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west virginia department of environmental protection

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Division of Water and Waste Management  
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Charleston, WV 25304  
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Harold D. Ward, Cabinet Secretary  
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**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE CHAPTER 22, ARTICLE 11**

TO: Horus West Virginia 1, LLC  
Attn: Jose Antonio Gil Segura  
615 Crescent Executive Court, Suite 130  
Lake Mary, FL 32771

DATE: April 29, 2025

ORDER NO.: 10260

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter “Director”), under the authority of West Virginia Code 22-11-1 et seq. to Horus West Virginia 1, LLC.

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. Horus West Virginia 1, LLC is conducting land disturbance activity associated with the Blake Solar Project in Jefferson County, West Virginia. Horus West Virginia 1, LLC was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR111837, on August 12, 2022.
2. On May 15, 2023, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:
  - a. Section II.H.1.d. – Horus West Virginia 1, LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto public or private roads.

- b. Section I.G. – Horus West Virginia 1, LLC failed to prohibit discharges of material other than stormwater. Concrete wastewater was not segregated from stormwater on the site.
- c. Appendix A.15. – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site.
- d. Section II.H.3.b.13. – Horus West Virginia 1, LLC failed to provide inlet and outlet protection for sediment control structures. Inlets and outlets had not been stabilized.
- e. Section I.B. – Horus West Virginia 1, LLC failed to comply with the approved Storm Water Pollution Prevention Plan (SWPPP). Several erosion control devices were not in place as detailed by the SWPPP. Sediment Trap 11 was missing Super Silt fencing below the trap.
- f. Section II.H.3.b.9. – Horus West Virginia 1, LLC failed to stabilize clean water diversions prior to becoming functional.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W23-19-018-KRA was issued to Horus West Virginia 1, LLC.

- 3. On July 18, 2023, WVDEP personnel conducted an inspection of the facility in response to a complaint. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
  - a. Appendix A.15. – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site.
  - b. Section II.H.3.b.13. – Horus West Virginia 1, LLC failed to provide inlet and outlet protection for sediment control structures. Inlets on all basins and traps had not been stabilized.
  - c. Section I.D.2. – Horus West Virginia 1, LLC failed to report noncompliance which may have endangered the environment using the designated spill alert telephone number.
  - d. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device.
  - e. Appendix B.I.1. – Horus West Virginia 1, LLC failed to properly operate and maintain all activities and installed BMPs. Super Silt fencing at Sediment Basin 6 was damaged and needed maintenance.
  - f. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on numerous areas where construction activities had temporarily ceased for more than fourteen (14) days.
  - g. 47CSR2 Section 3.2.b. – Horus West Virginia 1, LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of Evitts Run.

As a result of the aforementioned violations, NOV No. W23-19-019-KRA was issued to Horus West Virginia 1, LLC.

- 4. On August 24, 2023, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:

- a. Appendix A.15. – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site. There were no outlet markers on any of the Sediment Traps or Sediment Basins.
- b. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on numerous areas where construction activities had temporarily ceased for more than fourteen (14) days.

As a result of the aforementioned violations, NOV No. W23-19-034-KRA was issued to Horus West Virginia 1, LLC.

- 5. On September 26 and 27, 2023, WVDEP personnel conducted an inspection of the facility in response to a complaint. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
  - a. Appendix A.15. – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site. There were no outlet markers on any of the Sediment Traps or Sediment Basins.
  - b. Section I.D.2. – Horus West Virginia 1, LLC failed to report noncompliance which may have endangered the environment using the designated spill alert telephone number. Sediment Basins 5 and 6 were overwhelmed during a recent, significant rain event and discharged sediment laden water into waters of the State. Horus West Virginia 1, LLC failed to report the noncompliance.
  - c. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device.
  - d. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on numerous areas where construction activities had temporarily ceased for more than fourteen (14) days.
  - e. Section II.H.1.d. – Horus West Virginia 1, LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto public or private roads. Construction entrances needed maintenance and stabilization, as described in the approved SWPPP.
  - f. Section II.H.4. – Horus West Virginia 1, LLC failed to inspect and clean all adjacent public and private roads of debris originating from the construction site. Track-out on the public road was not being cleaned up in a timely manner.
  - g. Section I.B. – Horus West Virginia 1, LLC failed to comply with the SWPPP. The riser for Sediment Basin 14 was removed prior to all upstream disturbance being stabilized. The area above and in the drainage area of Sediment Basin 14 was not vegetated/stabilized. The basin was converted to stormwater management from a sediment trapping structure prematurely, contrary to the approved SWPPP, allowing sediment laden water to run off site into an ephemeral Unnamed Tributary (UNT) of Evitts Run without going through an appropriate device.
  - h. Section II.H.3.b.13. – Horus West Virginia 1, LLC failed to protect the inlet of a sediment trapping structure against erosion by using an appropriate material. The inlets for Sediment Ponds 5 and 6 were not properly armored.
  - i. Appendix B.I.1. – Horus West Virginia 1, LLC failed to properly operate and maintain all activities and installed BMPs. Sediment Basin 6 had accumulated

- deposits that were greater than 50% of the wet storage capacity, and maintenance had not been conducted.
- j. 47CSR2 Section 3.2.b. – Horus West Virginia 1, LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of an ephemeral UNT of Evitts Run (39° 15' 33.3189" X -77° 49' 30.6042") and Evitts Run (39° 15' 17.2288" X -77° 49' 26.9350").

As a result of the aforementioned violations, NOV No. W23-19-035-KRA was issued to Horus West Virginia 1, LLC.

6. On October 19, 2023, WVDEP issued Order No. 10223 to Horus West Virginia 1, LLC, which became effective on October 23, 2023. The Order was issued in response to the aforementioned violations and required Horus West Virginia 1, LLC to submit an approvable Plan of Corrective Action (POCA) within twenty (20) days of the effective date of the Order.
7. On November 13, 2023, WVDEP personnel conducted an inspection of the facility in response to a complaint. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:
- a. Section II.H.1.d. – Horus West Virginia 1, LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads.
  - b. Section II.H.4. – Horus West Virginia 1, LLC failed to inspect and clean all adjacent public and private roads of debris originating from the construction site. Track-out onto the roadway was noted as a result. The track-out was not being cleaned from the roadway at the time of inspection.

As a result of the aforementioned violations, NOV No. W23-19-040-KRA was issued to Horus West Virginia 1, LLC.

8. On December 4, 2023, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
- a. Appendix A.15. – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site. No outlet markers on any of the basin/stormwater outlets were observed.
  - b. Section I.D.2. – Horus West Virginia 1, LLC failed to report noncompliance which may have endangered the environment using the designated spill alert telephone number.
  - c. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment.
  - d. Section I.B. – Horus West Virginia 1, LLC failed to comply with the SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-

14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.

- e. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on areas where construction activities had temporarily ceased for more than fourteen (14) days. Numerous areas through the project area had been idle for greater than thirty (30) days and lacked temporary stabilization.
- f. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond referred to as Pond 14A (redlined) was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.
- g. 47CSR2 Section 3.2.b. – Horus West Virginia 1, LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of Evitts Run (39.253314D X -77.833903D).

As a result of the aforementioned violations, NOV No. W23-19-041-KRA was issued to Horus West Virginia 1, LLC.

