning effectively. 9 VAC 25-875-500(C)	Blank # of Occurrences	\$ 0
	13. The Responsible Party failed to comply with pollution prevention requirements. Permit Part II(B)(4)(e).	Blank # of Occurrences	\$ 0
Violation Component Civil Charge Subtotal		\$ 26,414	
Aggravating Factors			
	Additional Civil Charge Assessment	Subtotal	
Degree of Culpability	Moderate	\$ 6,603.50	
Consent Order in another media program within 36 months	No	\$ 0.00	
Consent Order in the same media program within 36 months	No	\$ 0.00	
Aggravating Factors Subtotal		\$ 6,603.50	
Civil Charge Subtotal and Aggravating Factor Subtotal		\$ 33,017.50	
Cooperativeness and Quick Settlement	-0.30	-\$ 9,905.25	
Economic Benefit of Noncompliance	No		
In accordance with 62.1-44.15(8e), the Responsible Party's Ability to Pay was evaluated and it was determined that there is an ability to pay.	Yes		
Total Civil Charge		\$ 23,112.25	
Based on the results of staff observations and discussions with the Responsible Party, the Department concludes that the Responsible Party has violated the Va. Code, Regulations and/or Permit as identified herein.			

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, 62.1-44.15:25, 62.1-44.15:48, and 62.1-44.32, the Department orders the Responsible Party, and the Responsible Party agrees to:

☒ Perform the actions described in Appendix A of this Consent Order if this box is checked

Pay the total civil charge of \$ 23,112.25 in settlement of the violations cited in this Consent Order in accordance with the following:

☒ Within 30 days of the effective date of the Consent Order, or

☐

In accordance with the following payment schedule:

Due Date	Amount

If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Consent Order, and the Department may demand in writing full payment by the Permittee. Within 15 days of receipt of such letter, Permittee shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Consent Order.

Payment shall be made by either credit card at www.deq.virginia.gov, or check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, VA 23218

The Responsible Party shall include its Federal Employer Identification Number (FEIN), if applicable, with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Consent Order for deposit into the Virginia Stormwater Local Assistance Fund. If the Department has to refer collection of moneys due under this Consent Order to the Department of Law, Responsible Party shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Consent Order with the consent of the Responsible Party for good cause shown by the Responsible Party, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Consent Order addresses and resolves only those violations specifically identified in Section C of this Consent Order. This Consent Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Consent Order.
3. For purposes of this Consent Order and subsequent actions with respect to this Consent Order only, the Responsible Party admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Consent Order.
4. The Responsible Party consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Consent Order.
5. The Responsible Party declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing

herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Consent Order.

6. Failure by the Responsible Party to comply with any of the terms of this Consent Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Consent Order is found to be unenforceable for any reason, the remainder of the Consent Order shall remain in full force and effect.
8. The Responsible Party shall be responsible for failure to comply with any of the terms and conditions of this Consent Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. The Responsible Party shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Responsible Party shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Consent Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Consent Order.

9. This Consent Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Consent Order shall become effective upon execution by both the Director or his designee and the Responsible Party. Nevertheless, the Responsible Party agrees to be bound by any compliance date which precedes the effective date of this Consent Order.
11. This Consent Order shall continue in effect until:
 - a. The Director or his designee terminates the Consent Order after the Responsible Party has completed all of the requirements of the Consent Order;
 - b. The Responsible Party petitions the Director or his designee to terminate the Consent Order after it has completed all of the requirements of the Consent Order and the Director or his designee approves the termination of the Consent Order; or
 - c. The Director or Department terminates the Consent Order in his or its sole discretion upon 30 days' written notice to Responsible Party.

Termination of this Consent Order, or any obligation imposed in this Consent Order, shall not operate to relieve the Responsible Party from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the Responsible Party and approved by the Department pursuant to this Consent Order are incorporated into this Consent Order. Any non-compliance with such approved documents shall be considered a violation of this Consent Order.
13. The undersigned representative of the Responsible Party certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind the Responsible Party to this document. Any documents to be submitted pursuant to this Consent Order shall also be submitted by a responsible official of Responsible Party.
14. This Consent Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Consent Order.
15. By its signature below, the Responsible Party voluntarily agrees to the issuance of this Consent Order.

And it is so ORDERED.

DEQ Signee Signature

Date

DEQ Signee Name

Title

I hereby certify that I am the Responsible Party or duly appointed representative/officer of the Responsible Party.

Digitally signed by Brian Killion
DN: C=US,
E=bkillion@manhattanconstruction.com,
O=Manhattan Construction Company,
CN=Brian Killion
Date: 2025.08.27 07:44:16-0400

Responsible Party Signee Signature

08-27-2025

Date

Brian Killion

Responsible Party Signee Name

Vice President of Operations

Title

**APPENDIX A
SCHEDULE OF COMPLIANCE**

The Responsible Party shall take the following actions:

Corrective Actions to be Performed	Due Date
Complete installation of Sediment Basin No. 5 per the approved plans.	30 days after approval of Plans
Ensure that all storm sewer inlets on the West Parcel are installed per the approved plans and provide necessary structures to ensure that flow is directed into these structures.	1/31/2026
Provide to DEQ maps of current field conditions, to include flow and drainage for all areas under active or inactive construction.	30 days after execution
Any areas where temporary stabilization is not successful on the West Parcel shall be reapplied if 75% cover is not reached.	9/30/2025
Ensure that the stormwater conveyance channels on either side of the former Air Force Memorial Drive are discharged into an adequate receiving channel, pipe, or storm sewer system.	30 days after execution

DEQ Contact

Unless otherwise specified in this Consent Order, the Responsible Party shall submit all requirements of Appendix A of this Order to:

Department of Environmental Quality - Northern Regional Office
Attn: Enforcement
13901 Crown Court
Woodbridge, VA 22193