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

In The Matter of:	)	
	)	
Balfour Beatty Construction LLC.	)	
11325 Random Hills Road, Suite 500	)	
Fairfax, Virginia 22030,	)	
	)	Proceeding to Assess Class II Penalty
	)	Under Section 309(g)(2)(B) of the Clean
Respondent.	)	Water Act, 33 U.S.C. § 1319(g)(2)(B)
	)	
	)	
	)	Docket No. CWA-03-2015-0121
	)	
	)	**CONSENT AGREEMENT AND**
	)	**FINAL ORDER**
	)	

I. STATUTORY AND REGULATORY AUTHORITY

1. This Consent Agreement is entered into by the Director, Water Protection Division, United States Environmental Protection Agency, Region III ("Complainant") and Balfour Beatty Construction LLC ("Respondent") pursuant to Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22.

2. 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 commences and concludes this administrative proceeding against Respondent.

3. 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.

4. 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 after January 12, 2009 is liable for an administrative penalty not to exceed $16,000 per day for each day of violation up to a total penalty amount of $177,500.

5. 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 District of Columbia Department of the Environment ("DC DOE") regarding this action, and will mail a copy of this document to the appropriate DC DOE official.

6. 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.

7. 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.

8. Section 402(p) of the Act, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that, with some exceptions, not relevant here, storm water discharges are "point sources" subject to NPDES permitting requirements under Section 402(a) of the Act, 33 U.S.C. § 1342(a).

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

10. "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.

II. EPA'S ALLEGATIONS OF FACT, JURISDICTIONAL ALLEGATIONS AND CONCLUSIONS OF LAW

11. Respondent has offices at 11325 Random Hills Road, Suite 500, Fairfax, Virginia 22030.

12. During times relevant to this CAFO, Respondent performed construction activities at the St. Elizabeths campus located at 2701 Martin Luther King Boulevard in Washington, DC ("Site"). Respondent was responsible for two construction projects at the Site, the Perimeter Security Fence and Gate Houses project ("Perimeter Fence Project") and the Phase 1B Tunnels/Infrastructure project ("Tunnels/Infrastructure Project").

13. 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.

14. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA issued an NPDES Construction General Permit which became effective on June 30, 2008 (the "2008 CGP"). Under the 2008 CGP, EPA was the permitting authority for the District of Columbia. The 2008 CGP authorized discharges of storm water associated with construction activities, but only in accordance with the conditions of the 2008 CGP.

15. Pursuant to Section 402(b) of the Act, 33 U.S.C. § 1342(b), EPA issued a revised NPDES Construction General Permit which became effective February 16, 2012 (the "2012 CGP"). Under the 2012 CGP, EPA is the permitting authority for the District of Columbia. The 2012 CGP authorizes discharges of storm water associated with construction activities, but only in accordance with the conditions of the 2012 CGP.

16. The 2008 CGP and 2012 CGP both require(d) that in order to obtain permit coverage, an applicant must submit to EPA a complete and accurate Notice of Intent ("NOI") for permit coverage prior to commencing construction activities. 2008 CGP at Section 2.4; 2012 CGP at Section 1.4.

17. Respondent submitted an NOI for permit coverage under the 2008 CGP for the Perimeter Fence Project at the Site dated December 1, 2010, and permit coverage became effective on December 8, 2010. EPA assigned Permit Tracking Number DCR10A42F with an expiration date of February 15, 2012 for coverage under the 2008 CGP.

18. Respondent submitted an NOI for coverage under the 2012 CGP for the Perimeter Fence Project dated May 18, 2012, and permit coverage became effective on May 31, 2012. EPA assigned Permit Tracking Number DCR12A039 with an expiration date of February 16, 2017 for permit coverage under the 2012 CGP for the Perimeter Fence Project.

19. Respondent submitted an NOI for permit coverage under the 2008 CGP for the Tunnels/Infrastructure Project on December 16, 2010, and permit coverage became effective on December 23, 2010. EPA assigned Permit Tracking Number DCR10A41F with an expiration date of February 15, 2012 for coverage under the 2008 CGP.