- 9. On December 18, 2023, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
  - a. Section II.H.1.d. – Horus West Virginia 1, LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads. The stabilized construction entrances from many areas of the project area were inadequate. Track-out onto the roadway was noted as a result.
  - b. Section II.H.4. – Horus West Virginia 1, LLC failed to inspect and clean all adjacent public and private roads of debris originating from the construction site. The track-out was not being cleaned from the roadway at the time of inspection.
  - c. Section I.D.2. – Horus West Virginia 1, LLC failed to report noncompliance which may have endangered the environment using the designated spill alert

telephone number. Numerous outlets were failing at the site and discharging sediment laden water; however, a spill hotline call was never received.

- d. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment.
- e. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond referred to as Pond 14A (redlined) was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.
- f. Section I.B. – Horus West Virginia 1, LLC failed to comply with the SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.
- g. 47CSR2 Section 3.2.a. – Horus West Virginia 1, LLC caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in Evitts Run (39.259255D X -77.825168D).

As a result of the aforementioned violations, NOV No. W23-19-042-KRA was issued to Horus West Virginia 1, LLC.

10. On January 9, 2024, WVDEP personnel conducted an inspection of the facility in response to a complaint. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:

- a. Appendix A.15 – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site. No outlet markers on any of the basin/stormwater outlets were observed.

- b. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment.
- c. Section I.B. – Horus West Virginia 1, LLC failed to comply with the SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.
- d. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond referred to as Pond 14A (redlined) was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.
- e. Section II.H.1.d. – Horus West Virginia 1, LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads. The stabilized construction entrances from many areas of the project area were inadequate. Track-out onto the roadway was noted as a result.
- f. 47CSR2 Section 3.2.a. – Horus West Virginia 1, LLC caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in Evitts Run (39.259255D X -77.825168D).

As a result of the aforementioned violations, NOV No. W24-19-002-KRA was issued to Horus West Virginia 1, LLC.

- 11. On January 24, 2024, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
  - a. Appendix A.15. – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site. No outlet markers on any of the basin/stormwater outlets were observed.

- b. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment.
- c. Section I.B. – Horus West Virginia 1, LLC failed to comply with the SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.
- d. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on areas where construction activities had temporarily ceased for more than fourteen (14) days. Numerous areas through the project area had been idle for greater than thirty (30) days and lacked temporary stabilization.
- e. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond referred to as Pond 14A (redlined) was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.
- f. Appendix B.I.1. – Horus West Virginia 1, LLC failed to properly operate and maintain all activities and installed BMPs. Improperly maintained super silt fencing was noted above Basin 13 where sediment laden water was undermining and leaving the site.
- g. Section II.H.1.d. – Horus West Virginia 1, LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads. The stabilized construction entrances from many areas of the project area were inadequate. Track-out onto the roadway was noted as a result.

As a result of the aforementioned violations, NOV No. W24-19-005-KRA was issued to Horus West Virginia 1, LLC.

12. On January 29, 2024, WVDEP personnel conducted an inspection of the facility in response to a complaint. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:

- a. Appendix A.15. – Horus West Virginia 1, LLC failed to post an outlet marker at all permitted outlets from the construction site. No outlet markers on any of the basin/stormwater outlets were observed.
- b. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment.
- c. Section I.B. – Horus West Virginia 1, LLC failed to comply with the SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.
- d. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on areas where construction activities had temporarily ceased for more than fourteen (14) days. Numerous areas through the project area had been idle for greater than thirty (30) days and lacked temporary stabilization.
- e. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond referred to as Pond 14A (redlined) was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.
- f. Appendix B.I.1. – Horus West Virginia 1, LLC failed to properly operate and maintain all activities and installed BMPs. Basin 7 was not holding water and needed maintenance.
- g. Section II.H.1.d. – Horus West Virginia 1, LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads. The stabilized construction entrances from many areas of the project area were inadequate. Track-out onto the roadway was noted as a result.

As a result of the aforementioned violations, NOV No. W24-19-003-KRA was issued to Horus West Virginia 1, LLC.

13. On March 5, 2024, WVDEP personnel conducted a record review and determined that Horus West Virginia 1, LLC had not submitted an approvable POCA as required by Order for Compliance Item No. Two (2) of Order No. 10223. Horus West Virginia 1, LLC's proposed POCAs were denied by WVDEP on November 17, 2023; December 8, 2023; and January 26, 2024. As described in WVDEP's denial letters, the proposed POCAs did not include a schedule of detailed action items that would fully address the violations. By failing to submit an approvable POCA, Horus West Virginia 1, LLC failed to comply with Order No. 10223, which is a violation of WV State Code 22-11-1 et seq.
14. On April 3, 2024, WVDEP personnel conducted an inspection of the facility in response to a complaint. During the inspection, violations of the following sections of West Virginia Legislative Rules and the WV/NPDES permit were observed and documented:
  - a. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment.
  - b. Section I.B. – Horus West Virginia 1, LLC failed to comply with the approved SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.
  - c. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on areas where construction activities had temporarily ceased for more than fourteen (14) days. Numerous areas through the project area had been idle for greater than thirty (30) days and lacked temporary stabilization.
  - d. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond referred to as Pond 14A (redlined)

was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.

- e. Appendix B.I.1. – Horus West Virginia 1, LLC failed to properly operate and maintain all activities and installed BMPs. Basin 7 was not holding water and needed maintenance.
- f. 47CSR2 Section 3.2.a. – Horus West Virginia 1, LLC caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in Evitts Run.

As a result of the aforementioned violations, NOV No. W24-19-019-KRA was issued to Horus West Virginia 1, LLC.

15. On May 8, 2024, WVDEP personnel and representatives of Horus West Virginia 1, LLC met to discuss the terms and conditions of this Order.

16. On May 21, 2024, WVDEP personnel conducted an inspection of the facility in response to a complaint. During the inspection, violations of the following sections of the WV/NPDES permit were observed and documented:

- a. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment.
- b. Section I.B. – Horus West Virginia 1, LLC failed to comply with the approved SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.
- c. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on areas where construction activities had temporarily ceased for more than fourteen (14) days. Numerous areas through the project area had been idle for greater than thirty (30) days and lacked temporary stabilization.
- d. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be

ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond referred to as Pond 14A (redlined) was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.

- e. Appendix B.I.1. – Horus West Virginia 1, LLC failed to properly operate and maintain all activities and installed BMPs. The installed diversion below Sediment Basin 7 had eroded and needed to be repaired.

As a result of the aforementioned violations, NOV No. W24-19-028-KRA was issued to Horus West Virginia 1, LLC.

17. On July 5, 2024, Horus West Virginia 1, LLC's aforementioned WV/NPDES Permit No. WV0115924, Registration No. WVR111837 expired.
18. On July 29, 2024, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia State Code were observed and documented:
  - a. Chapter 22 Article 11 Section 16 – Horus West Virginia 1, LLC failed to comply with Order For Compliance No. One (1) of Order No. 10223. Horus West Virginia 1, LLC has failed to immediately take measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. There is still significant non-compliance on this site and inadequate action has been taken to bring the site into compliance. The following items were observed to be out of compliance during the inspection contrary to Order For Compliance No. One (1) of Order No. 10223.
    - i. (3,6,13,19,21) Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP.
    - ii. (3,6,13,19,21) Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP.
    - iii. (3,6,13,19,21) Sediment Basin 17 has been removed and a stormwater management pond, referred to as Pond 14A (redlined), has been installed without a formal modification of the permit being submitted or approved. All upstream disturbance has not been stabilized prior to Sediment Basin 17 being removed and the redlined pond 14A being installed contrary to the approved SWPPP.
    - iv. (3,6,13,19,21) Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water is leaving the property via all outlets from ponds due to the lack of adequate treatment.

