



REGION 3

PHILADELPHIA, PA 19103

Report Title: Clean Water Act Compliance Inspection Report
Inspection Date(s): 03/06/2024
Regulatory Program(s): National Pollutant Discharge Elimination System (NPDES)
Type of Activity: Construction Stormwater
Site/Facility Name: Broad Run Business Center - Buildings C & D
Permittee(s): Digital Loudoun 4, LLC
Site/Facility Operator: Digital Loudoun 4, LLC
Site/Facility Address: 44932 Prentice Dr
Sterling, VA 20166
Latitude/Longitude: 39.0014/-77.4518
County/Parish: Loudoun
Permit Number: VAR10I842
NAICS/SIC Code: 236210/1541
DSB-ID #: ECAD-5402

Site/Facility Representative(s):

Point of Contact

Ferrell Watson



Phone: (571) 489-1474

Email: ferrellw@dpr.com

Mike Oetjen



Phone: (703) 501-3917

Email: Michael.oetjen@patriotdev.net

EPA Inspectors:

Monica Crosby

Phone: (410) 305-2930

Email: Crosby.monica@epa.gov

Aaron Thomson

Phone: (215) 814-2116

Email: Thomson.aaron@epa.gov

State/Local Inspectors:

April Rhodes

Phone: (571) 866-6091

Email: April.rhodes@deq.gov

Report Preparer

Signature/Date

Monica Crosby, Inspector (3ED32)
U.S. EPA Region 3

Date

Supervisor

Signature/Date

Michael Greenwald, Acting NPDES Section 1 Chief (3ED32)
U.S. EPA Region 3

Date

Table of Contents

<u>Section</u>	<u>Page</u>
I Introduction.....	3
A Inspection Opening Conference.....	3
B Weather and Precipitation Conditions.....	4
C Summary of the Facility.....	4
II Site Activity.....	5
III Observations.....	6
IV Records Review.....	11
V Closing Conference.....	11
VI List of Attachments.....	12

I. Introduction

On March 6, 2024, an inspection team composed of staff from the U.S. Environmental Protection Agency (“EPA”) Region III (hereinafter, “EPA Inspection Team”) conducted a construction stormwater inspection of the Broad Run Business Center – Buildings C & D site (hereinafter, “the site”). Representatives from Virginia Department of Environmental Quality (“VADEQ”) and Loudoun County were also present for the inspection. The purpose of the inspection was to observe compliance with the Clean Water Act (CWA) and to verify compliance with the site’s Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VAR10I842 (hereinafter, the “Permit”) and applicable State and Federal regulations.

A. Inspection Opening Conference

The EPA Inspection Team arrived at the site at est. 9:15 AM for the inspection. Inspectors met with the following site representatives:

Table 1: Inspection Attendee List

Name	Affiliation	Telephone	Email
EPA Region III Inspectors			
Monica Crosby	Inspector	(410) 305-2930	Crosby.monica@epa.gov
Aaron Thomson	Inspector	(215) 814-2116	Thomson.aaron@epa.gov
Site Representatives			
Brian Young	DPR Construction	Rep 1 Phone	BrianY@dpr.com
Josh Fluharty	DPR Construction		Joshfl@dpr.com
Chris Rasa	DPR Construction	Rep 2 Phone	christopherra@dpr.com
Ferrell Watson	DPR Construction	(571) 489-1474	ferrellw@dpr.com
Christopher Morris	DPR Construction	(301) 750-8701	christopherm@dpr.com
Kurt Wallnse	DPR Construction	(571) 238-3805	kurtw@dpr.com
Michael Oetjen	Patriot Builders	(703) 401-3917	Michael.oetjen@patriotdev.net
Adan Eckor	DPR Construction	(571) 727-2656	adame@dpr.com
Chris Littler	DPR Construction	(703) 229-9140	christlittler@dpr.com
Matthew Hogan	DPR Construction	(571) 752-1949	Matthew.hogan@dpr.com
Michael Melhorn	DPR Construction		Michaelme@dpr.com
Larry McHenry	Patriot Builders	(703) 774-6049	Larry.mchenry@patriotdev.net
State or County Representatives			
April Rhodes	VADEQ	571-866-6091	April.rhodes@deq.gov
Margaret King	VADEQ		Margaret.king@deq.gov
John Euson	Loudoun County	State/County Insp 2 Phone	John.euson@loudoun.gov
Aaron Busit	Loudoun County		Aaron.busit@loudoun.gov
Phaleudr De	Loudoun County		Phalendra.de@loudoun.gov