20. Respondent submitted an NOI for coverage under the 2012 CGP for the Tunnels/Infrastructure Project on May 17, 2012 and permit coverage became effective on June 1, 2012. EPA assigned Permit Tracking Number DCR12A038 with an expiration date of February 16, 2017 for permit coverage under the 2012 CGP.

21. Pursuant to Part 5 of the 2008 CGP and Part 7 of the 2012 CGP, Respondent prepared a Stormwater Pollution Prevention Plan ("SWPPP") including an Erosion and Sediment Control Plan ("E & S Plan") for the Perimeter Fence Project and a separate SWPPP and E & S Plan for the Tunnels/Infrastructure Project at the Site.

22. Water discharges from the Site flowed into the District of Columbia Municipal Separate Storm Sewer System ("DC MS4") which discharges into the Anacostia River.

23. The Anacostia River is a "water of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7) and 40 C.F.R. §§ 232.2 and 122.2.

24. On September 17 and 18, 2012, representatives of EPA conducted an inspection of the Site including the Perimeter Fence Project and the Tunnels/Infrastructure Project ("EPA Inspection").

25. On March 21, 2013, EPA prepared a final Clean Water Act Compliance Inspection Report for the Site, including Appendices ("EPA Inspection Report").

26. Respondent received a copy of the EPA Inspection Report and submitted a response to EPA on April 24, 2013.

Perimeter Fence Project

Count 1: Failure to Apply for NPDES Permit

27. Respondent obtained coverage for the Perimeter Fence Project at the Site under the 2008 CGP on December 8, 2010.

28. The 2008 CGP and Respondent's coverage under that permit for the Perimeter Fence Project expired on February 15, 2012.

29. Pursuant to Section 1.4.2 of the 2012 CGP, Respondent was required to submit its NOI by no later than May 16, 2012 for the existing Perimeter Fence Project at the Site.

30. Respondent did not submit an NOI for coverage under the 2012 CGP for the Perimeter Fence Project until May 18, 2012, two days after the application deadline for existing projects.

31. Respondent's failure to submit an NOI for 2012 CGP coverage for the Perimeter Fence Project prior to May 16, 2012 violated Section 1.4.2 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 2: Failure to Post Notice of NPDES Permit Coverage

32. Section 1.5 of the 2012 CGP requires, among other things, that Respondent post a sign or other notice conspicuously at a safe, publicly accessible location in close proximity to the project site. At a minimum, the notice must include the NPDES Permit tracking number and site contact information.

33. At the time of the EPA inspection, the NPDES Permit tracking number and site contact information for the Perimeter Fence Project were not posted at the Site.

34. Respondent's failure to comply with the notice posting requirement at the Site, as described above, violated Section 1.5 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 3: Failure to Install and/or Maintain Inlet Protection in Effective Operating Condition

35. Section 2.1.1.4.a of the 2012 CGP requires Respondent to ensure that all erosion and sediment controls required in this Part remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.

36. At the time of the EPA Inspection, inlet 731A at the Site did not have any inlet protection.

37. At the time of the EPA Inspection, at a storm sewer inlet located at the bottom of a steep slope on the north side of the Site near Wade Road SE, portions of the inlet protection were missing and torn and rocks and sediment were present on top of the inlet.

38. At the time of the EPA Inspection, inlet 719 at the Site had no protection and had sediment in the inlet.

39. At the time of the EPA Inspection, inlet 797 at the Site was missing inlet protection on one side, and rocks and sediment were present on top of the inlet.

40. As described above, Respondent's failure to ensure that all erosion and sediment controls for the Perimeter Fence Project at the Site, including inlet protection, remain in an effective operating condition violated Section 2.1.1.4.a the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 4: Failure to Maintain, or Document Changes to, Erosion and Sediment Control (Check Dams)

41. Section 2.1.1.4.a required Respondent to maintain erosion and sediment control in effective operating condition.

42. Section 7.4.1.1, of the 2012 CGP required Respondent to modify its SWPPP whenever it made changes to stormwater control measures.

43. Respondent's E & S Plan, included in its SWPPP, identified fourteen check dams as stormwater controls to be located along an unstabilized slope at the Site.