- v. (3,6,13,19,21) Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP.
- vi. (8) Numerous areas through the project area were idle for greater than thirty (30) days and lack temporary stabilization. Idle areas, observed upon the previous inspection that were still idle and lacked temporary stabilization, were noted.
- b. 22-11-1 et seq. – Horus West Virginia 1, LLC failed to comply with Order For Compliance No. Two (2) of Order No. 10223, by failing to submit an approvable plan of corrective action (POCA).

As a result of the aforementioned violations, NOV No. W24-19-047-KRA was issued to Horus West Virginia 1, LLC.

19. On August 9, 2024, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia State Code were observed and documented:

- a. Chapter 22 Article 11 Section 16 – Horus West Virginia 1, LLC failed to comply with Order For Compliance No. One (1) of Order No. 10223. Horus West Virginia 1, LLC has failed to immediately take measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. There is still significant non-compliance on this site and inadequate action has been taken to bring the site into compliance. The following items were observed to be out of compliance during the inspection contrary to Order For Compliance No. One (1) of Order No. 10223.
  - i. (3,6,13,19,21) Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP.
  - ii. (3,6,13,19,21) Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP.
  - iii. (3,6,13,19,21) Sediment Basin 17 has been removed and a stormwater management pond, referred to as Pond 14A (redlined), has been installed without a formal modification of the permit being submitted or approved. All upstream disturbance has not been stabilized prior to Sediment Basin 17 being removed and the redlined pond 14A being installed contrary to the approved SWPPP.
  - iv. (3,6,13,19,21) Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water is leaving the property via all outlets from ponds due to the lack of adequate treatment.
  - v. (3,6,13,19,21) Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP.

- vi. (8) Numerous areas through the project area were idle for greater than thirty (30) days and lack temporary stabilization. Idle areas, observed upon the previous inspection that were still idle and lacked temporary stabilization, were noted.
- b. 22-11-1 et seq.—Horus West Virginia 1, LLC failed to comply with Order For Compliance No. Two (2) of Order No. 10223, by failing to submit an approvable plan of corrective action (POCA).

As a result of the aforementioned violations, NOV No. W24-19-052-KRA was issued to Horus West Virginia 1, LLC.

- 20. On November 4, 2024, WVDEP personnel met onsite with a representative of Horus West Virginia 1, LLC, per the representative's request, to provide compliance assistance regarding the aforementioned violations. The representative asked if the use of stone in erosion areas was suitable for stabilization. WVDEP personnel noted that there are still areas that need to be stabilized.
- 21. On January 17, 2025, Horus West Virginia 1, LLC was reissued WV/NPDES Permit No. WV0115924, Registration No. WVR111837, which replaced the aforementioned expired WV/NPDES Permit Registration.
- 22. On January 29, 2025, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of West Virginia State Code and the WV/NPDES permit were observed and documented:
  - a. Section I.G. – Horus West Virginia 1, LLC failed to prevent sediment laden water from leaving the site without going through an appropriate device. Sediment laden water left the site due to the failure to maintain sediment trapping structures throughout the construction phase of the project, which caused sediment laden water to bypass treatment. Sediment laden water left the site via numerous outlets that had been converted to permanent stormwater facilities prior to all upstream disturbance being vegetated.
  - b. Section I.B. – Horus West Virginia 1, LLC failed to comply with the general permit and approved SWPPP. Sediment Traps ST-4, ST-6, ST-7, ST-8, ST-9, ST-10, ST-11, ST-12, ST-13, ST-14, ST-15, ST-16, ST-17, ST-18, ST-19, and ST-20 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Traps ST-1, ST-2, ST-3, and ST-5 were converted from sediment trapping structures to stormwater management structures prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-12, SB-14, and SB-16 were removed prior to the contributing drainage area being stabilized contrary to the approved SWPPP. Sediment Basins SB-1, SB-2, SB-3, SB-4, SB-5, SB-6, SB-7, SB-8, SB-9, SB-10, SB-11, SB-13, and SB-15 were converted to final stormwater facilities prior to all upstream disturbance being stabilized. Sediment laden water was leaving the property via all outlets from ponds due to the lack of adequate treatment.
  - c. Section III.A.3. – Horus West Virginia 1, LLC failed to provide interim stabilization on areas where construction activities had temporarily ceased for

more than fourteen (14) days. Numerous areas throughout the project area had been idle for greater than thirty (30) days and lacked temporary stabilization.

- d. Section III.C.2. – Horus West Virginia 1, LLC failed to modify the SWPPP whenever there was a change in design, construction, scope of operation, or maintenance of BMPS, which has the potential to adversely impact the surface waters of the State, or which has a significant effect on the potential for the discharge of pollutants to the waters of the State, or if the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with construction activities. Sediment Basin 17 was removed and a stormwater management pond, referred to as Pond 14A (redlined), was installed without a formal modification of the WV/NPDES permit being submitted or approved. All upstream disturbance had not been stabilized prior to Sediment Basin 17 being removed and redlined Pond 14A being installed contrary to the approved SWPPP.
- e. Appendix B.I.1. – Horus West Virginia 1, LLC failed to properly operate and maintain all activities and installed BMPs. The installed diversion below Sediment Basin 7 had eroded and needed to be repaired. Super silt fencing needs maintenance and repair.
- f. Chapter 22 Article 11 Section 16 – Horus West Virginia 1, LLC failed to comply with Order For Compliance No. One (1) of Order No. 10223. Horus West Virginia 1, LLC has failed to immediately take measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. There is still significant non-compliance on this site and inadequate action has been taken to bring the site into compliance.

As a result of the aforementioned violations, NOV No. W25-19-009-KRA was issued to Horus West Virginia 1, LLC.

### **ORDER FOR COMPLIANCE**

Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Horus West Virginia 1, LLC shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Within twenty (20) days of the effective date of this Order, Horus West Virginia 1, LLC shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Horus West Virginia 1, LLC will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall include, but not be limited to, provisions for proper remediation of all areas identified in this Order where conditions not allowable were observed and documented in waters of the State, as defined in WV Legislative Rule 47CSR2 Section 3.2. In addition, the plan of corrective action shall include, but not be limited to, provisions for submittal of a report which documents that proper remediation of the aforementioned areas has occurred. The plan of corrective

action shall make reference to WV/NPDES Permit No. WV0115924, Registration No. WVR111837, and Order No. 10260. The plan of corrective action shall be submitted to:

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WVDEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Horus West Virginia 1, LLC's West Virginia State Code, WV Legislative Rule, and permit violations, Horus West Virginia 1, LLC shall be assessed a civil administrative penalty of one hundred ninety-three thousand seven hundred eighty dollars (\$193,780) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund in accordance with the following schedule: Sixteen thousand one hundred forty-eight dollars and thirty-three cents (\$16,148.33) shall be submitted within thirty (30) days after the effective date of this Order and by the first day of each month thereafter for the next ten (10) months. Sixteen thousand one hundred forty-eight dollars and thirty-seven cents (\$16,148.37) shall be submitted by the first day of the final month. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WV-DEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

### **OTHER PROVISIONS**

1. Horus West Virginia 1, LLC hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, Horus West Virginia 1, LLC agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Horus West Virginia 1, LLC does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Horus West Virginia 1, LLC other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Horus West Virginia 1, LLC shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Horus West Virginia 1, LLC becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Horus West Virginia 1, LLC shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Horus West Virginia 1, LLC intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Horus West Virginia 1, LLC (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Horus West Virginia 1, LLC of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Horus West Virginia 1, LLC to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Horus West Virginia 1, LLC, its successors and assigns.

7. This Order shall terminate upon Horus West Virginia 1, LLC's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



\_\_\_\_\_  
Jose Antonio Gil Segura / Luís Cid Suárez

Horus West Virginia 1, LLC

\_\_\_\_\_  
Date: 6/6/2025

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeremy W. Bandy, Director  
Division of Water and Waste Management

\_\_\_\_\_  
Date



Unstabilized construction entrance.



Concrete washout is not being used properly.



Concrete washout not being used.



Concrete washout not being used.



Sediment Trap 11 has no inlet, outlet marker, or Super Silt fence.



Clean water diversion is not vegetated prior to being put into use.



Sediment Trap 14 does not have a stabilized inlet.



Sediment Trap 16 has no stabilized inlet or outlet.



Sediment Trap 10 has no stabilized Inlet or Outlet.



Construction entrance needs stabilization.



Sediment Trap 6 not finished. No stabilized Inlet or Outlet.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 7/18/2023



Outlet drainage area of Sediment Basin 6, discharging into WVDOH right of way



Sediment laden water leaving the project area through WVDOH right of way.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 7/18/2023



Sediment laden water leaving area through outlet of Sediment Basin 6.



Outlet of Sediment Basin 6. No marker/sign for outlet.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 7/18/2023



Unstable inlet to Sediment Basin 6.



Super Silt fencing at lower end of outlet of Sediment Basin 6 needs maintenance

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 7/18/2023



Sediment Basin 5 has not been installed per the approved SWPPP. Sediment laden water is leaving the area and discharging into Evitts Run.



Sediment laden water that has caused conditions not allowable in Evitts Run.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 7/18/2023



Sediment in Evitts Run.



Sediment laden water in drainage area for Evitts Run.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 7/18/2023



Area where Sediment Basin 5 should be installed and is not.



Unvegetated area that has not been excavated within the past 30 days.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 7/18/2023



Unstabilized inlet of sediment trap.



Erosion rills need stabilization.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 8/24/2023



Area that has not been worked within the past 14 days and lacks temporary stabilization.



Area lacks temporary stabilization.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 8/24/2023



Area that lacks stabilization.



Area that lacks stabilization.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 8/24/2023



Area that lacks stabilization.



Area that lacks stabilization.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 8/24/2023



Area of Sediment Basin 6. No outlet marker has been installed.



Area of Sediment Basin 5. Lacks stabilization and outlet marker.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 9/26/2023



Outlet drainage area of Sediment Basin 14, discharging onto Kabletown Road



Sediment laden water in the road at the intersection of 115 and Kabletown Road.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 9/26/2023



Inadequate construction entrance installed to prevent track-out from the site.



Unstabilized construction entrance.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 9/26/2023



Track-out from the site on Kabletown Road.



Unstabilized area of project. Temporary or permanent stabilization has not been started.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 9/26/2023



Sediment Pond 14 has been converted to a final stormwater management pond prior to all uphill disturbance being vegetated.



Outlet for stormwater pond 14 has been installed. Sediment laden water leaving site through outlet.

Horus West Virginia 1, LLC, WVR111839, Blake Solar Project, 9/26/2023



Area of Sediment Basin 6. Sediment laden water leaving site through outlet. No outlet sign is visible.



Sediment laden water leaving Sediment Basin 6. No outlet sign is visible.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 9/26/2023



Sediment laden water discharging from Sediment Basin 6.



Sediment laden water from Sediment Basin 6 entering into an ephemeral UNT of Evitts Run (39° 15' 33.3189" X -77° 49' 30.6042").

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 9/27/2023



Sediment Pond 6 has unstable inlet.



Sediment Basin 6 with accumulated deposits.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 9/27/2023



Unstabilized area of project. Temporary or permanent stabilization has not been started.



Sediment Pond 5, showing the lack of a stabilized inlet.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 9/27/2023



Sediment laden water discharged from Sediment Basin 5 into the UNT of Evitts Run.



Sediment deposits from Sediment Basin 5 in the UNT of Evitts Run.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 9/27/2023



Conditions not allowable - deposits in Evitts Run (39° 15' 17.2288" X -77° 49' 26.9350") from Sediment Basin 5. Filter sock laying in creek.



Conditions not allowable - deposits in Evitts Run (39° 15' 17.2288" X -77° 49' 26.9350") from Sediment Basin 5.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 9/27/2023



Unstabilized area of project. Temporary or permanent stabilization has not been started.



Unstabilized area of project. Temporary or permanent stabilization has not been started.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 9/27/2023



Unstabilized area of project. Temporary or permanent stabilization has not been started.



Unstabilized construction entrance.



Unstabilized construction entrance.



Unstabilized Construction Entrance.



Track-out due to construction entrance not being stabilized.



Unstabilized area that has not been worked within the past 14 days.



Sediment Basin 13 that has not been stabilized with outlet structure installed. Now known as Pond 2A on redline plan.



Sediment laden water leaving area Sediment Basin 13. Outlet structure has been installed prior to all uphill disturbance being vegetated.



Sediment laden discharge from Sediment Basin 13 into Evitts Run.



Sediment laden discharge from Sediment Basin 13 into Evitts Run.  
Offsite conditions not allowable in Evitts Run (39.253314D X -77.833903D) pictured.



Sediment laden discharge from Sediment Basin 13 into Evitts Run.  
Offsite conditions not allowable in Evitts Run (39.253314D X -77.833903D) pictured.



Sediment basin 4 that has been converted to permanent stormwater Pond 4a on redline plans.



Unvegetated area that has not been excavated within the past 30 days



Unstable inlets to sediment basin 3.



Sediment basin 3 (Pond 3B) converted prior to all uphill disturbance being vegetated.



Sediment basin SB-11 (Pond 2B redline) that has been converted to stormwater retention prior to stabilization of the contributing area.



Sediment basin SB-11 (Pond 2B redline) that has been converted to stormwater retention prior to stabilization of the contributing area. Outlet pictured.



Sediment basin SB-11 (Pond 2B redline) that has been converted to stormwater retention prior to stabilization of the contributing area. Outlet pictured.



Sediment basin SB-11 (Pond 2B redline) that has been converted to stormwater retention prior to stabilization of the contributing area. Outlet showing sediment laden discharge pictured.



Sediment Basins 12 and 15 have been deleted prior to all uphill disturbance being vegetated.



Area where Sediment Basin 12 should be installed.



Area where Sediment Trap 5 should be installed.



Pond 14A which is installed and not in the approved SWPPP.



Pond 14A



Outlet to Pond 14A. Still discharging on the other side.



