REGION 3
PHILADELPHIA, PA 19103

Report Title:	Clean Water Act Compliance Inspection Report
Inspection Date(s):	03/05/2024
Regulatory Program(s):	Inspections authorized pursuant to Clean Water Act, Sections 308, 402, and 404 (33 U.S.C. § 1318, § 1342, and § 1344)
Type of Activity:	Construction
Site/Facility Name:	Rosedale Development Site
Permittee(s):	T.P.B Enterprises, LLC
Site Operator:	T.P.B Enterprises, LLC
Site Address:	1600 Graves Mill Road Lynchburg, VA 24502
Latitude/Longitude:	37.3761, -79.2321
County/Parish:	Lynchburg
Permit Number:	VAR10Q736
NAICS/SIC Code:	236116/1522
DSB-ID #:	ECAD-5401

Site Representative(s): **Point of Contact**

Daniel Cyrus ☒
Phone: (434) 660-9034 Email: dcyrus@thomasbuildersofva.com
Thomas Bell ☐
Phone: (434) 660-9034 Email: tbell@thomasbuildersofva.com

EPA Inspectors:

Monica Crosby
Phone: (410) 305-2930 Email: Crosby.monica@epa.gov
Katelyn Almeter
Phone: (215) 814-2797 Email: Almeter.katelyn@epa.gov

State/Local Inspectors:

Benjamin Frith
Phone: (434) 455-3885 Email: benjamin.frith@lynchburgva.gov

Report Preparer Signature/Date

MONICA CROSBY Digitally signed by MONICA CROSBY Date: 2024.04.30 13:24:38 -04'00'

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

Supervisor Signature/Date

MICHAEL GREENWALD Digitally signed by MICHAEL GREENWALD Date: 2024.04.30 17:25:19 -04'00'

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

Table of Contents

I. Introduction

On March 5, 2024, an inspection team composed of staff from the U.S. Environmental Protection Agency ("EPA") Region 3 (hereinafter, "EPA Inspection Team") conducted a construction stormwater inspection of the Rosedale Development site (hereinafter, "the Site"). Representatives from Virginia Department of Environmental Quality ("VDEQ") and Lynchburg 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. VAR10Q736 (hereinafter, the "Permit") and applicable State and Federal regulations.

A. Inspection Opening Conference

The EPA Inspection Team arrived at the Site at approximately 9:00 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
Katelyn Almeter	Inspector	(215) 814-2797	Almeter.katelyn@epa.gov
Laura Mathew	Inspector in-training	(215) 814-2061	Mathew.laura@epa.gov
Doug Frankenthaler	Assistant Regional Counsel	(215) 814-2472	Frankenthaler.douglas@epa.gov
Department of Justice			
Laura Brown	Department of Justice		Laura.J.S.Brown@usdoj.gov
Site Representatives			
Thomas Bell	Thomas Builders of VA	(434) 660-9034	tbell@thomasbuildersofva.com
Daniel Cyrus	Thomas Builders of VA	(434) 610-3819	dcyrus@thomasbuildersofva.com
Taylor Goodman	Blazer & Associates	(804) 908-1782	tgoodman@blazer.cc
John Lain	Wire Gill	(804) 314-9513	jlain@wiregill.com
State or County Representatives			
Matt Freedman	City of Lynchburg	(434) 455-3980	Matthew.freedman@lynchburgva.gov
Benjamin Frith	City of Lynchburg	(434) 455-3885	benjamin.frith@lynchburgva.gov
Gary Woolridge	Virginia Department of Environmental Quality	(804) 584-6716	gary.wooldridge@deq.virginia.gov
Scott Stephenson	Gentry Locke	(540) 798-7120	stephenson@gentrylocke.com

Monica Crosby and Katelyn Almeter displayed their credentials to Site representatives at the outset of the inspection, and explained the purpose of the inspection was to observe compliance with the Permit, observe aquatic features located on-site, and document conditions. 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 about 60 °F and mostly sunny. 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]
LYNCHBURG REGIONAL AIRPORT, VA USW00013733	02/29/24	0
LYNCHBURG REGIONAL AIRPORT, VA USW00013733	03/01/24	0.48
LYNCHBURG REGIONAL AIRPORT, VA USW00013733	03/02/24	0.44
LYNCHBURG REGIONAL AIRPORT, VA USW00013733	03/03/24	0
LYNCHBURG REGIONAL AIRPORT, VA USW00013733	03/04/24	0
LYNCHBURG REGIONAL AIRPORT, VA USW00013733	03/05/24	0