44. At the time of the EPA Inspection, the fourteen check dams had been removed from the SWPPP identified locations.

45. As described above, Respondent's failure to ensure that the fourteen check dams remain in an effective operating condition and/or modify its SWPPP to reflect the removal of the check dams violated Section 2.1.1.4.a or Section 7.4.1.1 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 5: Failure to Document SWPPP Changes:

46. Section 7.4.1.1 of the 2012 CGP required Respondent to, modify its SWPP to reflect changes in stormwater control measures or activities that are not accurately reflected in the SWPPP.

47. At the time of EPA's inspection, Respondent's SWPPP for the Perimeter Fence Project did not identify a storm sewer inlet located at the bottom of a steep slope on the north side of the Site near Wade Road SE or a concrete stormwater conveyance channel located on the northeast side of the construction Site.

48. Respondent's failure to modify its SWPPP as required by the 2012 CGP to show the changes in stormwater controls or activities, as described above, violation Section 7.4.1.1 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 6: Failure to Properly Manage Fuel Equipment:

49. Section 2.3.3.1 of the 2012 CGP requires a permittee who conducts fueling at its site to provide an effective means of eliminating the discharge of spilled or leaked chemicals, including, but not limited to, locating activities away from surface waters and stormwater inlets, providing secondary containment, and/or having a spill kit available.

50. At the time of EPA's inspection, a diesel tank was located in a stockpile staging area at the top of a steep slope. A stormwater inlet was located at the bottom of the slope at the Site. The diesel tank did not have adequate secondary containment and a spill kit was not in close proximity to the tank.

51. Respondent's failure to locate fueling activities away from a stormwater inlet, to provide secondary containment and/or to provide a spill kit in accordance with Section 2.3.3.1 of the 2012 CGP violation Section 2.3.3.1 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 7: Failure to Install and/or Maintain Perimeter Controls

52. Section 2.1.2.2.a of the Permit requires Respondent to install sediment controls along those perimeter areas that receive stormwater from earth disturbing activities.

53. Section 2.1.1.4 of the 2012 CGP requires Respondent to ensure that all erosion and sediment controls required in this Part remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.

54. At the time of EPA's inspection, Respondent's super silt fence located in front of the pump house and generator buildings at the Site had holes present and was bulging with dirt, rock, and debris piled up against the inside of the super silt fence.

55. At the time of EPA's inspection, the super silt fence located near the southern edge of the Site had been undermined and was no longer properly entrenched in the ground.

56. Respondent's failure to install and/or maintain the super silt fences at the Site, as described above, violation Sections 2.1.1.4 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 8: Failure to Stabilize the Site

57. Sections 2.2 and 2.2.1.1 of the 2012 CGP requires the permittee to initiate soil stabilization measures immediately when earth-disturbing activities have permanently or temporarily ceased on any portion of the site.

58. At the time of EPA's inspection, an unstabilized stockpile was located at the southwest corner of the Site (at approximately 38.852317°N, 77.005241°W).

59. Respondent's failure to stabilize the stockpile described above violation Sections 2.2 and 2.2.1.1 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 9: Failure to Conduct and/or Document Inspections

60. Section 4.1.2 of the 2012 CGP, requires that Respondent at a minimum, conduct a site inspection at least once every seven calendar days, or once every 14 calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater.

61. Section 4.1.7.1 of the 2012 CGP requires Respondent to complete an inspection report within 24 hours of completing any site inspection.

62. Respondent failed to conduct and/or document inspections of the Perimeter Fence Project at the Site at the required frequencies during the months of February 2011, March 2011, July-September 2011, November 2011, February 2012, March 2012, June 2012, September 2012, February 2013, and May 2013-September 2013.

63. Respondent's failure to conduct and/or document Site inspections, as described above, in accordance with the 2012 CGP violated Section, 4.1.2 and/or 4.1.7 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Tunnels/Infrastructure Project

Count 10: Failure to Apply for NPDES Permit Coverage:

64. Respondent obtained coverage for the Tunnels/Infrastructure Project construction activities at the Site under the 2008 CGP on December 23, 2010.

65. The 2008 CGP and Respondent's coverage for the Tunnels/Infrastructure Project under that permit expired on February 15, 2012.

66. Pursuant to Section 1.4.2 of the 2012 CGP, Respondent was required to submit its NOI by no later than May 16, 2012 for the existing Tunnels/Infrastructure Project at the Site.

67. Respondent did not submit an NOI for coverage under the 2012 CGP for the Tunnels/Infrastructure Project at the Site until May 17, 2012, one day after the application deadline for existing projects.

68. Respondent's failure to submit an NOI for 2012 CGP coverage prior to May 16, 2012 violated Section 1.4.2 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 11: Failure to Post Notice of NPDES Permit Coverage

69. Section 1.5 of the 2012 CGP requires, among other things, that Respondent post a sign or other notice conspicuously at a safe, publicly accessible location in close proximity to the project site. At a minimum, the notice must include the NPDES Permit tracking number and site contact information.

70. At the time of EPA's inspection, the NPDES Permit tracking number and Site contact information for the Tunnels/Infrastructure Project were not posted at the Site.

71. Respondent's failure to comply with the notice posting requirement at the Site, as described above, violated Section 1.5 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 12: Failure to Install and/or Maintain Inlet Protection:

72. Section 2.1.1.4.a of the 2012 CGP requires the permittee to ensure that all erosion and sediment controls remain in effective operating condition during permit coverage.

73. At the time of the EPA inspection, Inlet 112A at the Site was covered with sediment.

74. At the time of the EPA inspection, Inlet 152 at the Site did not have inlet protection.

75. At the time of the EPA inspection, Inlet 145D at the Site had protection that was on the ground and covered in sediment.

76. At the time of the EPA inspection, Inlet 111 at the Site had rocks and sediment covering the inlet.

77. At the time of the EPA inspection, Inlet 112 at the Site was wrapped in filter fabric but asphalt had been placed around the edges of the inlet to seal the filter fabric in place, and sediment was present in the inlet.

78. At the time of the EPA inspection, Inlet 105 at the Site had an inlet grate wrapped in filter fabric that was covered in sediment and gravel.

79. At the time of the EPA inspection, Inlets 103A, 106 and 629 at the Site had no inlet protection installed.

80. At the time of the EPA inspection, Inlet 601 at the Site was covered in sediment and rock.

81. At the time of the EPA inspection, Inlet 199E at the Site had filter fabric around the grate, but sediment and grass were present on the filter fabric inside of the inlet.

82. At the time of the EPA inspection, Inlets 199 and 199D at the Site had Guderbuddies installed that were not covering the entire inlet.

83. As described above, Respondent's failure to ensure that all erosion and sediment controls at the Site, including inlet protection, remain in an effective operating condition violated Section 2.1.1.4.a the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 13: Failure to Install and/or Maintain Perimeter Controls

84. Section 2.1.2.2.a of the Permit requires Respondent to install sediment controls along those perimeter areas that receive stormwater from earth disturbing activities.

85. Section 2.1.1.4 of the 2012 CGP requires Respondent to ensure that all erosion and sediment controls required in this Part remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness.

86. At the time of EPA's inspection, super silt fence located along a steep slope near the material storage area at the Site was down on the ground, was damaged, or missing.

87. At the time of EPA's inspection, super silt fence located along the perimeter of the material storage area at the intersection of Cedar Street and Plum Street at the Site was damaged or missing.

88. At the time of the EPA Inspection, silt fence located next to a riprap swale along Sweetgum Lane at the Site was no longer attached to its stakes and was laying on the ground.

89. Respondent's failure to install and/or maintain perimeter controls at the Site, as described above, violated Sections 2.1.1.4 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 14: Failure to Stabilize Site

90. Sections 2.2 and 2.2.1.1 of the 2012 CGP requires the permittee to initiate soil stabilization measures immediately when earth-disturbing activities have permanently or temporarily ceased on any portion of the Site.

91. At the time of EPA's inspection, an unstabilized slope was located between the material storage area on Cedar Street and the construction area operated by Clark Construction

Group, LLC at the Site. Respondent's site manager stated that the slope had been unstabilized for two months.