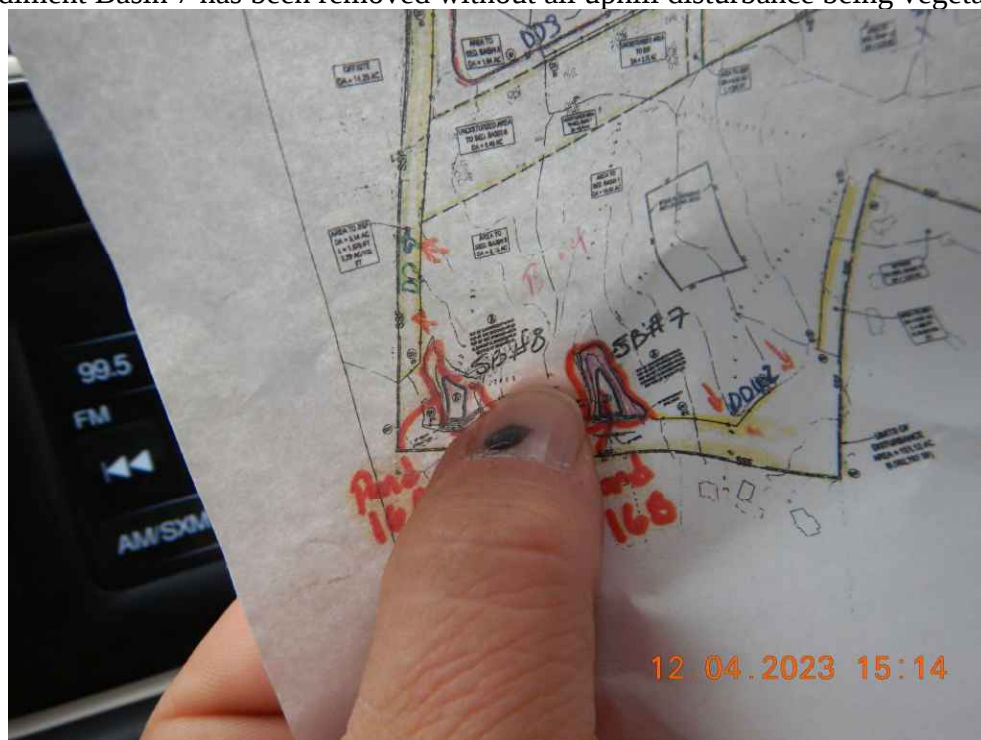
Area where sediment Basin 17 should be installed. Basin has been removed prior to all uphill disturbance being vegetated.



Unstabilized area above Pond 14A.



Sediment Basin 7 has been removed without all uphill disturbance being vegetated.



Map stating that Sediment Basin 7 has been converted into Pond 16B.



Sediment Basin 7 has been converted into Pond 16B.



Sediment basin structures that have been removed prior to all uphill disturbance being vegetated.  
Stockpiled riser structures from removed trapping structures pictured.



Sediment basin structures that have been removed prior to all uphill disturbance being vegetated.  
Stockpiled riser structures from removed trapping structures pictured.



Area that has not been worked within the past 14 days and has not been stabilized. Area of proposed Sediment Trap ST-10 pictured, showing it as not in place with a disturbed contributing area.



Area that has not been worked within the past 14 days and has not been stabilized.



Sediment Basin 1 has been converted to Pond 3A prior to all upstream disturbance being vegetated.



Sediment Basin 6 has been converted to Pond 6 prior to all upstream disturbance being vegetated.



Sediment Basin 6 has been converted to Pond 4B prior to all upstream disturbance being vegetated.



Sediment Basin 3 has been converted to Pond 3B prior to all upstream disturbance being vegetated.



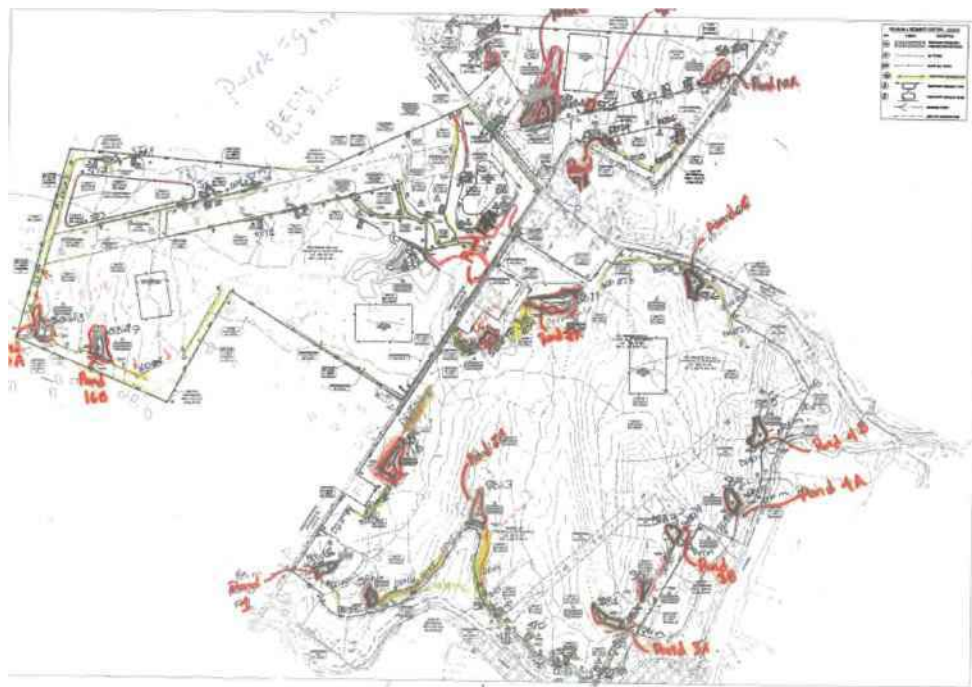
Sediment Basin 15 has been converted to Pond 1 prior to all upstream disturbance being vegetated.



Sediment Basin 16 has been removed prior to all upstream disturbance being vegetated.



Sediment Basin 10 converted to Pond 8 prior to all upstream disturbance being vegetated.



Copy of map that shows deleted Sediment Traps/Basins. Map also shows all ponds that have been converted to stormwater management.

