

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

In the Matter of:	:	Proceeding to Assess Class II
	:	Administrative Penalty Under
	:	Section 309(g) of the Clean Water Act
	:	
Vico Construction Corporation	:	Docket No. CWA-03-2018-0152
4001 South Military Highway	:	
Chesapeake, VA 23321	:	
Respondent	:	CONSENT AGREEMENT AND
	:	FINAL ORDER
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CONSENT AGREEMENT

I. STATUTORY AND REGULATORY AUTHORITY

1. Pursuant to Section 309(g) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(g), the Administrator of the United States Environmental Protection Agency (“EPA”) is authorized to assess administrative penalties against persons who violate Section 301(a) of the Act, *id.* § 1311(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region III, who in turn has delegated this authority to the Director, Water Protection Division (“Complainant”).

2. This Consent Agreement is entered into by the Complainant and Vico Construction Corporation (“Respondent” or “Vico”), pursuant to Section 309(g) of the CWA and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.

3. The Consolidated Rules, at 40 C.F.R. § 22.13(b) provide in pertinent part that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). Pursuant thereto, this Consent Agreement and Final Order (“CAFO”) simultaneously commence and conclude this administrative proceeding against Respondent.

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4. Section 309(g)(2)(B) of the Clean Water Act, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of administrative penalties against any person who violates any NPDES permit condition or limitation in an amount not to exceed \$10,000 per day for each day of violation, up to a total penalty amount of \$125,000.

5. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), any person who has violated any NPDES permit condition or limitation for violations that occurred between Dec. 6, 2013 and July 1, 2016 will be assessed at a penalty rate of \$16,000 per each day of violation up to a total penalty amount of \$187,500. Assessments made on or after August 1, 2016 will result in an administrative penalty of \$20,628 per each day of violation up to a total penalty amount of \$257,848.

6. Pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order. In addition, pursuant to Section 309(g)(1)(A), EPA has consulted with the Virginia Department of Environmental Quality (“VADEQ”) regarding this action, and will mail a copy of this document to the appropriate VADEQ official.

7. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System (“NPDES”) program under Section 402 of the Act, 33 U.S.C. § 1342.

8. Federal regulations promulgated pursuant to the CWA define the phrase “waters of the United States” to include, among other things, (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) all interstate waters; (iii) all other waters such as intrastate lakes, rivers and streams, including intermittent streams, the use, degradation, or destruction of which would or could affect interstate commerce; (iv) tributaries of waters of the United States, and (v) all waters adjacent to these waters. 40 C.F.R. § 122.2.

9. “Discharge of a pollutant” includes “any addition of any pollutant or combination of pollutants to waters of the United States from any point source.” 40 C.F.R. § 122.2.

10. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that storm water discharges are “point sources” subject to NPDES permitting requirements under section 402(a) of the CWA, 33 U.S.C. § 1342(a).

11. “Storm water” is defined as “storm water runoff, snow melt runoff and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).

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12. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.1 and 122.26 provide that facilities with storm water discharges associated with industrial activity are “point sources” subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).

13. 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).

14. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit.

15. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA authorized the Commonwealth of Virginia NPDES program on March 31, 1975. The Virginia Department of Environmental Quality (“VADEQ”) was authorized to issue general NPDES permits on April 20, 1991. On December 30, 2004, EPA approved the Commonwealth’s request to transfer the issuance of general and individual NPDES permits from VADEQ to the Virginia Department of Conservation and Recreation (“VDCR”). On July 1, 2013 EPA approved the Commonwealth’s request to transfer issuance of NPDES permits from VDCR to VADEQ.

16. On July 1, 2014 Virginia issued General Permit No. VAR10, General Permit For Discharges of Stormwater From Construction Activities, effective date July 1, 2014 and expiration date June 30, 2019 (“the 2014 General Permit”). The 2014 General Permit authorized operators of construction activities to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in the State Water Board regulations that prohibit such discharges.

17. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), EPA retains its authority to take enforcement action within Virginia for NPDES permit violations.

II. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS AND CONCLUSIONS OF LAW

18. Respondent performed land disturbing activities pursuant to the 2014 General Permit at the following sites in the City of Chesapeake, Commonwealth of Virginia:

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Site Name	Permit Number	Site Address	Receiving Water
Culpeper Landing	VAR10D013	Southern end of Mill Creek Pkwy	Old Intercoastal Waterway HUC JL52
Dominion Meadows a/k/a Erosion and Sediment Control Plan of Dominion Meadow Lake Excavation	VAR10C775	Scenic Pkwy and Drum Castle Ln	Southern Branch of Elizabeth River
Hanbury Manor	VAR107363	161 Hanbury Rd West	Albermarle Canal HUC AS12
Jolliff Landing Townhouses Phase 1A Residential	VAR107430	Portsmouth Blvd and Hampton Roads Pkwy	Bailey Creek
Jolliff Landing Commercial Center	VAR107429	Joliff Rd and Portsmouth Blvd	Western Branch of the Elizabeth River HUC JL55

19. Respondent is a corporation and therefore a “person” within the meaning of Part 502(5) of the Act, 33 U.S.C. § 1362(5).

20. Respondent received approval from VADEQ on the 2014 General Permit Registration Statement for the following sites:

Site Name	Registration Application Date
Culpeper Landing	8/1/2014
Dominion Meadows a/k/a Erosion and Sediment Control Plan of Dominion Meadow Lake Excavation	8/1/2014
Hanbury Manor	8/15/2014
Jolliff Landing Townhouses Phase 1A Residential	8/1/2014
Jolliff Landing Commercial Center	8/15/2014

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21. Respondent's, Culpeper Landing, Dominion Meadows a/k/a Erosion and Sediment Control Plan of Dominion Meadow Lake Excavation ("Dominion Meadows"), Hanbury Manor, Jolliff Landing Townhouses Phase 1A Residential ("Jolliff Landing Townhouses"), Jolliff Landing Commercial Center facilities discharge stormwater to Old Intercoastal Waterway HUC JL52, Southern Branch of Elizabeth River, Albermarle Canal HUC AS12, Bailey Creek, and Western Branch of the Elizabeth River HUC JL55. The aforementioned receiving waters are "waters of the United States" within the meaning of Part 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. § 122.2.

22. On September 15 and 16, 2015, duly-authorized EPA representatives conducted inspections of Respondent's facilities listed above ("Site inspections").

23. On February 10, 2016, EPA sent Respondent copies of the Site inspection reports.

24. Part II of the 2014 General Permit, Storm Water Pollution Prevention Plan, states that "A stormwater pollution prevention plan ("SWPPP") shall be developed prior to the submission of a registration statement and implemented for the construction activity, including any support activity, covered by this general permit. SWPPPs shall be prepared in accordance with good engineering practices."

25. Part II.A.2. of the General Permit states that the Stormwater pollution prevention plan contents shall include an erosion and sediment control plan ("E&S Plan") approved by the Virginia Erosion and Sediment Control Program (VESCP) authority as authorized under the Erosion and Sediment Control Regulations (9VAC25-840), an "agreement in lieu of a plan" as defined in 9VAC25-840-10 from the VESCP authority, or an erosion and sediment control plan prepared in accordance with annual standards and specifications approved by the department.

26. Part II.E. of the 2014 General Permit states, "The operator shall implement the SWPPP and subsequent amendments, modifications, and updates from commencement of land disturbance until termination of general permit coverage as specified in Part I.F."

27. Part II. E.1. All control measures must be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II.F. identifies a control measure that is not operating effectively, corrective action(s) shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.

28. Based upon the Site inspections, EPA representatives identified violations of the 2014 General Permit and the CWA as described below.

Count I

29. **Failure to Develop or Update the SWPPP in accordance with Section II.A. of the 2014 General Permit.** At the time of the 2015 Site inspection, the date of the Jolliff Landing Townhouses SWPPP on site was October 31, 2010 and was prepared by Land Planning Solutions. The permit within the SWPPP was the 2009 VPDES Permit. The date of the Jolliff Landing Commercial Center SWPPP which was presented to the EPA Inspection Team on site by Vico was September 2008.

30. Section II.A.1. of the 2014 General Permit requires that “any operator that was authorized to discharge under the general permit issued in 2009, and that intends to continue coverage under this general permit, shall update its stormwater pollution prevention plan to comply with the requirements of this general permit no later 60 days after the date of coverage under this general permit.”

31. Respondent’s failure to update its SWPPPs at Jolliff Landing Townhouses and Joliff Landing Commercial Center is a violation of the 2014 General Permit and Part 301 of the Act, 33 U.S.C. § 1311.