Monica Crosby displayed her credentials to site representatives at the outset of the inspection, and explained the purpose of the inspection was to observe compliance with its Permit. A copy of the Permit is provided in Attachment A. The EPA Inspection Team informed the site representatives that any information that the Facility deemed to be confidential business information ("CBI") should be identified to EPA representatives during the inspection and it would be handled as CBI according to EPA's CBI procedures.

B. Weather and Precipitation Conditions

During the inspection, weather was cloudy and foggy. National Oceanic and Atmospheric Administration (NOAA) National Weather Service precipitation data for the date of the inspection and 5 days prior are provided in Table 2 below:

Table 2. Precipitation Data

Station Name	Date	Precipitation Amount (inches) ¹
WEATHER FORECAST OFFICE STERLING, VA USC00448084	03/01/24	0.1
WEATHER FORECAST OFFICE STERLING, VA USC00448084	03/02/24	0.49
WEATHER FORECAST OFFICE STERLING, VA USC00448084	03/03/24	0
WEATHER FORECAST OFFICE STERLING, VA USC00448084	03/04/24	0.11
WEATHER FORECAST OFFICE STERLING, VA USC00448084	03/05/24	0
WEATHER FORECAST OFFICE STERLING, VA USC00448084	03/06/24	0.24

C. Summary of the Site

Broad Run Business Center is an active construction site located at 44932 Prentice Drive, Sterling, VA 20166. The site is being developed as a data center for Digital Loudoun 4, LLC. The site's coverage under the Permit became effective on October 18, 2016, was modified on December 12, 2019, and is set to expire on June 30, 2024. Site representatives explained that the site was initially cleared in 2017, but construction was put on hold until 2019 as buildings got redesigned and market needs fluctuated. The site was originally planned to be constructed as two buildings, "C and D," but after redesign, the site is only being constructed as one building, "M." At the time of the inspection, it was estimated there were about 18 acres of active construction, with the building's exterior walls having been constructed, concrete floors had been laid, and steel erection was ongoing.

II. Site Activity

As part of the inspection process, the EPA Inspection Team visually observed the site conditions in the presence of site representatives. The observations from the inspection are described in

¹ Source: NOAA National Climatic Data Center (<http://www.ncdc.noaa.gov/>).

detail below in the Observations section. Photographs captured during the inspection were taken by Monica Crosby and are provided in Attachment B, Photograph Log. Some photos may be omitted to avoid redundancy but can be made available upon request.

Prior to conducting a walk-through of the site, site representatives outlined the status of construction. It was explained that the site first got permit coverage in 2016, and the site was originally cleared and graded in 2017. However, construction was put on hold until 2019 as the building got redesigned and market needs fluctuated. The site's Notice of Intent is included as Attachment C. According to site representatives, there were two separate grading permits for Buildings C and D, but the VPDES permit covers both sites. It was further explained that the redesign of this site resulted in the construction of only one building rather than the originally planned two. At the time of the inspection, construction was in phase 2, with a scheduled completion date of November 2024. Fit-out phases will go into 2025–2026, but there won't be land disturbance at that time, just the laying of concrete. DPR is the general contractor and owns the contract for the whole area of active construction. Patriot Builders is responsible for maintaining the site's erosion and sediment controls.

The EPA Inspection Team then walked the perimeter of the site, beginning in the northeast corner, which was being used to house construction materials, totes containing diesel fuel and non-potable water, and porta-potties (Attachment B, IMG_1749–IMG_1752). Site representatives stated the porta-potties are serviced every two days via a vacuum truck. A sanitary sewer sat adjacent to this area and was being protected by silt fences at the request of Loudoun County (Attachment B, IMG_1748). Site representatives explained that their Notice of Intent (NOI) included a northern building that had since been completed (Attachment B, IMG_1756). The walkthrough continued northwest towards the site's north perimeter fence line. This area was stabilized with hay and bordered by silt fences (Attachment B, IMG_1753, IMG_1755). The EPA Inspection Team continued north, past the fence line, towards the northernmost limit of disturbance, which was being used to store construction parts. This area sat adjacent to a protected wetland, as well as Broad Run, and was bordered by a super silt fence (Attachment B, IMG_1766, IMG_1768, IMG_1772, IMG_1776, and IMG_1779).