| BMP INSPECTION REPORT                                                                                                                         |                                     |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------|-------------------------------------|---------------------|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date                                                                                                                                          | 07-nov-23                           |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
| Time                                                                                                                                          | 4:30 PM                             |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
| Weather conditions                                                                                                                            | Sunny and windy                     |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
| Reason of inspection                                                                                                                          | 4 day inspection.                   |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
| Name of the project                                                                                                                           | High Horizons (Blake Solar Project) |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
| Name of qualified inspector                                                                                                                   | Cecilia Hernandez                   |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
| SITE                                                                                                                                          | BMP                                 | Condition | Does it need repair or maintenance? | Maintenance/Repairs | When will repair/maintenance be | Comments                                                                                                                                                                                                                                            |
| 1                                                                                                                                             | Perimeter SSF                       | Good/Open | No                                  | NA                  | NA                              | Super Silt Fence cut open to install permanent fence. It will not be repaired as it is on high spots.                                                                                                                                               |
| 1                                                                                                                                             | Pond #8 (SB #10)                    | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 1                                                                                                                                             | Pond #9A (ST #1)                    | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 1                                                                                                                                             | Pond #9B (ST #2)                    | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 1                                                                                                                                             | Pond #10A (SB #9)                   | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 1                                                                                                                                             | Diversion Dikes                     | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 2                                                                                                                                             | Perimeter SSF                       | Good/Open | No                                  | NA                  | NA                              | Super Silt Fence cut open to install permanent fence. It will not be repaired as it is on high spots. Some damage on some high spots.                                                                                                               |
| 2                                                                                                                                             | Interior SF                         | Good      | No                                  | NA                  | NA                              | Replaced damaged SSF with SF.                                                                                                                                                                                                                       |
| 2                                                                                                                                             | Diversion Dikes                     | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 2                                                                                                                                             | Sediment Basin #7 (Pond #16B)       | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 2                                                                                                                                             | Sediment Basin #8 (Pond #16A)       | Good      | No                                  | NA                  | NA                              | Installing permanent structure.                                                                                                                                                                                                                     |
| 2                                                                                                                                             | Pond #14                            | OK        | No                                  | NA                  | NA                              | Pipes Blocked. Area around the pond was sealed on Oct 6th                                                                                                                                                                                           |
| 3                                                                                                                                             | Perimeter SSF                       | Good/Open | No                                  | NA                  | NA                              | Super Silt Fence cut open to install permanent fence. It will not be repaired as it is on high spots.                                                                                                                                               |
| 3                                                                                                                                             | Diversion Dikes                     | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 3                                                                                                                                             | Pond #1 (SB #15)                    | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 3                                                                                                                                             | Pond #2A (SB #13)                   | Damaged   | Yes                                 | Reparation          | ASAP                            | Need to pump out water and clean out sediment. Volume has been disturbed by trench work.                                                                                                                                                            |
| 3                                                                                                                                             | Pond #6 (SB #6)                     | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 3                                                                                                                                             | Pond #7A (SB #11)                   | Filled    | Maintenance                         | Clean out sediment  | NA                              | Need to take out sediment and clean pond to meet design volume. A small trench was done to reconduct the water to the outlet structure but no water is draining, too much sediment. Berm has been dug open by trenching, needs to be repaired ASAP. |
| 3                                                                                                                                             | Pond #4B (SB #5)                    | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 3                                                                                                                                             | Pond #4A (SB #4)                    | Good      | No                                  | NA                  | NA                              |                                                                                                                                                                                                                                                     |
| 3                                                                                                                                             | Pond #3B (SB #3)                    | Good      | No                                  | NA                  | NA                              | Installing permanent structure.                                                                                                                                                                                                                     |
| 3                                                                                                                                             | Pond #3A (SB #1)                    | Good      | No                                  | NA                  | NA                              | Pumping out water to a sediment bag.                                                                                                                                                                                                                |
| COMMENTS                                                                                                                                      |                                     |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |
| It is needed to install silt fence or other sediment control measure by the trench open in block 17 before next rain. See pictures. (PENDING) |                                     |           |                                     |                     |                                 |                                                                                                                                                                                                                                                     |

Daily inspections noting that permanent structures are being installed.

Daily inspections noting that permanent structures are being installed.



Track-out onto main road due to lack of stabilized construction entrance.



Track-out onto main road due to lack of stabilized construction entrance.



Construction entrance needs stabilized



Sediment laden water leaving the site onto Kabletown Road.



Sediment laden water leaving site onto Kabletown Road via outlet of Pond 14A that has been redlined on the plans.



Sediment laden water leaving site via outlet of Sediment Basin 6.



Sediment laden water leaving site via outlet of Sediment Basin 6.



Sediment leaving site in Evitts Run causing conditions not allowable.



Sediment laden water causing conditions not allowable in the Shenandoah River.



Sediment laden water leaving outlet of Sediment Basin 5.



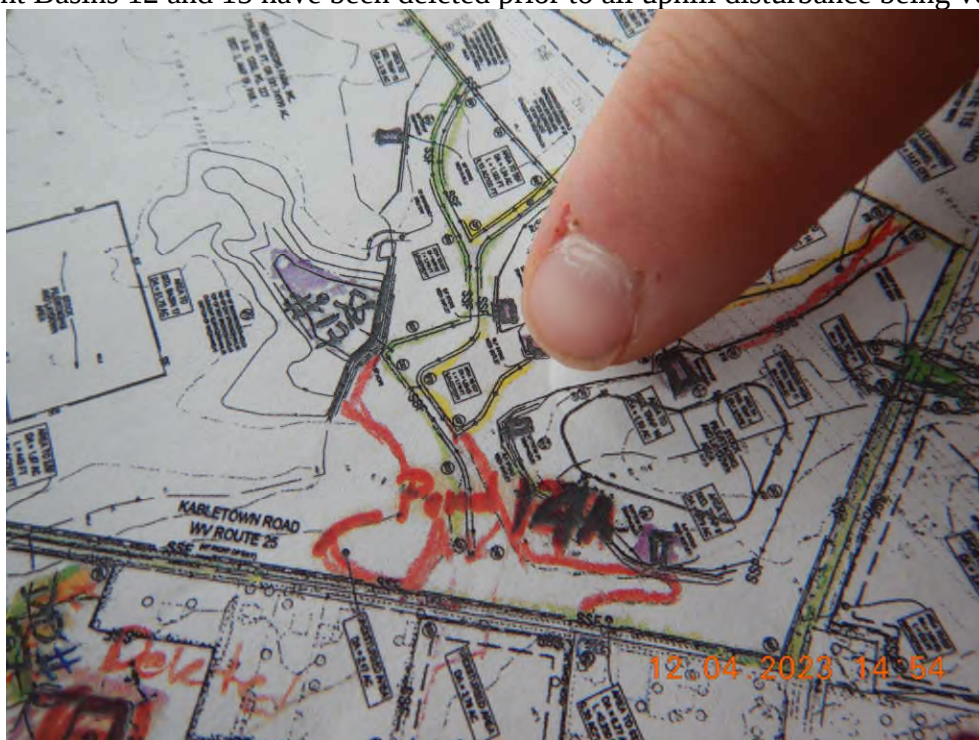
Sediment Basin 5 has been converted to final stormwater management Pond 4B. Discharging sediment laden water into Evitts Run.



Sediment Basin 13 has been converted to final stormwater management Pond 2A. Discharging sediment laden water into Evitts Run.



Sediment Basins 12 and 15 have been deleted prior to all uphill disturbance being vegetated.



Pond 14A which is installed and not in the approved SWPPP.





Sediment laden water leaving site on Kabletown Road.



Unstabilized construction entrance by Entrance 2 Kabletown Road



Sediment Basin 13 discharging into Evitts Run.



Sediment Basin 6 Discharging into WVDOH ditchline and discharging into WVDOH right of way leading to Shenandoah River.



Sediment laden water discharging into WVDOH culvert and flowing into Evitts Run



Sediment laden water following WVDOH ditchline into Evitts Run



Sediment laden water leaving the site into Evitts Run and into the Shenandoah River.



Evitts Run into the Shenandoah River.