92. Respondent's failure to provide soil stabilization measures at the Site as described above violated Sections 2.2 and 2.2.1.1 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 15: Failure to Document SWPPP Changes:

93. Section 7.4.1.1 of the 2012 CGP requires the permittee to document SWPPP changes whenever changes are made to construction plans, stormwater control measures, pollution prevention measures, or other activities that are not accurately reflected in the SWPPP.

94. At the time of EPA's inspection, Respondent's SWPPP for the Tunnels/Infrastructure Project did not indicate the presence of a silt fence that was located next to a riprap swale on Sweetgum Lane at the Site.

95. Respondent's failure to document SWPPP changes, as described above, violated Section 7.4.1.1 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 16: Failure to Maintain Erosion and Sediment Control (Construction Entrance):

96. Section 2.1.1.4.a of the 2012 CGP requires the permittee to ensure all erosion and sediment controls remain in effective operating condition during permit coverage.

97. At the time of EPA's inspection, a stabilized construction entrance with a wash rack in the middle of Sweetgum Lane near Gate 6 at the Site was missing crushed stone around most of the entrance and was surrounded by mud and dirt.

98. Respondent's failure to maintain the stabilized construction entrance, as described above, in effective operating condition in accordance with the 2012 CGP violated Section, 2.1.1.4.a. of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

Count 17: Failure to Conduct and/or Document Inspections:

99. Section 4.1.2 of the 2012 CGP, requires that Respondent at a minimum, conduct a site inspection at least once every seven calendar days, or once every 14 calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater.

100. Section 4.1.7.1 of the 2012 CGP requires Respondent to complete an inspection report within 24 hours of completing any site inspection.

101. Respondent failed to conduct and/or document inspections at the Tunnels/Infrastructure Project at the Site at the required frequencies during the months between May 2011 and April 2012.

102. Respondent's failure to conduct and/or document Site inspections, as described above, in accordance with the 2012 CGP violated Section, 4.1.2 and 4.1.7 of the 2012 CGP and Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

III. GENERAL PROVISIONS

106. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law set forth in Section II, above, and waives any defenses it might have as to jurisdiction and venue.

107. Respondent admits the jurisdictional allegations in the CAFO and agrees not to contest EPA's jurisdiction to issue and enforce this CAFO.

108. 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.

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

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

111. 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.

112. 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.

IV. CIVIL PENALTY

113. 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 HEREBY CONSENTS to pay a civil penalty in the amount of forty-five thousand dollars ($45,000) within thirty (30) days of the effective date of this CAFO in full and final settlement of EPA's claims for civil penalties for the violations alleged herein.

114. Respondent shall pay the civil penalty amount of forty-five thousand dollars ($45,000) plus any interest, administrative fees, and late payment penalties owed, in accordance with Paragraph 115, 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
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:

Judith Hykel
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC20)
1650 Arch Street
Philadelphia, PA 19103-2029

and

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

Philadelphia, PA 19103-2029

115. 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, Respondents' 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 the date that a copy of the fully executed CAFO is mailed or hand-delivered to Respondent which shall be no sooner than the effective date. 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).

VI. APPLICABLE LAWS

116. 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.

VII. RESERVATION OF RIGHTS

117. 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. 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.

118. Entry of this CAFO is a final settlement of all 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.

VIII. FULL AND FINAL SATISFACTION

119. 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.

IX. PARTIES BOUND

120. This CAFO shall apply to and be binding upon the EPA and Respondent. 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.

X. EFFECTIVE DATE

121. 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.

XI. ENTIRE AGREEMENT

122. 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.

FOR RESPONDENT, BALFOUR BEATTY CONSTRUCTION LLC

By: _____

Name: David R. Hodnett

Title: Senior Vice President and Chief Legal Officer

Date: April 9, 2015

FOR COMPLAINANT, THE DIRECTOR OF THE WATER PROTECTION DIVISION, U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION III

Date: _____

_____
Jon M. Capacasa, Director
Water Protection Division

FINAL ORDER

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

this 26 day of June, 2015

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