Count II

32. **Failure to Maintain Controls in accordance with Section I.G. of the 2014 General Permit.** Respondent failed to install, implement, and maintain control measures as identified in the SWPPPs and E&S Plans.

- a. At Culpepper Landing, VAR10D013, Respondent failed to: 1) install silt fence around the perimeter of Basin 1; 2) install stabilization to banks of Basin 1; 3) install complete perimeter of silt fence around Basin 4; 4) maintain construction entrance at Colonel Byrd Street which resulted in track out onto road; 5) implement sediment removal from Colonel Byrd Street; 6) maintain silt fence near Colonel Byrd Street, of Basin 2, and Basin 4; and 7) maintain protection on inlets and manholes near Basin 4.
- b. At Dominion Meadows, VAR10C775, Respondent failed to: 1) properly install silt fence perimeter around temporary sediment Basin #1 and Basin #2; 2) install and maintain stone construction entrance to Phase 2; 3) install stabilization on the banks of temporary sediment Basin #1; and 4) implement removal of sediment deposits in Basin #1.
- c. At Hanbury Manor, VAR107363, Respondent failed to: 1) properly install and maintain silt fence perimeter around the stockpile located in Phase 3; 2) install stabilization on stockpile; 3) implement pollution prevention best management practices for construction material storage adjacent to sediment Basin #1; 4)

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install and implement stabilization on the banks of sediment Basin #1 in Phase 1; 5) install culver inlet protection and outlet protection within sediment Basin #1; 6) install and maintain stone construction entrance from Madison Lynn Way into Phase 2.

- d. At Jolliff Landing Commercial Center, VAR107429, Respondent failed to: 1) maintain silt fence throughout site; 2) implement and maintain construction entrance onto site from Jolliff Landing Parkway; 3) implement sediment removal from Jolliff Landing Parkway; 4) implement pollution prevention best management practices for waste construction material storage; 5) install stabilization on two stockpiles located adjacent to the retention pond; 6) install and maintain stabilization to denuded area between stockpile and retention pond; 7) install stabilization to the banks of the retention pond; 8) install inlet protection and a temporary riser pipe flow control device in the retention pond.
- e. At Jolliff Landing Townhouses, VAR107430, Respondent failed to: 1) implement sediment removal from roadways throughout site; and 2) install and maintain curb and drop inlet protection on roadways throughout the site.

33. Section I.G. of the 2014 General Permit states “The operator must select, install, implement and maintain control measures as identified in the SWPPP at the construction site that minimizes pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard.”

34. Respondent’s failure to install, implement, and maintain controls is a violation of the 2014 General Permit and Part 301 of the Act, 33 U.S.C. § 1311.

Count III

35. **Failure to Implement SWPPPs in Violation of Section II.E. of the CGP.** Respondent failed to implement the controls within the E&S Plans at each of the 5 sites; thus failing to implement the SWPPPs at each site.

36. Section II.E. of the 2014 General Permit states “The operator shall implement the SWPPP and amendments, modifications, and updates from commencement of land disturbance until termination of general permit coverage as specified in Part 1F.” Permit coverage for the above-named sites has not been terminated.

37. Respondents failure to implement the SWPPPs is a violation of the 2014 General Permit and Section 301 of the Act, 33 U.S.C. § 1311.

III. GENERAL PROVISIONS

38. For the purpose of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.

39. Except as provided in Paragraph 38, above, Respondent neither admits nor denies the Findings of Fact set forth in this CAFO.

40. Respondent waives any defenses it might have as to jurisdiction and venue, its right to contest the allegations through hearing or otherwise; and its right to appeal the proposed final order accompanying the Consent Agreement.

41. Respondent agrees not to contest EPA's jurisdiction to issue and enforce this CAFO.

42. Respondent hereby expressly waives its right to a hearing on any issue of law or fact in this matter and consents to issuance of this CAFO without adjudication.

43. Respondent shall bear its own costs and attorney fees.

44. The provisions of this CAFO shall be binding upon the Respondent, its officers, principals, directors, successors and assigns.

45. The parties agree that settlement of this matter prior to the initiation of litigation is in the public interest and that entry of this CAFO is the most appropriate means of resolving this matter.