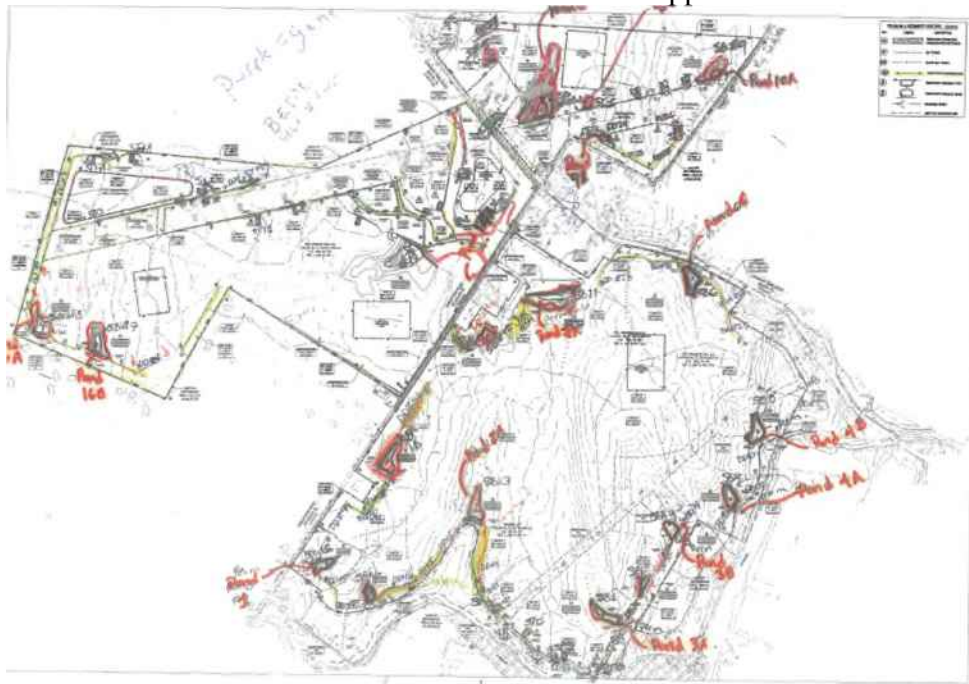
Mixing Zone between Evitts Run and the Shenandoah River.



Sediment Basins 12 and 15 have been deleted prior to all uphill disturbance being vegetated.



Pond 14A which is installed and not in the approved SWPPP.



Copy of map that shows deleted Sediment Traps/Basins. Map also shows all ponds that have been converted to stormwater management.



No outlet marker at Pond 6



Track-out from Construction Entrance 2 that was not being cleaned during inspection.



Track-out from Construction Entrance 2 that was not being cleaned during inspection.



Unstabilized area that has not been worked within the past 14 days.



Unstabilized area that has not been worked within the past 14 days.



Erosion Rills that have formed above Basin 13. Area above has not been worked within the past 14 days.



Supersilt fencing above outlet for Basin 13 needs maintenance. Sediment laden water is undermining the fencing.



Sediment laden discharge into wetlands from Basin 13. Leading to Evitts Run.



Sediment laden water leaving site downslope of Basin 13.



Riser for Basin 13 installed for the final stormwater pond.



Area above Basin 13 is unstabilized prior to installation of the final stormwater feature.



Area that has not been worked within the past 14 days.



Sediment laden water discharging underneath Supersilt fencing into wetlands area.



New pond that has been installed to prevent sediment laden water from leaving the site. SWPPP needs to be modified to include pond.



Pond 2B that has been installed and is discharging sediment laden water offsite.



Area showing SB 11 has been converted into Pond 2B prior to all disturbance being 70% vegetated.



Sediment Basins 12 and 15 have been deleted prior to all uphill disturbance being vegetated.



Pond 14A which is installed and not in the approved SWPPP.

Map that shows deleted Sediment Traps/Basins. Map also shows all ponds that have been converted to stormwater management.



Mixing zone between Evitts Run and Shenandoah River.



Evitts Run downstream of the construction site.



Basin 6 discharging into WVDOH culvert leading to Evitts Run



Area that has not been worked in the past 14 days and lacks stabilization.



Basin 8 discharging offsite. Pond converted.



Basin 8 discharging offsite.



Sinkhole in Basin 7. Basin lacks maintenance.



Basin 7 discharging offsite.



Conservation area above sediment basin 5.



Basin 5 is in need of maintenance.



Basin 5 discharging offsite into Evitts Run.



Basin 13 discharging into Evitts Run.



Basin 11 discharging offsite.



Basin 11 converted to stormwater management.



Redlined Pond 14A. Note the unstabilized area above the pond.



Outlet of pond 14A discharging offsite.



Sediment Basins 12 and 15 have been deleted prior to all uphill disturbance being vegetated.



Pond 14A which is installed and not in the approved SWPPP.





Area above Pond 16A that has not been stabilized.



Unstabilized area above Pond 16A.



Structure for Pond 16A discharging sediment laden water.



Area that has not been worked in the past 14 days and lacks stabilization above Pond 16B.



Pond 16B discharging offsite.



Unstabilized area that has not been excavated in the past 14 days.



Outlet from Pond 1 discharging offsite.



Outlet 2A discharging off site directly into Evitts Run.  
Causing Conditions not allowable.



Outlet 2A discharging off site directly into Evitts Run. Causing Conditions not allowable.



Outlet 6 discharging sediment laden water.



Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Area that has not been stabilized. Contributing area to Sediment Basin 12 which has been removed.



Unstabilized area where sediment basin 12 is supposed to be installed.



Area that has not been worked in the past 14 days and lacks stabilization



Area that has not been worked in the past 14 days and lacks stabilization.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Area that has not been worked in the past 14 days and lacks stabilization.



Sediment Basin 11 discharging offsite.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Area that has not been worked in the past 14 days and lacks stabilization.



Sediment Basin 13 discharging off site directly into Evitts Run.  
Sediment Laden Water Leaving Site

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Sediment Basin 13 discharging off site directly into Evitts Run. Sediment Laden Water Leaving Site



Area that has not been worked in the past 14 days and lacks stabilization.

A photograph of a grassy slope with a dirt path. A chain-link fence runs along the top of the slope. The path is made of dirt and leads up the hill. There are some wooden posts and green mesh fencing along the path. The date and time '05.21.2024 10:34' are printed in orange in the bottom right corner.

Copy of map that shows deleted Sediment Traps/Basins. Map also shows all ponds that have been converted to stormwater management.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Sediment Basin 6 discharging sediment laden water offsite.



Unstabilized area that has not been stabilized or worked within 14 days.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Unstabilized area above Sediment Basin 15.



Unstabilized area above Sediment Basin 14.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Unstabilized area above Pond 14A.



Unstabilized area above and around Pond 14A.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Unstabilized area above and around Pond 14A.



Unstabilized area above and around Pond 14A.

Horus West Virginia 1,LLC, WVR111839, Blake Solar Project, 5/21/2024



Unstabilized area above Sediment Basin 8.



Unstabilized area above Sediment Basin 10.



An unstabilized area that has not been actively worked. Sediment basin 16 drainage area.



An unstabilized area that has not been actively worked. Sediment basin 12 drainage area.



An unstabilized area that has not been actively worked. Sediment basin 13 drainage area.



An unstabilized area that has not been actively worked. Sediment basin 17 drainage area.



An unstabilized area that has not been actively worked. Sediment basin 6 drainage area.



An unstabilized area, above sediment basin 6, that has not been stabilized.



An unstabilized area that has not been actively worked. Sediment basin 13 drainage area.



An unstabilized area, above sediment basin 13, that has not been stabilized.



An unstabilized area that has not been actively worked. Sediment basin 17 drainage area.



Diversion ditch checks that have been undermined and not repaired. Area of former access road below sediment basin 7.



An unstabilized diversion that has not been repaired. Above sediment trap 2.



An unstabilized soil stockpile. Sediment trap 2 area.



Sediment basin 10, that has been converted prior to all uphill stabilization being finished.



Sediment basin 5, that has been converted prior to all uphill disturbance being stabilized.



Sediment basin 13, that has been converted prior to all uphill disturbance being finished.



Pond 14A, that has not been formally modified.



Sediment basin 9, that has been converted prior to all uphill disturbance being stabilized.



