

FILED

Aug 20, 2026

11:54 am

**U.S. EPA REGION 3
HEARING CLERK**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103**

In the Matter of: :
:
Kokosing Construction Company, Inc. : U.S. EPA Docket No. CWA-03-2026-0078
6235 Westerville Road :
Westerville, Ohio, 43081 : Proceeding under Section 309(g) of the
Clean Water Act, 33 U.S.C. § 1319(g)
Respondent. :
:
Jefferson Road Project :
WV 601 (Jefferson Road) intersecting with :
US 119, progressing north to WV 60 :
(MacCorkle Avenue) :
South Charleston, Kanawha County, :
West Virginia :

Site.

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant") and Kokosing Construction Company, Inc. ("Kokosing" or "Respondent"), pursuant to Section 309(g) of the Clean Water Act ("CWA"), 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. The CWA 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 "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under Section 309(g) CWA (or the "Act") 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.

JURISDICTION

3. The U.S. Environmental Protection Agency ("EPA") 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) in assessing Class II penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).
5. EPA has given the West Virginia Department of Environmental Protection ("WVDEP") prior notice of this action in accordance with Section 309(g)(1) of the CWA, 33 U.S.C. § 1319(g)(1).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
12. Public notice of this Consent Agreement is required by Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b)(1). EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

13. By signing this Consent Agreement, Respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. 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.
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 National Pollutant Discharge Elimination System ("NPDES") program under Section 402 of the Act, 33 U.S.C. § 1342.
16. "Pollutant" is defined as "dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water." 33 U.S.C. § 1362(6); 40 C.F.R. § 122.2.
17. "Discharge of a pollutant" means "[a]ny addition of any 'pollutant' or combination of pollutants to 'waters of the United States' from any 'point source.'" 33 U.S.C. § 1362(12); 40 C.F.R. § 122.2.
18. 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, to ensure compliance with the requirements of the CWA. The discharges are subject to specific terms and conditions, as prescribed in the permit.
19. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), WVDEP is authorized to administer the NPDES program in the State of West Virginia.
20. Pursuant to Section 402(i) of the CWA, 33 U.S.C. § 1342(i), the EPA retains its authority to take enforcement action within the State of West Virginia for NPDES permit violations.
21. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. §§ 122.2 and 122.26 provide that facilities with stormwater discharges are "point sources" subject to NPDES

permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).

22. “Storm water” is defined as “storm water runoff, snow melt runoff, and surface runoff and drainage.” 40 C.F.R. § 122.26(b)(13).
23. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and implementing regulation at 40 C.F.R. § 122.26(a)(1)(ii), require facilities discharging stormwater associated with industrial activity to obtain a permit. Under 40 C.F.R. § 122.26(c)(1), dischargers of stormwater associated with industrial activity must apply for an individual permit or seek coverage under a general permit.
24. “Storm water discharge associated with industrial activity” includes “Construction activity including clearing, grading and excavation, except operation 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 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).
25. Kokosing Construction Company, Inc. (“Kokosing” or “Respondent”) is a corporation and as such is a “person” as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.
26. Since at least 2022, Kokosing was engaged in construction of the Jefferson Road Project that involved widening Jefferson Road (WV 601) to add additional lanes for an approximate 1.7 mile section of Jefferson Road starting at its intersection with US 119 and progressing north to its intersection with WV 60 (MacCorkle Avenue) (the “Site”).
27. Storm water from the Site discharges into Davis Creek which is connected to the Kanawha River. The Kanawha River is a “navigable water” as that term is defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
28. Kokosing submitted a General Permit Registration (Registration Number WVR110581) for coverage under the WV/NPDES Construction Stormwater General Permit No. WV0115924 (the “Permit”). WVDEP initially issued Kokosing coverage under the Permit with an effective date of December 3, 2020, and then reissued coverage with an effective date of June 26, 2024. The Permit expires on April 5, 2029.
29. Kokosing is the Permittee, while the West Virginia Department of Highways owns the Site.
30. WVDEP has inspected the Site multiple times, on at least December 14, 2020, April 5, 2022, June 14, 2022, August 24, 2022, November 16, 2022, May 4, 2023, May 21, 2024,

and March 4, 2025.

31. WVDEP issued three separate Notices of Violation to Kokosing based on observations of Permit violations, on August 24, 2022, May 4, 2023, and March 4, 2025.
32. On May 14, 2024, the EPA conducted an inspection at the Site to determine compliance with the Permit (the “Inspection”).

