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

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
In the Matter of: K. Hovnanian Virginia Old GC, Inc.
Docket No. CWA-03-2020-0015

NOV 7 2019

FROM: Karen Melvin, Director
Enforcement and Compliance Assurance Division (3ED00)

Cecil Rodrigues, Regional Counsel
Office of Regional Counsel (3RC00)

TO: Joseph J. Lisa
Regional Judicial Officer (3RC00)

The Region has negotiated the attached Consent Agreement/Final Order with K. Hovnanian Virginia Old GC, Inc. in settlement of violations of the Clean Water Act at its construction site Eagles Pointe in Woodbridge, Virginia. EPA alleged that the respondent violated the applicable stormwater construction permit, primarily by failing to properly maintain and/or install best management practices required by the stormwater pollution prevention plan.

The CAFO requires that the respondent pay a penalty of $45,000. This CAFO initiates and concludes this penalty action. As required by the Clean Water Act, we published notice of the proposed action. We received no comments.

Counsel for the respondent is Jonathan Rinde. His contact information is:

Jonathan Rinde
Manko Gold Katcher Fox LLP
401 City Avenue Suite 901
Bala Cynwyd, PA 19004
Office: 484.430.2325
Email: jrinde@mankogold.com

We concur with the terms of the enclosed CAFO and recommend that you sign the attached Final Order ratifying the Consent Agreement.

cc: Jonathan Rinde, jrinde@mankogold.com

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

Philadelphia, Pennsylvania 19103-2029

In the Matter of:	Proceeding to Assess Class II Administrative Penalty Under Section 309(g) of the Clean Water Act
K. Hovnanian Virginia Old GC, Inc 4090-A Lafayette Center Dr. Chantilly, VA 20151	Docket No. CWA-03-2020-0015
Respondent.	**CONSENT AGREEMENT AND FINAL ORDER**

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and K. Hovnanian Virginia Old GC, Inc (which was formerly K. Hovnanian Homes of Virginia, Inc.) (hereinafter "Respondent" or "Hovnanian"), 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 of Practice"), 40 C.F.R. Part 22. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "CAFO") resolve Complainant's civil penalty claims against Respondent under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

II. JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).

III. GENERAL PROVISIONS

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

6. Except as provided in Paragraph 5, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement. However, Respondent consents to this CAFO to avoid litigation.

7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.

8. For the purpose of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.

9. Respondent consents to the assessment of the civil penalty stated herein, and to any conditions specified herein.

10. Respondent and Complainant shall bear their own costs and attorney's fees in connection with this proceeding.

11. 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. FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

13. Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of administrative penalties against any person who violates any National Pollutant Discharge

Elimination System ("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.

14. 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 November 2, 2015 where the penalty is assessed on or after January 15, 2019, the maximum administrative penalty per day for each day of violation is up to $21,933, up to a total penalty amount of $274,150. (Part 19 also specifies the maximum penalties applicable to other time periods.)

15. 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 NPDES program under Section 402 of the Act, 33 U.S.C. § 1342.

16. 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.

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

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

19. An NPDES permit is required for discharges of storm water associated with industrial activity. Section 402(p) of the Act, 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a),(c); 40 C.F.R. § 122.21.

20. 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).

21. Dischargers of stormwater associated with industrial activities to waters of the United States are required to seek NPDES permit coverage. 40 C.F.R. § 122.26(c).

22. The Commonwealth of Virginia has been approved by EPA to administer the NPDES program in the Commonwealth of Virginia. Pursuant to the authority of the Act, the NPDES program approval, and the Virginia State Water Control Law, Virginia has issued Virginia Pollutant Discharge Elimination System ("VPDES") Permit No. VAR10, General VPDES Permit

for Discharges of Stormwater from Construction Activities ("the Permit"). The effective date of the Permit is July 1, 2014 and the expiration date is June 30, 2019.

23. VPDES Permit No. VAR10 authorizes discharges of stormwater associated with construction activities to waters of the United States (including discharges to, or through municipal separate storm sewer systems), when in accordance with the conditions of the permit.

24. The Permit requires the permittee to develop a storm water pollution prevention plan ("SWPPP"). One of the required elements of the SWPPP is an erosion and sediment control plan ("ESC Plan"). Permit, Part II.A.2.

25. The Permit requires the permittee to implement the SWPPP. Permit, Part II.E.

26. 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.

27. At all times relevant to this CAFO, upon information and belief, Respondent was the owner and/or operator of a site known as Eagles Pointe East or Eagles Pointe Section 11 ("Site"), located in Woodbridge, Virginia.

28. At the Site, the Respondent has been at all relevant times engaged in construction activity that discharges stormwater from a point source to Powell Creek. Powell Creek is a tributary of the Potomac River, both of which are "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

29. The construction activity at the Site has disturbed or will disturb a total of more than five acres of land, specifically about 28 acres of land.

30. On June 2, 2014, Virginia received a registration statement seeking coverage under the Permit for the Respondent's stormwater discharges associated construction activity at the Site. Virginia granted Respondent coverage under the Permit effective August 15, 2014.

31. On September 8, 2016, representatives of EPA Region III and EPA contractors from Eastern Research Group, accompanied by the Virginia Department of Environmental Quality, (jointly "the Inspection Team") conducted an inspection at the Site (hereinafter, "the Inspection").

32. During the Inspection, the Inspection Team reviewed Respondent's SWPPP, self-inspections procedures and reports, maintenance procedures and the current conditions at the Site.

33. The Inspection Team prepared an inspection report from the Inspection ("the Inspection Report"), which included multiple observations regarding Respondent's compliance with the requirements of the Permit.

34. EPA sent a copy of the Inspection report to the Respondent on March 17. 2017. Hovnanian responded to the report by a letter dated April 3, 2017.

Count 1: Failure to Maintain Erosion and Sediment Controls - Silt Fences

35. The allegations of Paragraphs 1 through 34 of this Consent Agreement are incorporated herein by reference.

36. The Permit requires the permittee to maintain all stormwater discharge control measures in effective operating conditions, in accordance with good engineering practice. Permit, Part II.F.

37. The Permit requires when an inspection reveals that a control measure needs maintenance, corrective action must be completed as soon as practicable, but no later than seven (7) days after discovery. Permit, Part II.G.

38. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 8 that erosion and sedimentation control measures must be constructed and maintained as provided in the Virginia Erosion and Sediment Control Handbook ("ESC Handbook").

39. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 10 that control measures such as silt fences must be inspected daily and after each significant rain event. In particular, silt fencing must be checked regularly for undermining and deterioration, and sediment must be removed when accumulation reached halfway to the top of the fence. Note 10 also provides that repairs to these controls must be made immediately after inspection.

40. Chapter 3.05 of the ESC Handbook provides that silt fences must be inspected after each rain event and repaired immediately.

41. Sheet 10 of the ESC Plan provides construction details for silt fences, which require that the filter material be entrenched in the soil. This is consistent with the silt fence construction specifications of the ESC Handbook, Chapter 3.05.

42. Chapter 3.05 of the ESC Handbook provides that where joints of separate pieces of filter fabric are unavoidable, the filter fabric must be spliced together at a support post, with 6 inches of overlap and securely sealed together.

43. At the time of the Inspection, the Complainant alleges that there were several locations where the silt fence required at the Site was not properly maintained or installed.

44. Based upon the information described in this Complaint, at the time of the inspection the Complainant alleges that Respondent failed to ensure that all erosion and sediment controls remained in effective operating condition during permit coverage and were maintained appropriately to retain their effectiveness.

45. Respondent's failures to ensure that all erosion and sediment controls remained in effective operating condition during permit coverage constitute violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count 2: Failure to Maintain Erosion and Sediment Controls - Construction Entrances

46. The allegations of Paragraphs 1 through 45 of this Consent Agreement are incorporated herein by reference.

47. The Permit requires the permittee to maintain all stormwater discharge control measures in effective operating conditions, in accordance with good engineering practice. Permit, Part II.E.

48. The Permit requires that when an inspection reveals that a control measure needs maintenance, corrective action must be completed as soon as practicable, but no later than seven (7) days after discovery. Permit, Part II.G.

49. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 8 that erosion and sedimentation control measures must be constructed and maintained as provided in the ESC Handbook.

50. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 10 that control measures must be inspected daily and after each significant rain event.

51. Note 10 also provides that repairs to these controls must be made immediately after inspection.

52. Chapter 3.02 of the ESC Handbook provides that construction entrances must be maintained in a condition that prevents the tracking of mud on public rights-of-way. The ESC Handbook specifies that this may require adding stone or washing and reworking of existing stone. All materials tracked onto roadways must be removed immediately.

53. Both Sheet 10 of the ESC Plan and Chapter 3.02 of the ESC handbook provide the specifications for construction entrances, to be 12-feet wide by 70-fet long, with an aggregate layer of stone six inches deep.

54. At the time of the Inspection, the Complainant alleges that there were at the Site some construction entrances that were not maintained to the specification required or from which mud tracked to the roadway.

55. Based upon this information described, at the time of the inspection Respondent failed to install and/or maintain these construction entrances as required by the Permit.

56. Respondent's failures to install and/or maintain these construction entrances constitute violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count 3: Failure to Maintain Erosion and Sediment Controls - Curb Inlet Protection

57. The allegations of Paragraphs 1 through 56 of this Consent Agreement are incorporated herein by reference.

58. The Permit requires the permittee to maintain all stormwater discharge control measures in effective operating conditions, in accordance with good engineering practice. Permit, Part II.E.

59. The Permit requires when an inspection reveals that a control measure needs maintenance, corrective action must be completed as soon as practicable, but no later than seven (7) days after discovery. Permit, Part II.G.

60. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 8 that erosion and sedimentation control measures must be constructed and maintained as provided in the ESC Handbook.

61. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 10 that control measures must be inspected daily and after each significant rain event.

62. Note 10 also provides that repairs to these controls must be made immediately after inspection.

63. Sheet 10 of the ESC Plan provides the specifications for installation of curb inlet protection.

64. Chapter 3.07 of the ESC Handbook requires, when installing curb inlet protection, the piling of stone over wire mesh against the gutter and to cover the inlet opening completely in order to prevent water from entering the inlet around the filtering system.

65. Chapter 3.07 also requires that if the stones in a curb inlet protection become clogged with sediment, the stone must be cleaned and replaced.

66. At the time of the Inspection, the Complainant alleges that there were at the Site several curb inlet protections improperly installed and/or not maintained.

67. Based upon this information described, at the time of the inspection Respondent failed to install and/or maintain these curb inlet protections as required by the Permit.

68. Respondent's failures to install and/or maintain these curb inlet protections constitute violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count 4: Failure to Maintain Erosion and Sediment Controls: Yard Inlet Protection

69. The allegations of Paragraphs 1 through 68 of this Consent Agreement are incorporated herein by reference.

70. The Permit requires the permittee to maintain all stormwater discharge control measures in effective operating conditions, in accordance with good engineering practice. Permit, Part II.F.

71. The Permit requires when an inspection reveals that a control measure needs maintenance, corrective action must be completed as soon as practicable, but no later than seven (7) days after discovery. Permit, Part II.F.

72. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 8 that erosion and sedimentation control measures must be constructed and maintained as provided in the ESC Handbook.

73. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 10 that control measures must be inspected daily and after each significant rain event.

74. Chapter 3.07 of the ESC Handbook provides that inlet structures should be inspected after every rain and maintained as needed, including the removal of sediment and cleaning of stone or wire filtering the discharge.

75. At the time of the Inspection, there was a yard inlet in or around Lot #55 with silt fence protection around it.

76. The Complainant alleges that the inlet was covered with sediment and debris and not in effective operating conditions.

77. Based upon this information described, at the time of the inspection Respondent failed to maintain this yard inlet protection as required by the Permit.

78. Respondent's failure to maintain the yard inlet protection constitutes violations of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Counts 5: Failure to Maintain Erosion and Sediment Controls - Sediment Basin

79. The allegations of Paragraphs 1 through 78 of this Consent Agreement are incorporated herein by reference.

80. The Permit requires the permittee to maintain all stormwater discharge control measures in effective operating conditions, in accordance with good engineering practice. Permit, Part II.E.

81. The Permit requires that when an inspection reveals that a control measure needs maintenance, corrective action must be completed as soon as practicable, but no later than seven (7) days after discovery. Permit, Part II.G.

82. The Permit requires that when an inspection reveals that an existing control needs to be modified or additional control measures are necessary, implementation must be completed prior to the next anticipated storm event. Permit, Part II.E.

83. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 8 that erosion and sedimentation control measures must be constructed and maintained as provided in the ESC Handbook.

84. Sheet 9 of the ESC Plan provides in the Erosion & Sediment Control Standard Note 10 that control measures must be inspected daily and after each significant rain event.

85. The silt fence delineating the limits of disturbance downstream from the sediment basin was covered with debris that had overflowed the fence.

86. Based on this information, at the time of the inspection Respondent failed to maintain, modify or add controls necessary downstream the sediment basin as required by the Permit.

87. Respondent's failure to modify or add controls at the sediment basin constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

Count 6: Failure to Appropriately Perform Self-Inspections as required by the Permit

88. The allegations of Paragraphs 1 through 87 of this Consent Agreement are incorporated herein by reference.

89. The Permit requires the permittee to conduct inspections of the stormwater control measures at least every five business days, or in the alternative every 10 business days and within 48 hours of a storm event. Permit, Part II.F.2,

90. As part of the inspection, the permittee must record the date and time of the inspection and inspect to ensure that installation occurred in accordance with the ESC Plan, to identify maintenance needs and to evaluate effectiveness. Permit Part II.F.3.

91. The inspection report must include the location of control measures that require maintenance, and of control measures that have proved inadequate. Permit Part II.F.3.

92. Prince William County, Virginia, where the Site is located, requires that a third-party inspector selected from a list of approved stormwater inspectors be retained by permittees to perform stormwater inspections of construction sites. In compliance with this County requirement,

Respondent hired Angler Environmental to perform third party stormwater inspections of the Site and prepare written inspection reports.

93. As part of the inspection the Inspection Team reviewed the most recent inspection report dated September 6, 2016.

94. The September 6, 2016, inspection report did not include the storm inlet on or about Lot #55, despite the fact that the silt fence around the inlet had collapsed, and the inlet was covered with sediment and debris and was no longer in effective operating conditions.

95. Based on this information, Respondent failed to conduct and document an inspection as required by the Permit.

96. Respondent's failure to conduct and document the September 6, 2016, inspection appropriately constitutes a violation of the Permit and Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311 and 1342.

V. CIVIL PENALTY

97. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of Forty-Five Thousand dollars ($45,000), which Respondent shall be liable to pay in accordance with the terms set forth below.

98. The civil penalty amount 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). These factors were applied to the particular facts and circumstances of this case.

99. Respondent shall pay the civil penalty, and any associated interest, administrative fees, and late payment penalties owed, 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, CWA-03-2020-0015;

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

d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

https://www.epa.gov/financial/makepayment

e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

Nina Rivera
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC40)
1650 Arch Street
Philadelphia, PA 19103-2029

100. 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.

101. Payment of the civil penalty is due and payable immediately upon the effective date of this CAFO. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed CAFO, with a date stamp indicating the date on which the CAFO was filed with the Regional Hearing Clerk, shall constitute receipt, as of the effective date of this CAFO or the date of receipt, whichever is later, of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

102. INTEREST: Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of this CAFO. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this CAFO. 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).

103. ADMINISTRATIVE COSTS: The costs of the EPA'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 – Case 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.

104. LATE PAYMENT PENALTY: 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).

105. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this CAFO.

VI. GENERAL SETTLEMENT CONDITIONS

106. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.

107. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO, including information about respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

VII. CERTIFICATION OF COMPLIANCE

108. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

V. OTHER APPLICABLE LAWS

109. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not 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

110. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this CAFO. EPA reserves the right to commence an 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. 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, 40 C.F.R. § 22.18(c). 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 to enforce the terms of this CAFO after its effective date.

VII. PARTIES BOUND

111. This CAFO shall apply to and be binding upon the EPA, Respondent and the officers, directors, employees, contractors, agents, successors and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

IX. EFFECTIVE DATE

112. Pursuant to 40 C.F.R. § 22.45(b), this CAFO shall be issued only after a 40-day public notice period is concluded. This CAFO will become final and effective thirty (30) days after it signed by the Regional Administrator or his delegate, filed with the Regional Hearing Clerk, and served on the Respondent by certified mail, or ten (10) days after conclusion of a public notice and comment period described in 40 C.F.R. § 22.45(b), whichever is later.

X. ENTIRE AGREEMENT

113. This CAFO constitutes the entire agreement and understanding of the Parties concerning settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

In Re: K Hovnanian Virginia Old GC, Inc.
EPA Docket No. CWA-03-2020-0015

FOR RESPONDENT,

K HOVNANIAN VIRGINIA OLD GC, INC :

Date: 10/11/19

Gary Chandler
Division President

In Re: K Hovnanian Virginia Old GC, Inc.
EPA Docket No. CWA-03-2020-0015

FOR Complainant U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION III:

After reviewing the Consent Agreement and other pertinent matters, the Enforcement & Compliance Assurance Division of the U.S. Environmental Protection Agency, Region III, recommends that the Regional Administrator or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: NOV 7 2020

Karen Melvin
Director
Enforcement & Compliance
Assurance Division

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:	
K. Hovnanian Virginia Old GC, Inc.,	**EPA Docket No. CWA-03-2020-0015**
Respondent.	**FINAL ORDER**
	Proceeding under Section 309(g) of the Clean Water Act

FINAL ORDER

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, K. Hovnanian Virginia Old GC, Inc., 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 of Practice), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 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 statutory factors set forth in Section 309(d) of the Clean Water Act ("CWA"), 33 U.S.C. § 309(d).

NOW, THEREFORE, PURSUANT TO Section 309 of the CWA, 33 U.S.C. Section 309(g), 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 ***Forty-Five Thousand dollars ($45,000)***, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the CWA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after this Final Order is filed with the Regional Hearing Clerk and served on the Respondent, pursuant to 33 U.S.C. §1319(g)(5).

_____
Date

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

Philadelphia, Pennsylvania 19103-2029

In the Matter of:	Proceeding to Assess Class II Administrative Penalty Under Section 309(g) of the Clean Water Act
K. Hovnanian Virginia Old GC, Inc 4090-A Lafayette Center Dr. Chantilly, VA 20151	Docket No. CWA-03-2020-0015
Respondent.	CONSENT AGREEMENT AND FINAL ORDER

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and K. Hovnanian Virginia Old GC, Inc (which was formerly K. Hovnanian Homes of Virginia, Inc.) (hereinafter "Respondent" or "Hovnanian"), 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 of Practice"), 40 C.F.R. Part 22.

CONCURRENCES

SYMBOL ▸	3ED32	3ED32	3RC40	3ED30	3ED00	3RC00		
SURNAME ▸	McLaughlin	Pratt	Rivera	Rogers	Melvin	Mastro		
DATE ▸	10/29/19	10/30	10/29	10/31/19		11/1/19		

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