The walkthrough continued by heading south back towards the site's fence line and then walking east along the northern side of the constructed buildings. Here, the EPA Inspection Team observed three stormwater inlets. One inlet was uncovered and protected by a silt fence (Attachment B, IMG_1782). Construction workers were placing a super-silt fence around the second inlet at the time of the inspection. Site representatives stated they were working on getting a top for this uncovered inlet (Attachment B, IMG_1783 and IMG_1784). The third stormwater inlet was said to be covered with plywood and topped with rock so that the site's crane could drive over it (Attachment B, IMG_1785).

The inspection proceeded south towards Gate 1 of the site. The EPA Inspection Team observed partially covered stockpiles, which site representatives stated are covered so they can still place the sediment after it rains (Attachment B, IMG_1786). The stockpiles will be used on the south

side of the building, where they need to place about four feet of fill. Also observed were uncovered dumpsters, which site representatives stated are hauled offsite about two times a week. Gate 1 was equipped with a vehicle grate (Attachment B, IMG_1787). The walk-through continued west along Prentice Drive and the site's south perimeter fence line. Site representatives stated they have a sweeper that has been working full-time for the few weeks leading up to the inspection. Sweeping events were occurring a minimum of once a day, but up to three times a day after rain events. The EPA Inspection Team observed 2 stormwater inlets on the south side of the building that were being protected with filter socks, which, according to site representatives, are being replaced as needed (Attachment B, IMG_1790, IMG_1791, and IMG_1794). Site representatives stated that any flow received in these inlets would discharge to the Unnamed Tributary on the north side of the building.

The inspection concluded by walking through Gate 3, along the west side of the building (Attachment B, IMG_1796). Gate 3 was equipped with a vehicle grate (Attachment B, IMG_1797). This area includes a retaining wall and sits upgradient of a pond that existed prior to construction and ultimately discharges to Broad Run (Attachment B, IMG_1799 and IMG_1801). Patriot Builders installed rock rip rap in this area as a BMP for stormwater going into the pond (Attachment B, IMG_1800). It was estimated that about 30% of sheet flow goes over the retaining wall and through the rip rap. The EPA Inspection Team observed two stormwater inlets in this area (Attachment B, IMG_1802). Both inlets were bordered with silt fence, one was partially covered with plywood, and the other was covered with plywood and rock so that a crane could drive over it (Attachment B, IMG_1802 – IMG_1805).

III. Observations

Permit Coverage

Part II.D of the permit states, *“Upon commencement of land disturbance, the operator shall post conspicuously a copy of the notice of coverage letter near the main entrance of the construction activity. For linear projects, the operator shall post the notice of coverage letter at a publicly accessible location near an active part of the construction project (e.g., where a pipeline crosses a public road). The operator shall maintain the posted information until termination of general permit coverage as specified in Part I F.”*

Observation #1:

At the time of the Inspection, the Site had notice of permit coverage posted on a bulletin board outside of Gate 2 (Attachment B, IMG_1743).

SWPPP

Part II. A.1 of the Permit requires a stormwater pollution prevention plan (SWPPP) to be developed prior to the submission of a registration statement and implemented for the construction activity, including any support activity, covered by this general permit.

Part II.B of the Permit outlines the requirements of the SWPPP.

Observation #2:

The SWPPP was present onsite at the time of the inspection and provided electronically thereafter. The SWPPP is dated September 2, 2016, and is included as Attachment D. The EPA Inspection Team noted that SWPPP Part B.5 mentions that inspections are to be performed once every 14 business days and within 48 hours after a runoff storm event. This does not match the Permit's required frequency of once every four or five business days and no later than 24 hours after a measurable storm event. The Site's Notice of Permit Coverage, which is included as Attachment E, states the Site is covered under the 2019 VPDES Construction General Permit. It appears the site included and referenced an expired 2014 permit in their SWPPP.

SWPPP Availability

Part II.E of the permit states,

"1. Operators with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location on-site for use by those identified as having responsibilities under the SWPPP whenever they are on the construction site.

2. The operator shall make the SWPPP and all amendments, modifications, and updates available upon request to the department, the VSMP authority, the EPA, the VESCP authority, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location shall be posted near the main entrance of the construction site.

3. The operator shall make the SWPPP available for public review in an electronic format or in hard copy. Information for public access to the SWPPP shall be posted and maintained in accordance with Part II D. If not provided electronically, public access to the SWPPP may be arranged upon request at a time and at a publicly accessible location convenient to the operator or his designee but shall be no less than once per month and shall be during normal business hours. Information not required to be contained within the SWPPP by this general permit is not required to be released."

Observation #3:

At the time of the inspection, the Site had their SWPPP located in a lockbox outside of Gate 2 (Attachment B, IMG_1743).

SWPPP Modifications and Corrective Actions

Part II. C of the Permit states,

"1. The operator shall amend the SWPPP whenever there is a change in the design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to surface waters and that has not been previously addressed in the SWPPP.

2. The SWPPP shall be amended if, during inspections or investigations by the operator's qualified personnel, or by local, state, or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in discharges from the construction activity. Revisions to the SWPPP shall include additional or modified control measures designed and implemented to correct problems identified. If approval by the VESCP authority, VSMP authority, or department is necessary for the control measure, revisions to the SWPPP shall be completed no later than seven calendar days following approval. Implementation of these additional or modified control measures shall be accomplished as described in Part II H."

Observation #4:

As part of the inspection, the EPA Inspection Team observed the site's Land Disturbance and SWPPP Modification log, as well as the Site's most recent Best Management Practice (BMP) map, and a log documenting all changes made to the BMP map (Attachment B, IMG_1744, IMG_1746, and IMG_1747).

Water Quality Protection

Part II.G of the Permit states,

"1. The operator shall select, install, implement, and maintain control measures as identified in the SWPPP at the construction site that minimize pollutants in the discharge as necessary to ensure that the operator's discharge does not cause or contribute to an excursion above any applicable water quality standard.

2. If it is determined by the department that the operator's discharges are causing, have reasonable potential to cause, or are contributing to an excursion above any applicable water quality standard, the department, in consultation with the VSMP authority, may take appropriate enforcement action and require the operator to:

- a. Modify or implement additional control measures in accordance with Part II C to adequately address the identified water quality concerns;*
- b. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or*
- c. Submit an individual permit application in accordance with 9VAC25-870-410 B 3."*

Observation #5:

At the time of the inspection, there were several areas where stormwater controls appeared to be in need of maintenance. This included:

1. Collapsed silt fence along the north perimeter fence line that sat downgradient of disturbed soil (Attachment B, IMG_1760).
2. Torn super-silt fence along the northern limit of disturbance, adjacent to the protected wetland (Attachment B, IMG_1764 – IMG_1766 and IMG_1777).
3. Collapsed super-silt fence along the northern limit of disturbance, adjacent to the protected wetland (Attachment B, IMG_1768, IMG_1770, and IMG_1781).
4. Collapsed silt fence surrounding a stormwater inlet along the north perimeter fence line (Attachment B, IMG_1782).
5. Torn silt fence outside of Gate 2 (Attachment B, IMG_1795).

Observation #6:

At the time of the inspection, there were several areas where stormwater controls appeared to not be operating as designed. This included:

1. There were numerous places along the northern limit of disturbance where super-silt fences were observed to be intact, but sediment was undercutting the silt-fence (Attachment B, IMG_1761, IMG_1762, IMG_1764 -IMG_1666, IMG_1770-IMG_1776, and IMG_1778).
2. Sediment was observed inside a stormwater inlet along the northern perimeter fence-line (Attachment B, IMG_1783 and IMG_1784). Construction workers were placing super-silt fence around this inlet at the time of the inspection. Site representatives stated they were working on getting a manhole cover for this inlet.
3. Sediment was observed within the boundaries of the silt-fence surrounding an inlet structure along the west side of the building (Attachment B, IMG_1803 - IMG_1805).