C. Summary of the Site

Rosedale Development is an active construction site located at 1600 Graves Mill Road, Lynchburg, VA 24502. The Site was purchased by TPB Enterprises ("TPB") and its parent company, Thomas Builders of V.A. ("Thomas Builders") with the intention of developing a 62-acre mixed-use development that includes both commercial and apartment buildings. TPB transferred the Site to Rosedale Investments LLC ("Rosedale"), a single purpose entity created to acquire and develop the property on March 24, 2023. Rosedale and TPB are subsidiaries of Thomas Builders. Thomas Builders is both the General Contractor performing the work and Site Contractor performing the site work. The Site's coverage under the Permit became effective on February 15, 2022, and is set to expire on June 30, 2024.

II. Site Activity

As part of the inspection process, the EPA Inspection Team visually observed the site conditions in the presence of the Site representatives. The plan for the site is included as Attachment B. The observations from the Inspection are described in detail below in the Observations section. Photographs were taken during the inspection by Laura Mathew and Monica Crosby of EPA, and are provided in Attachment C. Some photos may be omitted to avoid redundancy but can be provided upon request.

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

The EPA Inspection Team walked the perimeter of the Site, beginning in the northeast corner of Block A. Block A is planned to be sourced to commercial properties and at the time of the inspection, was stabilized with hay, which Site representatives stated was placed about 2-3 months prior to the inspection. Silt fence was installed around the east, south, and west perimeters of Block A. Site representatives explained that the silt fence was not included in their approved SWPPP but was recently installed after Block A was stabilized to prevent sediment from going over the retaining wall and sheet flow from eroding the retaining wall. An observed stormwater flow path shows that flow received in this northeast corner of Block A appeared to discharge along the east retaining wall (Attachment C, DSCN4988 through DSCN4990). The EPA Inspection Team continued west along the south retaining wall, parallel to Graves Mill Road (Attachment C, DSCN4991). Site representatives stated that most sheet flow received in Block A flows towards the south retaining wall. The EPA Inspection Team headed north, along the west perimeter of Block A. Flow received in the western half of Block A appears to flow towards the west perimeter (Attachment C, DSCN4995).

After walking the perimeter of Block A, the EPA Inspection Team proceeded towards the Site entrance. The entrance was stabilized with asphalt and Site representatives showed the EPA Inspection Team where a culvert had been constructed within an unnamed tributary to Tomahawk Creek ("UNT2") (Attachment C, DSCN5003). It was explained by a Site representative that the culvert was constructed when the Site entrance and Graves Mill Road was expanded as part of construction activities at the Site. At the time of the inspection, flow from UNT2 was carried underneath the road to an outfall on the south side of Graves Mill Road. (Attachment C, DSCN5004, DSCN5005). The downstream end of a culvert on the southern side of Graves Mill Road was observed (Attachment C, DSCN5005). The culvert structure was concrete cast and had a main outfall and an overflow outfall. Flow was observed from the main outfall into the natural stream channel (Attachment C, DSCN5007). Inspector Almeter observed that the channel of UNT2 contained flow, had an ordinary high-water mark, and bed and banks. The accumulation of rock, debris, and sediment was observed in the channel downstream of the outlet for the culvert (Attachment C, DSCN5006; DSCN5008). Bank erosion was also observed (Attachment C, DSCN5012).

The Inspection continued towards Block E, which sits adjacent to Block A and was also planned to be sourced to commercial properties. At the time of the inspection, Block E was stabilized by hay matting, which Site representatives stated was laid about 2-3 months prior to the inspection. The EPA Inspection Team observed a stormwater inlet within Block E that was not yet connected to the storm system (Attachment C, DSCN5013). According to site representatives, the plan to connect this stormwater inlet was under review by the city. Site representatives explained that once connected, flow that feeds into this inlet will navigate to a retention system, combine with one of the inlets off Rosedale Road and discharge out UNT2.