Count 1

Failure to Maintain an Accurate Stormwater Pollution Prevention Plan

33. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
34. Part II.H.1.a of the Permit requires that “Site maps shall include . . . access roads . . . [and] post-development stormwater management structures required by local governments . . .”.
35. Part II.H.1.d of the Permit requires that “Each road or access road shall be classified as either permanent or temporary and categorized as Construction Activity – New or Improved; Incidental Construction Activity; or Maintenance Only . . . The [Storm Water Pollution Prevention Plan, or “SWPPP”] shall contain plans and specifications for each road or access road requiring construction activities within the [Limit of Disturbance] area.”
36. During the Inspection, EPA inspectors observed three structures called “infiltration ponds” that were not identified on the SWPPP map and four egress and ingress access points on the construction site not identified in the SWPPP map, in violation of the Permit.
37. On June 17, 2024, Kokosing updated its SWPPP to include the infiltration ponds and access roads.
38. From at least May 14, 2024 to June 17, 2024, Respondent failed to comply with the CWA and the Permit by failing to maintain an accurate SWPPP.
39. In failing to comply with the Permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to an assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 2

Failure to Maintain Inlet and Outlet Protection

40. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
41. Part II.H.3.b.13 of the Permit requires that “Protection must be provided for the inlet(s) and outlet(s) of a sediment trapping structure to protect against erosion by an appropriate material such as riprap or other similar media.”
42. During the Inspection, the EPA inspectors observed more than 15 drop inlets with damaged or insufficient inlet protection, many of which were inundated with sediment or gravel.
43. On July 30, 2024, Respondent replied that inlets and outlets were addressed throughout the Site.
44. In WVDEP’s March 4, 2025 inspection report, the WVDEP inspector noted that the WVDEP observed sediment buildup in drop inlets and drop inlets that lacked protection on the north end of the project. In addition, WVDEP noted “drop inlet protection” as “unsatisfactory” in its inspection report.
45. On April 10, 2025, Respondent reported that the drop inlets on the north end of the project had been cleaned and new controls had been installed.
46. From at least May 14, 2024 to July 30, 2024 and from at least March 4, 2025 to April 10, 2025, Respondent failed to comply with the CWA and the Permit by failing to properly maintain inlet and outlet protection.
47. In failing to comply with the Permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to an assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 3

Failure to Properly Operate and Maintain Best Management Practices

48. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
49. At Appendix C.I, the Permit defines “Best Management Practices,” or “BMPs” as, “schedules of activities, prohibitions of practices, maintenance procedures, other management practices and various structural practices such as but not limited to silt fence, sediment traps, seeding and mulching, and rip-rap used to prevent or reduce

erosion and sediment runoff and the pollution of surface waters of the State. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.”

50. Part II.F. (Installation of Erosion and Sediment Controls) of the Permit requires the permittee to “install erosion and sediment control BMPs in accordance with the approved registration. BMPs shall be in place and functional prior to land disturbance. For registrations proposed to be completed in multiple phases, the BMPs for each phase must be constructed and functional prior to land disturbance beginning in that phase. Erosion and sediment control BMPs shall be implemented in accordance with standard procedures set forth in the BMP Manual, however, other BMPs may be used if equally protective of water quality.”
51. Appendix B, Part I.1 (Proper Operation and Maintenance) of the Permit requires permittees to “at all times operate and maintain all activities and BMPs which are installed or used by the permittee to achieve compliance with the terms and conditions of the permit.”
52. During the Inspection, EPA inspectors identified the following BMPs that were not being properly maintained on-Site:
 - a. Damaged perimeter controls, with silt fencing collapsing, silt fencing in need of repair, and sediment overwhelming silt fences;
 - b. Rock ditch checks damaged with too much gravel and sediment surrounding them;
 - c. Egress and Ingress access points with an inadequate amount of stone to prevent tracking out of sediment onto Jefferson Road;
 - d. Installation of ditches which lacked stabilization or were in need of grading and seeding and showed signs of erosion, and
 - e. Concrete on the ground and not placed within a proper concrete washout.
53. In WVDEP’s March 4, 2025 inspection report, the WVDEP inspector noted several instances of inadequate BMPs:
 - a. Perimeter controls were unsatisfactory and lacked maintenance in several areas;
 - b. A diversion on the north end of the Site lacked maintenance;
 - c. The Site lacked reseeding in areas that failed to germinate in 30 days;
 - d. Waste concrete was observed outside of a concrete washout station with runoff leading to a drop inlet. Kokosing created a new wash out station, but the old station was not removed from the diversion;
 - e. Rock check ditches were unsatisfactory;
 - f. Drop inlet protection was unsatisfactory at the north end of the Site; and

g. Fill slopes on the north end of the Site lacked protection.

- 54. On April 10, 2025, Kokosing told WVDEP that it fixed all perimeter controls on the Site.
- 55. From at least May 14, 2024 to July 30, 2024 and from at least March 4, 2025 to April 10, 2025, Respondent failed to comply with the CWA and the Permit by failing to properly maintain BMPs.
- 56. In failing to comply with the Permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to an assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 4

Failure to Stabilize Areas with Construction Activity

- 57. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 58. Part III.A.3 of the Permit requires that, “stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has permanently ceased or 4 days for sites required to use enhanced BMP’s.”
- 59. Part II.H.1.e.1 of the Permit also requires SWPPPs to “contain stabilization practices to ensure that disturbed portions of the site are stabilized as rapidly as possible. Satisfactory stabilization means all disturbed areas shall be covered by permanent protection such as pavement, pervious pavement, compacted gravel, buildings, waterways (riprap, concrete, grass, or pipe), a healthy, vigorous stand of grass or native vegetation that uniformly covers more than 70% of the ground, stable outlet channels with velocity dissipation which directs site runoff to a natural watercourse, and any other structure or material approved by the Director.”
- 60. During the May 14, 2024 inspection, the EPA inspectors observed slopes and other areas of the project experiencing erosion and lacking stabilization:
 - a. The northwest conveyance pathway leading to the sump lacked vegetation;
 - b. Areas needed reseeding;
 - c. Ditch lines and slopes required stabilization and grading;
 - d. The infiltration basin near Jefferson Park Road lacked stabilization and grading, and
 - e. Sediment basins throughout the project lacked stabilization and grading, including the infiltration basin at the corner of Kanawha Turnpike Bridge and

Jefferson Road, and the infiltration basin under the Kanawha Turnpike Bridge.

61. In WVDEP's March 4, 2025 inspection report, the WVDEP inspector noted that stabilization practices were unsatisfactory, and the project lacked reseeding in areas that had failed to germinate in 30 days.
62. Kokosing stated that they attempted reseeding (including hydroseeding of steeper slopes) several times, including in April 2025 and on July 22 and 23, 2025, and BMPs remained in place throughout this period.
63. From at least May 14, 2024 to July 23, 2025, Respondent failed to comply with the CWA and the Permit by failing to stabilize portions of the Site as required.
64. In failing to comply with the Permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to an assessment of penalties under Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

Count 5

Failure to Maintain Vegetative Buffer Adjacent to Waterway

65. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
66. Permit Section II.H.3.b.8 requires "A natural vegetative buffer shall be provided adjacent to receiving streams or other waters on or near the project site. Vegetative buffers shall be a minimum of 50 feet . . .".
67. During the May 14, 2024 inspection, the EPA inspectors observed multiple areas that were bare and denuded along abutments adjacent to waterways, including an unstabilized area directly abutting Davis Creek.
68. On July 30, 2024, Respondent provided a photograph showing that a straw mat on the area directly abutting Davis Creek had been installed on July 25, 2024.
69. Respondent's seeding contractor re-seeded the area additionally after the installation of the straw mats. Respondent subsequently reseeded in April 2025 and July 22, and 23, 2025.
70. From at least May 14, 2024 to July 23, 2025, Respondent failed to comply with the CWA and the Permit by failing to maintain a vegetative buffer adjacent to Davis Creek.
71. In failing to comply with the Permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, Respondent is subject to an assessment of penalties under Section 309(g)

of the CWA, 33 U.S.C. § 1319(g).

CIVIL PENALTY

72. In settlement of the 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 **Ninety-Eight Thousand dollars (\$98,000)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
73. In determining the amount of the civil penalty to be assessed, EPA has taken into account the factors specified in Section 309(g) of the CWA, 33 U.S.C. § 1319(g). After considering these factors, EPA has determined that an appropriate penalty to settle this action is **\$98,000**.
74. Respondent agrees to pay the civil penalty in the amount of **\$98,000** ("Assessed Penalty") within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
75. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>. Respondent acknowledges that the EPA has provided adequate notification that, prior to the Effective Date, in accordance with Executive Order 14247: [Modernizing Payments To and From America's Bank Account](#), EPA ceased accepting paper checks as a form of payment of civil penalties and the EPA only accepts specific electronic methods of payments as provided on the above website.
76. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, **Dkt. No. CWA-03-2026-0078**.
 - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously by email to the following person(s):

Aviva H. Reinfeld
Assistant Regional Counsel
Reinfeld.aviva@epa.gov,

U.S. Environmental Protection Agency
Cincinnati Finance Center

CINWD_AcctsReceivable@epa.gov,

and

U.S. EPA Region 3 Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

“Proof of Payment” means, as applicable, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent’s name.

77. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1319(g)(9), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and the EPA is authorized to recover the following amounts.
- a. Interest. Interest begins to accrue from the Effective Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1319(g)(9). The rate of interest is the IRS [“standard” or “large corporate”] underpayment rate.
 - b. Handling Charges. The United States’ enforcement expenses including, but not limited to, attorneys’ fees and costs of collection proceedings.
 - c. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.
78. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.
- a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14;
 - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government),

which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

- c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, per 40 C.F.R. § 13.17.
 - d. Refer this matter to the United States Department of Justice for litigation and collection, per 40 C.F.R. § 13.33.
- 79. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
- 80. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
- 81. Payment of the civil penalty is due and payable immediately upon the Effective Date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the Effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
- 82. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, the EPA is required to send to the IRS annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that the EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." The EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide the EPA with sufficient information to enable it to fulfill these obligations, the EPA herein requires, and Respondent herein agrees, that:
 - a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at

<https://www.irs.gov/pub/irs-pdf/fw9.pdf>;

- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to the EPA's Cincinnati Finance Center at henderson.jessica@epa.gov, within 30 days after the Final Order ratifying this Consent Agreement is filed, and the EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall further:
 - i. notify the EPA's Cincinnati Finance Center of this fact, via email, within 30 days after the Effective Date of the Final Order per the Effective Date Section, below; and
 - ii. provide the EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's issuance and receipt of the TIN.

GENERAL SETTLEMENT CONDITIONS

- 83. The Parties consent to service of the Final Order by e-mail at the following valid email addresses: reinfeld.aviva@epa.gov (for Complainant), and Andrew.Kolesar@ThompsonHine.com and cjm2@kokosing.biz (for Respondent).
- 84. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
- 85. Respondent certifies that any information or representation it has supplied or made to the 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. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, 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 the 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.

86. Respondent certifies to the 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.

OTHER APPLICABLE LAWS

87. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict the 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 Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CWA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

88. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the 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). The EPA reserves any rights and remedies available to it under CWA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION/PARTIES BOUND

89. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By providing the signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that the person signing is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

90. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective (“Effective Date”) thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

ENTIRE AGREEMENT

91. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding 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 Consent Agreement and Final Order.

For Respondent: Kokosing Construction Company, Inc.

Date: 06-04-2026

By: _____


Charles Mull

Environmental Director, Kokosing Inc.

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Acting Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or the Regional Administrator's designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[*Digital Signature and Date*]
Acting Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

By: _____
[*Digital Signature and Date*]
Aviva H. Reinfeld
Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Aug 20, 2026

11:56 am

U.S. EPA REGION 3
HEARING CLERK

In the Matter of: :
:
Kokosing Construction Company, Inc. : U.S. EPA Docket No. CWA-03-2026-0078
6235 Westerville Road :
Westerville, Ohio, 43081 : Proceeding under Section 309(g) of the
: Clean Water Act, 33 U.S.C. § 1319(g)
Respondent. :
:
Jefferson Road Project :
WV 601 (Jefferson Road) intersecting with :
US 119, progressing north to WV 60 :
(MacCorkle Avenue) :
South Charleston, Kanawha County, :
West Virginia :
Site.

FINAL ORDER

Pursuant to 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 Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement.

The effective date of the foregoing Consent Agreement and this Final Order is thirty (30) days after having been signed by the Regional Administrator or her delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

By: _____
Regional Judicial and Presiding Officer
U.S. EPA, Region 3

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WV 601 (Jefferson Road) intersecting with US	:	
119, progressing north to WV 60 (MacCorkle	:	
Avenue)	:	
South Charleston, Kanawha County,	:	
West Virginia	:	
	:	
Site.	:	

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Charles Mull, Environmental Director
Kokosing Construction Company, Inc.
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[Digital Signature and Date]

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region 3