IV. CIVIL PENALTY

46. In full and final settlement of the Complainant's claims for civil penalties for the alleged violations identified herein, Respondent consents to the assessment of, and agrees to pay, in accordance with the terms set forth herein, the total administrative civil penalty of \$40,000 dollars (\$40,000) at a rate of \$5,000/mo. for a period of eight (8) months beginning within thirty (30) days of the effective date of this CAFO pursuant to 40 C.F.R. § 22.31(c).

47. The civil penalty amount set forth in Paragraph 46, above, is based on a number of factors, including 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).

48. Respondent shall pay the civil penalty amount described in Paragraph 46, above,

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plus any interest, administrative fees, and late payment penalties owed, in accordance with this Paragraph and Paragraphs 49 through 53, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action;

b. All checks shall be made payable to "**United States Treasury**";

c. All payments made by check and sent by regular mail shall be addressed to:
U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Primary Contact: Craig Steffen, (513) 487-2091
Secondary Contact: Molly Williams, (513) 487-2076

d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Primary Contact: Craig Steffen, (513) 487-2091
Secondary Contact: Molly Williams, (513) 487-2076

e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA: 021030004

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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”

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

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

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid, (202) 874-7026
Remittance Express (REX): (866) 234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Pamela J. Lazos
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street

Vico Construction Corporation
Docket No. CWA-03-2017-0014

Philadelphia, PA 19103-2029

and

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

49. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

50. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct 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).

51. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

52. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

53. The penalty specified in Paragraph 46 shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

V. APPLICABLE LAWS

54. 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.

VI. RESERVATION OF RIGHTS

55. This CAFO resolves 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 and 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. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information and/or representations made by the Respondent in this matter are false, or in any material respect, inaccurate. Further, EPA reserves any rights and remedies available to it under the Clean Water Act, 33 U.S.C. § 301 *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk.

56. Entry of this CAFO is a final settlement of all civil violations alleged in this CAFO. EPA shall have the right to institute a new and separate action to recover additional civil penalties for the claims made in this CAFO, if 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, EPA may have under law or equity in such event.

VII. FULL AND FINAL SATISFACTION

57. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations alleged in this CA. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

VIII. PARTIES BOUND

58. This CAFO shall apply to and be binding upon the EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. 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.

IX. PUBLIC NOTICE AND EFFECTIVE DATE

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59. Pursuant to 40 C.F.R. § 22.45(b), this CAFO shall be issued after a 40-day public notice period is concluded. This CAFO will become final and effective thirty (30) days after it is filed with the Regional Hearing Clerk, pursuant to Section 309(g)(5) of the Act, 33 U.S.C. § 1319(g)(5), or until a public comment process pursuant to 40 C.F.R. § 22.45(b) is concluded.

X. ENTIRE AGREEMENT

60. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

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FOR RESPONDENT,

Vico Construction Corporation

Date: _____

Pat Viola, President
Vico Construction Co.

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Date: _____

Catherine A. Libertz
Director, Water Protection Division

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

In the Matter of:	:	Proceeding to Assess Class II
	:	Administrative Penalty Under
	:	Section 309(g) of the Clean Water Act
	:	
Vico Construction Corporation	:	Docket No. CWA-03-2017-0014
4001 South Military Highway	:	
Chesapeake, VA 23321	:	
	:	
Respondent	:	
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FINAL ORDER

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

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the *Consolidated Rules*, EPA's *Clean Water Act Section 404 Settlement Penalty Policy (December 21, 2001)*, and the statutory factors set forth in Section 309(g)(3) of the CWA, 33 U.S.C § 1319(g)(3).

NOW, THEREFORE, PURSUANT TO Section 309 of the Clean Water Act ("CWA"), 33 U.S.C. § 1319, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of \$40,000 at a rate of \$5,000/mo.

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for a period of eight (8) months in accordance with the payment provisions set forth in the Consent Agreement, and in compliance with the terms and conditions of the Consent Agreement.

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

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

Date

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CERTIFICATION OF SERVICE

I hereby certify that I sent a true and correct copy of the Consent Agreement and Final Order to Vico Construction Corporation via certified mail, return receipt requested, at the address listed below after filing the original with the Regional Hearing Clerk, US EPA Region III, 1650 Arch St., Philadelphia, PA 19103.

Vico Construction Corporation
4001 South Military Highway
Chesapeake, VA 23321

Pamela J. Lazos
Sr. Asst. Regional Counsel
US EPA Region III

Date: