



REGION 3

PHILADELPHIA, PA 19103

Report Title: Clean Water Act Compliance Inspection Report
Inspection Dates: 11/08/2023
Regulatory Program: National Pollutant Discharge Elimination System (NPDES)
Type of Activity: NPDES Compliance Inspection
Site Name: Kenilworth 166
Permittee(s): Michaels Development
Site Operator: Michaels Development
Site Location: 1514 Kenilworth Ave NE
 Washington, DC 20019
Latitude: 38.9104° N **Longitude:** 76.9362° W
County/Parish: District of Columbia
Permit Numbers: DCR10006Y
DSB-ID #: ECAD-5469

Facility Representatives:	Point of Contact
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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.....	4
III	Records Review.....	6
IV	Observations.....	6
V	Closing Conference.....	9
VI	List of Attachments.....	9

- Attachment A: EPA Construction General Permit
- Attachment B: Photograph Log
- Attachment C: Self-Inspection Reports
- Attachment D: Stormwater Management Plans
- Attachment E: Erosion and Sediment Controls

I. Introduction

On November 8, 2023, an inspection team composed of staff from the U.S. Environmental Protection Agency (EPA) Region 3, (hereinafter, “EPA Inspection Team”) conducted a National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Inspection (hereinafter, the “Inspection”) of the Kenilworth 166 site located at 1514 Kenilworth Ave NE in Washington, D.C., 20019 (hereinafter, “the site”). The purpose of the inspection was to observe compliance with the Clean Water Act (CWA) and to verify compliance with the site’s coverage under EPA’s NPDES Construction General Permit (CGP) [Permit No. DCR10006Y] and applicable Federal regulations.

A. Inspection Opening Conference

The EPA Inspection Team arrived at the site on November 8 at about 10:05AM for the inspection. The inspectors met with the following site representatives:

Table 1: Inspection Attendee List

Name	Affiliation	Telephone	Email
EPA Region III Inspectors			
Kaitlin McLaughlin	EPA Region 3	215-814-2393	McLaughlin.Kaitlin@epa.gov
Monica Crosby	EPA Region 3	410-305-2930	Crosby.Monica@epa.gov
Site Representatives			
Michael Zahn	Superintendent	410-370-6526	MZahn@tmo.com
Elijah Small	Assistant Project Manager	240-853-4225	gsngroupsmall@gmail.com
DOEE Representative			
Marquis Reece	DC DOEE		Marquis.Reece@DC.gov

Kaitlin McLaughlin and Monica Crosby displayed their credentials to Mr. Zahn and Mr. Small at the outset of the inspection, and explained the purpose of the Inspection was to observe compliance with EPA’s 2022 Construction General Permit (hereinafter, the Permit). A copy of the Permit is provided in Attachment A. The EPA Inspection Team informed the site representatives that any information that the site 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. At the conclusion of the opening conference, Mr. Zahn attended to other matters and the EPA Inspection Team performed a site walk-through with the other attendees listed above.

B. Weather and Precipitation Conditions

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

Table 2. Precipitation Data

Station Name	Date	Precipitation Amount (inches) ¹
ARLINGTON 0.3 E, VA US1VAAR0008	11/03/2023	0.00
ARLINGTON 0.3 E, VA US1VAAR0008	11/04/2023	0.00
ARLINGTON 0.3 E, VA US1VAAR0008	11/05/2023	0.00
ARLINGTON 0.3 E, VA US1VAAR0008	11/06/2023	0.00
ARLINGTON 0.3 E, VA US1VAAR0008	11/07/2023	0.00
ARLINGTON 0.3 E, VA US1VAAR0008	11/08/2023	0.00

C. Summary of Facility

Kenilworth 166 is an active construction site located at 1514 Kenilworth Ave NE, Washington D.C., 20019. The site is being developed and operated by Michaels Development. The site has 14 multi-family residential buildings constructed and is currently in the dry utility installment stage. The site's coverage under the Permit became effective on January 28, 2022, and is set to expire on January 1, 2024. According to site representatives, the anticipated timeline for completion is December 2023.

II. Site Activity and Walkthrough

As part of the inspection process, the EPA Inspection Team visually observed the site conditions in the presence of the Assistant Project Manager. The observations from the inspection are described in detail below in the Observations section. Photographs were taken during the inspection by Monica Crosby of EPA, and are provided in Attachment B, Photograph Log. Note that the camera time stamps are all 1 hour later than the actual time of the photo as the camera had not been adjusted for daylight saving time at the time of the inspection.

The EPA Inspection Team walked the perimeter of the site, beginning on the west side of the site, along 45th St. NE, and heading south, along the west perimeter fence-line. At the time of the inspection, vertical construction was complete. The site has two underground infiltration basins and one bioretention basin. The two infiltration basins are already constructed and

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

underground. The bioretention basin is currently under construction. The site is constructed so that any flow on site would flow to the bioretention basin or into one of the infiltration basins and carry flow through the separate storm sewer system. The site was not yet connected to the separate storm sewer system at the time of the inspection. Eventually, flow from these bioretention basins will connect to the separate storm sewer line, but since there is currently no connection, storm water currently flows into the bioretention basin via sheet flow and infiltrates into the soil below the site's limit of disturbance. Once connected, stormwater from the site will discharge via the separate storm sewer system to the Anacostia River. As part of the site walk-through, the EPA Inspection Team observed four stormwater inlets onsite, which were covered with plywood, filter fabric, and/or silt fencing at the time of inspection (Attachment B, IMG_1634, IMG_1635, IMG_1639 - IMG_1641, and IMG_1647). The EPA Inspection Team observed two stormwater inlets offsite which did not have any inlet protection at the time of the inspection (Attachment B, IMG_1662 and IMG_1663).

The EPA Inspection Team observed two stockpiles onsite (Attachment B, IMG_1643, IMG_1644, and IMG_1648). Site representatives stated that both stockpiles are in active use for final earth leveling of the site, specifically around the bioretention basin along the south side of the site (Attachment B, IMG_1636-1639). The site representative said any extra material that is not needed will be hauled offsite.

The site was bordered by chain-link fencing and a combination of silt-fencing, super silt-fencing, and orange construction fencing (Attachment B, IMG_1645, IMG_1649, IMG_1650, IMG_1651, IMG_1652, IMG_1656, and IMG_1662). At the time of the inspection, the site had one (1) small disposable concrete washout station, located at the north side of the site along Quarles St. NE (Attachment B, IMG_1654 and IMG_1655). According to site representatives, the curb along Quarles St. NE was just poured on the morning of the inspection (Attachment B, IMG_1653 and IMG_1656). When the concrete washout is solidified it will be thrown directly into an onsite dumpster. Site representatives stated that dumpsters onsite are hauled off 1-2 times a day and that the next pickup was scheduled for 12:00PM (Attachment B, IMG_1660). As the site walkthrough continued, The EPA Inspection Team noted four porta-potties. Site representatives stated these porta-potties are serviced two times per week via a vacuum truck (Attachment B, IMG_1661).

The EPA Inspection Team observed one active construction entrance/exit along Kenilworth Ave. NE (Attachment B, IMG_1657 - IMG_1659) and one inactive construction entrance/exit along 45th St. NE (Attachment B, IMG_1633). The inactive construction entrance is inaccessible due to the current construction phase, according to site representatives.

The site representatives took the EPA Inspection Team to the site bulletin board off 45th St. NE which contained all permit and stormwater information (Attachment B, IMG_1632).

III. Records Review

During and following the inspection, the EPA reviewed the following documents provided by site representatives:

1. Stormwater Management Plans,
2. Erosion and Sediment Control (E&S) Plans,
3. Self-Inspections for August 2023 – October 2023, and
4. Notice of Permit Coverage.

IV. Observations

Storm Drain Inlets

Requirement:

Permit Part 2.2.10(b): “Clean, or remove and replace, the inlet protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, remove the deposited sediment by the end of the same business day in which it is found or by the end of the following business day if removal by the same business day is not feasible.”

Observation #1

The EPA Inspection Team observed four stormwater inlets onsite. One stormwater inlet was protected with plywood, filter fabric, and silt fence. The silt fence was observed to be down and damaged while the plywood and filter fabric remained intact (Attachment B, IMG_1634 and IMG_1635). One stormwater inlets was observed to be covered and clogged with soil though the filter fabric appeared to be intact (Attachment B, IMG_1647).

Self-Inspections

Requirement:

Permit part 4.2 requires the permittee to conduct a site inspection at least once every seven (7) calendar days or once every 14 calendar days and within 24 hours of the occurrence of either a storm event that produces more than 0.25 inches or more of rain in a 24-hour period or a discharge caused by snowmelt from a storm event that produces 3.25 inches or more of snow within a 24-hour period.

Permit part 4.6 outlines the minimum requirements that must be inspected as part of the Permittee's self-inspections including:

- a) "Check whether all stormwater controls (i.e., erosion and sediment controls and pollution prevention controls) are properly installed, appear to be operational, and are working as intended to minimize pollutant discharges.
- b) Check for the presence of conditions that could lead to spills, leaks, or other accumulations of pollutants on the site. Identify any locations where new or modified stormwater controls are necessary to meet the requirements of Parts 2 and/or 3.
- c) Check for signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to your discharge at points of discharge and, if applicable, on the banks of any receiving waters flowing within or immediately adjacent to the site;
- d) Check for signs of sediment deposition that are visible from your site and attributable to your discharge (e.g., sand bars with no vegetation growing on top in receiving waters or in other constructed or natural site drainage features, or the buildup of sediment deposits on nearby streets, curbs, or open conveyance channels).
- e) Identify any incidents of noncompliance observed."

Permit Part 4.7 requires the Permittee to complete an inspection report within 24-hours of completing any site inspection. These inspection reports are to be signed in accordance with Attachment G, Part G.11 of the Permit and These are to include the following:

- a) The inspection date;
- b) Names and titles of the personnel conducting the inspection;
- c) A summary of your inspection findings, covering at a minimum the observations made in accordance with part 4.6 of the Permit;
- d) Rain gauge or weather station readings that triggered an inspection, if applicable;
and
- e) A description of any unsafe areas that were unable to be inspected.

Observation #2:

As part of the Records Review portion of the inspection, the site provided the EPA Inspection Team with their self-inspection reports for August 2023 through October 2023. These self-inspection reports are provided as Attachment C. In this 12-week period, the site conducted 7 self-inspections. The self-inspection reports consisted of general information, the condition

and effectiveness of E&S controls, a section to describe any discharge coming from the site, and a certification statement, but did not contain detailed narrative descriptions.

Corrective Action Log

Requirement:

Permit Part 5 outlines the conditions triggering a corrective action and, for each corrective action taken in accordance with the Permit, information that must be recorded in a Corrective Action Log. This part of the Permit requires that within 24 hours of identifying the corrective action, the permittee record the specific condition and date and time it was identified. This part of the Permit further requires that within 24-hours of completing the corrective action, the permittee document the actions taken to address the condition, including whether any SWPPP modifications are required. Each corrective action must be signed by the appropriate signatory in accordance with Attachment G, Part G.11.2 of the Permit.

Observation #3:

As part of the records review portion of the inspection, the EPA Inspection Team reviewed the site's Corrective Action Log. The site does not have a designated Corrective Action Log. The site representatives use the notes section of their self-inspection reports as their Corrective Action Log. The site was issued a Notice of Violation by DC DOEE on 9/5/2023 for repairs needed to super silt fence on site. The EPA Inspection Team observed the fixed super silt fence in good condition at the time of this EPA inspection.

Stormwater Controls in Need of Repair

Requirement:

Permit Part 5.1 requires the permittee to take corrective action when a stormwater control needs significant repair or a new or replacement control is needed.

Observation #4:

The EPA Inspection Team observed the construction entrance/exit had sections of clogged stone (Attachment B, IMG_1657-1659). The EPA Inspection Team also observed some track out onto Kenilworth Ave NE (Attachment B, IMG_1657).

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 about 12:50 PM.

VI. List of Attachments

Attachment A: EPA Construction General Permit

Attachment B: Photograph Log

Attachment C: Self-Inspection Reports

Attachment D: Stormwater Management Plans

Attachment E: Erosion and Sediment Controls