Following this, the EPA Inspection Team proceeded upstream of UNT2 to observe the culvert structure that impacted UNT2 (Attachment C, DSCN5014, DSCN5015). UNT2 was observed as it flowed into the culvert structure (Attachment C, DSCN5014). Inspector Almeter observed that the flow for UNT2 was being diverted around one of the abutments. Rock and concrete were observed in the channel. The walkthrough continued into the structure following the flow of UNT2 (Attachment C, DSCN5016).

Inspector Almeter observed a confined, mud channel containing flow was present in the culvert structure. The edges of the channel were devoid of vegetation, but woody roots stuck out from the banks. Voids in the sediment and along the plastic fencing near the concrete with free water or seeping water were observed (Attachment C, DSCN5017; DSCN5018; DSCN5019; DSCN5024). Rock, asphalt, and construction debris were present within and along UNT2 within the culvert structure. There were also areas where saturated, fine sediment had accumulated in bars (Attachment C, DSCN5023). The location where the culvert structure flowed into the pre-existing culvert under Graves Mill Road was observed by Inspectors Almeter and Mathew (Attachment C, DSCN5022).

The inspection walkthrough continued along UNT2, upstream of the structure (Attachment C, DSCN5015). Inspector Almeter observed that the channel of UNT2 had flow, an ordinary high-water mark, and bed and banks. The flow pathway was moderately sinuous relative to bankfull width. Iron oxidizing bacteria was abundant in this portion of UNT2 (Attachment C, DSCN5026). The channel was very silty and a cursory search for aquatic life garnered a planaria (Attachment C, DSCN5025).

The inspection continued back towards the northern portion of Block E. The EPA Inspection Team observed two additional storm inlets and one sanitary sewer on the northern side of Block E, which were located below a retaining wall that borders Block D (Attachment C, DSCN5031, DSCN5033, and DSCN5035). Flow to these inlets was being fed by a slope that leads to Block D (Attachment C, DSCN5036 and DSCN5037).

The EPA Inspection Team proceeded northwest towards Block D which was still being graded at the time of the inspection (Attachment C, DSCN5040). Silt fence was installed along a retaining wall that sits at the south end of Block D. It appears that stormwater received in Block D would flow south towards the retaining wall. The inspection continued towards Block G where apartment complexes were being constructed. Diesel tanks were observed in this area, along with porta potties and a dirt stockpile (Attachment C, DSCN5051, DSCN5058, and DSCN5062). The EPA Inspection Team observed several stormwater inlets in Block G (Attachment C, DSCN5052, DSCN5055, DSCN5056, DSCN5059, and DSCN5060). These inlets were bordered with silt fencing and covered with either a manhole cover or plywood.

The inspection continued to the northeast side of Block G where the Site was housing a large stockpile adjacent to UNT1 (Attachment C, DSCN5064). At the time of the inspection, a majority of the stockpile was covered with matting and had filter socks placed in layers throughout (Attachment C, DSCN5066, DSCN5070, and DSCN5112). The EPA Inspection Team observed the stormwater controls and then proceeded towards UNT1, Tomahawk Creek, and wetlands on site, which are located immediately downgradient of the large stockpile and construction activities.

Inspector Almeter observed the conditions of UNT1. Near the upstream end of UNT1, flow was present, emerging as a groundwater seep. A crayfish burrow was located near the head of the channel within the limits of disturbance (Attachment C, DSCN5075). *Juncus effuses* grew along the channel edge in this area. The channel of UNT1 was filled with supersaturated material obscuring geomorphic features, particularly at the upstream end (Attachment C, DSCN5078). Water flowed through and along the top of this material through UNT1. Characteristics associated with an ordinary high-water mark were present in the impacted portion of UNT1 such as absence of terrestrial vegetation, presence of flow, natural line impressed on the bank, and changes in the character of the soil. Iron oxidizing bacteria and algae were present in the stream channel (Attachment C, DSCN5080). Seeps were observed along the banks of UNT1 contributing additional flow. One of the groundwater seeps emerged from under, and had undercut part of, the concrete abutment (Attachment C, DSCN5081). A soil pit taken near the abutment showed the water table expressed at the ground surface (Attachment C, DSCN5084).