An unstabilized area that has not been actively worked. Sediment basin 13 drainage area.



An unstabilized area that has not been actively worked. Sediment basin 13 drainage area.



Sediment basin 12 drainage area discharging into Evitts Run.



Sediment basin 12 discharging sediment-laden water into Evitts Run.



Sediment basin 12 discharging sediment-laden water into Evitts Run.



An unstabilized area, above sediment basin 12, that has not been stabilized.



Sediment basin 6 discharging offsite into a WVDOH right-of-way.



Pond 14A discharging into a WVDOH right-of-way.



Pond 14A discharging offsite.



Pond 14A discharging offsite into a WVDOH right-of-way.



Sediment pond 7 discharging offsite.



Ditch checks lack maintenance and have been undermined.



Ditch checks lack maintenance and have been undermined.



An unstabilized area of the project.



An unstabilized area of the project.



An unstabilized area of the project.



An unstabilized channel that has eroded due to lack of vegetation.



An unstabilized area above sediment basin 13.



The super silt fencing is in need of maintenance and repair.



An unstabilized/washed out diversion channel.



An unstabilized area of the project.

Base Penalty Calculation  
(pursuant to 47CSR1-6.1)

Responsible Party: 

Horus West Virginia 1, LLC

Receiving Stream:

Treatment System Design Maximum Flow: MGD

Treatment System Actual Average Flow: MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

| 1) | Potential for Harm Factor           | Factor Range | FOF# |    |     |    |    |    |     |     |     |    |    |                          |                           |     |     |                            |
|----|-------------------------------------|--------------|------|----|-----|----|----|----|-----|-----|-----|----|----|--------------------------|---------------------------|-----|-----|----------------------------|
|    |                                     |              | 2A   | 2B | 2C  | 2D | 2E | 2F | 3A  | 3B  | 3C  | 3E | 3F | 3G, 5J, 8G, 9G, 10F, 14F | 4A, 5A, 8A, 10A, 11A, 12A | 4B  | 5B  | 5D, 8E, 11D, 12D, 14C, 16C |
| a) | Amount of Pollutant Released        | 1 to 3       | 1    | 1  | 1   | 1  | 1  | 1  | 1   | 1   | 1   | 1  | 1  | 1                        | 1                         | 1   | 1   | 1                          |
| b) | Toxicity of Pollutant               | 0 to 3       | 1    | 1  | 0   | 1  | 1  | 1  | 0   | 1   | 0   | 1  | 1  | 1                        | 0                         | 1   | 0   | 1                          |
| c) | Sensitivity of the Environment      | 0 to 3       | 1    | 1  | 0   | 1  | 1  | 1  | 0   | 1   | 0   | 1  | 1  | 1                        | 0                         | 1   | 0   | 1                          |
| d) | Length of Time                      | 1 to 3       | 1    | 1  | 1   | 1  | 1  | 1  | 2   | 2   | 1   | 1  | 1  | 1                        | 3                         | 2   | 2   | 3                          |
| e) | Actual Exposure and Effects thereon | 0 to 3       | 1    | 1  | 0   | 1  | 1  | 1  | 0   | 1   | 0   | 1  | 1  | 1                        | 0                         | 1   | 0   | 1                          |
|    | Average Potential for Harm Factor   |              | 1    | 1  | 0.4 | 1  | 1  | 1  | 0.6 | 1.2 | 0.4 | 1  | 1  | 1                        | 0.8                       | 1.2 | 0.6 | 1.4                        |
| 2) | Extent of Deviation Factor          | Factor Range |      |    |     |    |    |    |     |     |     |    |    |                          |                           |     |     |                            |
|    | Degree of Non-Compliance            | 1 to 3       | 3    | 3  | 1   | 3  | 3  | 3  | 1   | 3   | 3   | 3  | 3  | 3                        | 1                         | 3   | 3   | 3                          |

- Potential for Harm Factors:
- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
  - 1)d - Length of Time of Violation
  - 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

**Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 4.**

[illegible]



**Penalty Adjustment Factors**  
(pursuant to 47CSR1-6.2)

**Penalty Adjustment Factor**

- 6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase
- 6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum
- 6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)
- 6.2.b.7 - Public Interest (increase to be determined)
- 6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)
- 6.2.b.9 - Staff investigative costs (increase to be determined)
- 6.2.b.10 - Other factors

**Size of Violator: 0 - 50% decrease**

**NOTE:** This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

| Avg. Daily WW Discharge Flow (gpd) | % Reduction Factor |
|------------------------------------|--------------------|
| < 5,000                            | 50                 |
| 5,000 to 9,999                     | 40                 |
| 10,000 to 19,999                   | 30                 |
| 20,000 to 29,999                   | 20                 |
| 30,000 to 39,999                   | 10                 |
| 40,000 to 99,999                   | 5                  |
| > 100,000                          | 0                  |

**Additional Other factors to be determined for increases or decreases on a case-by-case basis.**

- Public Notice Costs (cost for newspaper advertisement)
- 6.2.b.2 - Good Faith - 10% decrease to 10% increase
- 6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease
- 6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

**Base Penalty Adjustments**

(pursuant to 47CSR1-6.2)

| Penalty Adjustment Factor                                                  | % Increase | % Decrease | Base Penalty Adjustments |
|----------------------------------------------------------------------------|------------|------------|--------------------------|
| 6.2.b.1 - Willfulness and/or negligence -                                  | 10         |            | \$15,500                 |
| 6.2.b.4 - Compliance/noncompliance history -                               | 25         |            | \$38,750                 |
| 6.2.b.6 - Economic benefits -<br>(flat monetary increase)                  |            |            | \$0                      |
| 6.2.b.7 - Public Interest -<br>(flat monetary increase)                    |            |            | \$0                      |
| 6.2.b.8 - Loss of enjoyment -<br>(flat monetary increase)                  |            |            | \$0                      |
| 6.2.b.9 - Investigative costs -<br>(flat monetary increase)                |            |            | \$0                      |
| 6.2.b.10 - Other factors (size of violator)                                |            |            | \$0                      |
| 6.2.b.10 - Additional Other Factors -<br>Increase (flat monetary increase) |            |            | \$0                      |
| 6.2.b.10 - Additional Other Factors -<br>Decrease (flat monetary decrease) |            |            | \$0                      |
| Public Notice Costs (flat monetary increase)                               | \$30       |            | \$30                     |
| 6.2.b.2 - Good Faith - Increase                                            |            |            | \$0                      |
| 6.2.b.2 - Good Faith - Decrease                                            |            |            | \$0                      |
| 6.2.b.3 - Cooperation with the Secretary                                   |            | 10         | (\$15,500)               |
| 6.2.b.5 - Ability to Pay                                                   |            |            | \$0                      |
| Penalty Adjustments                                                        |            |            | \$38,780                 |
| Penalty =                                                                  |            |            | \$193,780                |

| Estimated Economic Benefit Item                                    | Estimated Benefit (\$)          |
|--------------------------------------------------------------------|---------------------------------|
| Monitoring & Reporting                                             |                                 |
| Installation & Maintenance of Pollution Control Equipment          |                                 |
| O&M expenses and cost of equipment/materials needed for compliance |                                 |
| Permit Application or Modification                                 |                                 |
| Competitive Advantage                                              |                                 |
| Estimated Economic Benefit                                         | \$0                             |
| Comments:                                                          | Economic benefit not warranted. |