Sediment Track Out

Part II.B.2 of the Permit requires the site to develop an erosion and sediment ("E&S") control plan *"designed and approved in accordance with the Virginia Erosion and Sediment Control*

Regulations (9VAC25-840), an "agreement in lieu of a plan" as defined in 9VAC25-840-10 from the VESCP authority, or an erosion and sediment control plan prepared in accordance with annual standards and specifications approved by the department." This E&S Plan shall be implemented to, among other things, "minimize sediment discharges from the site in a manner that addresses (i) the amount, frequency, intensity, and duration of precipitation; (ii) the nature of resulting stormwater runoff; and (iii) soil characteristics, including the range of soil particle sizes present on the site..."

Part II.A.2 of the SWPPP states, *"...The construction plans meet current Loudoun County requirements regarding erosion and sediment control and storm water management, and also comply with State regulatory requirements as presented in the Virginia Erosion and Sediment Control Handbook, Third Edition. All plans incorporated by reference into the Plan are enforceable under the Permit."*

Part 5.3.1.17 of the Virginia Erosion and Sediment Control Handbook states, *"Where construction vehicle access routes intersect paved or public roads, provisions will be made to minimize the transport of sediment by vehicular tracking onto the paved surface. Where sediment is transported onto a paved or public road surface, the road surface will be cleaned thoroughly at the end of each day. Sediment will be removed from the roads by shoveling or sweeping and transported to a sediment control disposal area."*

Observation #7:

The EPA Inspection Team observed sediment track out originating from Gate 1 and leading onto Prentice Drive (Attachment B, IMG_1789). Site representatives stated that they have a full-time street sweeper. Street sweeping is conducted a minimum of once a day, but up to three times a day following storm events. Gates 1 and 3 had a vehicle grate for vehicles leaving the site (Attachment B, IMG_1787 and IMG_1797).

Observation #8:

The EPA Inspection Team observed sediment-laden runoff originating from Gate 2. At the time of the inspection, Gate 2 was not being used and construction workers were placing silt fence. The sediment-laden runoff appeared to be flowing towards the two stormwater inlets outside of Gate 2, both of which were equipped with a filter sock (Attachment B, IMG_1790 – 1794).

Self-Inspections and Corrective Actions

Permit Part G.2.a states,

“For construction activities that discharge to a surface water identified in Part II B 5 and B 6 as impaired or having an approved TMDL or Part I B 7 as exceptional, the following inspection schedule requirements apply:

- (1) Inspections shall be conducted at a frequency of (i) at least once every four business days or (ii) at least once every five business days and no later than 24 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 24 hours between business days, the inspection shall be conducted on the next business day; and*
- (2) Representative inspections as authorized in Part II G 2 d shall not be allowed.”*

Permit Part G.4 outlines the items that are to be included in the site’s inspection reports.

Observation #9:

According to the site’s Notice of Intent, land-disturbing activity discharges to Broad Run, a surface water that is identified as impaired, but does not yet have an approved TMDL (Attachment C). As part of the inspection process, EPA requested the site’s self-inspection reports and corrective action logs for December through March 2024. The self-Inspection reports and corrective action logs were reviewed, and are included as Attachment F.

IV. Records Review

As part of the inspection, the EPA Inspection Team reviewed the following documentation: Notice of Intent, Notice of NPDES Permit Coverage, SWPPP, Pollution Prevention Plan, last three months of Self-Inspections, and the site’s Corrective Action Log for the three months preceding the inspection. Documents were available onsite and requested electronically after the inspection. Documents were received electronically on March 16, 2024.

V. Closing Conference

After the site walk, the EPA Inspection Team met with the site representatives for a closing conference. The EPA Inspection Team shared preliminary observations with the facility. The EPA Inspection Team reiterated to the facility representatives that all preliminary observations discussed were not compliance determinations. Any and all preliminary observations shared were subject to further investigation by EPA upon the additional review of records and documentation. Additional observations may be contained in this inspection report that were not identified at the time of the closing conference after EPA reviewed additional materials following the inspection.

The inspection concluded at 11:15am.

VI. List of Attachments

- Attachment A: Permit
- Attachment B: Photograph Log
- Attachment C: Notice of Intent
- Attachment D: SWPPP
- Attachment E: Notice of Permit Coverage
- Attachment F: Self- Inspection Reports and Corrective Action Log