The inspection walkthrough continued downstream along UNT1 towards the confluence with Tomahawk Creek. Sediment was present in UNT1 that was located downstream of the edge of construction and to the confluence of Tomahawk Creek (Attachment C, DSCN104). The walkthrough continued south along Tomahawk Creek and the associated riparian wetland area. Sediment was present throughout the wetland area, measured at up to 9 inches deep by Inspector Almeter (Attachment C, DSCN5107 to DSCN5110). The EPA Inspection Team observed silt fence in an area downslope of construction activities and adjacent to Tomahawk Creek. The area within the silt fence was covered in sediment (Attachment C, DSCN5094 and DSCN5095).

II.Observations

SWPPP Modifications

Part C.1 of the Permit states, *"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."*

Observation #1:

A copy of the site's SWPPP is provided in Attachment D. The EPA Inspection team made the following observations:

1. At the time of the Inspection, the silt fence along Grave Mills was not part of the approved SWPPP (Attachment C, DSCN4991 through DSCN4993). The Site representatives stated that originally the silt fence was below the retaining wall. The additional silt fence was put up after the area was stabilized to ensure sediment did not go over the wall or cause erosion of the wall.
2. The filter socks that were placed on top of the stockpile in Block G were not part of the approved SWPPP (Attachment C, DSCN5070, and DSCN5112). At the time of the inspection, Site representatives stated the filter socks were installed within the past week.

Water Quality Protection

Part I.G.1 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 #2:

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

1. A tear in the silt fence along the south retaining wall in Block A (Attachment C, DSCN4992).

2. There appeared to be a gap between a stormwater inlet off Rosedale Road and its inlet protection. Sediment was observed alongside Rosedale Road and appeared to be heading towards this inlet (Attachment C, DSCN4999 and DSCN5000).
3. A collapsing silt fence was observed around a stormwater drain in Block E. Sediment was accumulating around the collapsed silt fence and had made its way to the stormwater drain (Attachment C, DSCN5031 and DSCN5032).
4. Silt fence placed around an unconnected sanitary hookup in the northern area of Block E was observed to have holes in it (Attachment C, DSCN5033).
5. There was collapsing silt fence observed along Block E (Attachment C, DSCN5038). A stormwater flow path appeared to be heading towards this collapsing silt fence (Attachment C, DSCN5039).
6. Silt fence placed along the retaining wall in Block D was observed to be ripped and collapsed in areas (Attachment C, DSCN5043 and DSCN5044).
7. Silt fence surrounding an inlet structure in Block D was observed to be torn and had an accumulation of sediment approximately half the height of the silt fence. Stormwater was pooling in the area adjacent to this inlet. Sediment was observed within the fenced area and within the inlet structure (Attachment C, DSCN5045, DSCN5047, DSCN5049, and DSCN5050).
8. Silt fence surrounding an inlet on the east side of Block G was torn. At the time of the inspection, there was white material surrounding the inlet. Site representatives stated that this was sanded styrofoam. The inlet was being covered with plywood (Attachment C, DSCN5060 and DSCN5061).
9. Sediment was observed to be accumulating at about half the height of a silt fence that was placed around a storm sewer in the southeast area of Block G (Attachment C, DSCN5052).
10. The silt fence downgradient of the stockpile adjacent to UNT2 was bulging in several places (Attachment C, DSCN5071, DSCN5072). Silt fence in this area was observed to be collapsed and torn in several areas (Attachment C, DSCN 5089).

Observations #3:

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

1. Sediment was observed on the downgradient side of the silt fence that was placed in front of the south retaining wall in Block A (Attachment C, DSCN4994).
2. Sediment was observed to be undercutting the silt fence along Rosedale Road off Block A. The Site Representative said this area had been matted several times. The EPA Inspection Team observed evidence of a stormwater flow path with sediment

on the downgradient side of the silt fence that had been tracked out onto the sidewalk (Attachment C, DSCN4996 through DSCN4998 and DSCN5002).

3. Sediment was observed undercutting the silt fence that was placed around a storm sewer in the southeast area of Block G. The inlet had a manhole cover at the time of the inspection (Attachment C, DSCN5054).

Unauthorized Discharge

Permit Requirement:

Part II.F of the Permit states, *"Unauthorized stormwater discharges. Pursuant to § 62.1-44.5 of the Code of Virginia, except in compliance with a state permit issued by the department, it shall be unlawful to cause a stormwater discharge from a construction activity."*

Observation #4:

The EPA Inspection Team observed unauthorized stormwater discharges from construction activities. These included:

1. Sediment within UNT1, immediately downslope of construction activities (Attachment C, DSCN5078, DSCN5080, DSCN5096, DSCN5097). At the confluence of the UNT1 and Tomahawk Creek, the EPA Inspection Team measured approximately 13 inches of sediment within the channel of UNT1 (Attachment C, DSCN5104 and DSCN5106).
2. Sanded styrofoam from construction activities observed along the bank of UNT1 (Attachment C, DSCN5082 and DSCN5083).
3. The wetland that sits downslope of construction activities, adjacent to Block G and Tomahawk Creek was filled with approximately 9 inches of sediment (Attachment C, DSCN5107 through DSCN5110).

Steep Slope

Part II.B.2(c) of the Permit requires the Site to develop an Erosion and Sediment Control Plan, which among other things, requires the Site to minimize disturbance from steep slopes.

The Site's SWPPP states that unless otherwise indicated, all vegetative and structural design and sediment control measures will be constructed and maintained according to minimum standards and specifications of the latest erosion and sediment control handbook.

5.3.1.2 of the Virginia Stormwater Management Handbook states, "*…stockpiles should have perimeter erosion and sediment control measures installed as well as located with enough setback distance from streams, waterways, and entrances/line of sight. Soil stockpile slopes should not exceed 2:1 (horizontal: vertical)."*

Observation #5:

The EPA Inspection Team observed steep slopes along the stockpile in Block G. A portion of the slope was covered with matting and filter socks, but the southern end of this slope did not have any erosion and sediment controls (Attachment C, DSCN5064 and DSCN5112). Site representatives stated that the filter socks had been installed within the week leading up to the inspection. At the time of the inspection, sediment appeared to be breaking through the straw matting in several places (Attachment C, DSCN5065 and DSCN5070). The EPA Inspection Team observed a sediment laden stormwater path at the toe of this slope with approximately 9.5 inches of accumulated sediment along the silt fence downgradient of this slope (Attachment C, DSCN5066 – DSCN5068). Silt fencing downgradient of the slope was bulging in places with sediment accumulating at more than half the height of the silt fence (Attachment C, DSCN5071 and DSCN5072). Approximately 2 inches of accumulated sediment was observed on the concrete abutment downgradient of this steep slope (Attachment C, DSCN5085).

<u>Self-Inspections</u>

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 #6:

According to the site's Notice of Intent, land-disturbing activity discharges to Tomahawk Creek, a surface water that is both identified as impaired, and has an approved TMDL (Attachment E). As part of the inspection process, EPA requested the Site's self-inspection reports for January and February 2024. The inspection reports were noted as having all required items. EPA noted that inspections were conducted within the required timeframe, apart from one: the Site was inspected on 1/29/2024. The next inspection occurred on

2/7/2024. This is a lapse of 7 business days. The Inspection reports are included as Attachment F.

IV. Records Review

As part of the inspection, the EPA Inspection Team reviewed the following Site documentation: the Notice of Intent, the SWPPP, modifications and amendments made to the SWPPP, self-inspection reports for January and February 2024, the Corrective Action Log for January and February 2024, and a Site Map. Documents were requested electronically after the inspection. Documents were received electronically on April 2, 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 Site representatives. The EPA Inspection Team reiterated to the Site representatives that all preliminary observations discussed are 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 1:40 PM.

VI. List of Attachments

- Attachment A – Permit
- Attachment B – Rosedale Bulk Grading Plan
- Attachment C – Photograph Log
- Attachment D – SWPPP
- Attachment E – Notice of Intent
- Attachment F – Self-Inspection Reports