

*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

PIEDMONT REGIONAL OFFICE  
4949-A Cox Road, Glen Allen, Virginia 23060  
(804) 527-5020 FAX (804) 698-4178

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Travis A. Voyles  
Acting Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus  
Director  
(804) 698-4020

James Golden  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
ENERGIX EPC US LLC  
FOR  
BUCKINGHAM SOLAR II LLC**

**Virginia Pollutant Discharge Elimination System Permit Registration No.  
VAR10K840**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the State Water Control Board and Energix EPC US LLC, regarding the Buckingham Solar II LLC site, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "2019 Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2019 and which expires on June 30, 2024.

3. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
4. “BMP” or “best management practice” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, including both structural and nonstructural practices, to prevent or reduce the pollution of surface waters and groundwater systems. 9 VAC 25-870-10
5. “Construction activity” means any clearing, grading or excavation resulting in land disturbance of equal to or greater than one acre, or disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre.
6. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
7. “Director” means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
8. “Discharge” means the discharge of a pollutant.
9. “Discharge of a pollutant” means:
  - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
  - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
10. “Energix” means Energix EPC US LLC, a company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Energix is a “person” within the meaning of Va. Code § 62.1-44.3.
11. “ESC” means erosion and sediment control.
12. “Facility” or “Site” means the Buckingham Solar II LLC site located at 23 Highrock Road in Buckingham County, Virginia, from which discharges of stormwater associated with construction activity occur.
13. “Fill material” means any pollutant that replaces portions of surface water with dry land or that raised the bottom elevation of a surface water for any purpose.
14. “General Permit Regulation” means the General VPDES Permit for Discharges of Stormwater from Construction Activities, 9 VAC 25-880-1 et seq.

15. "Impacts" means results caused by those activities specified in § 62.1-44.15:20(A) of the Code of Virginia.
16. "Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Va. Code § 62.1-44.15:34.
17. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
18. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
19. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. . . ." 9 VAC 25-870-10.
20. "Pollution" means "such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are 'pollution.'" Va. Code § 62.1-44.3; 9 VAC 25-210-10.
21. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
22. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Va. Code.
23. "State Waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.

24. “Stormwater” means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage. Va. Code § 62.1-44.15:24.
25. “Stormwater management plan” means a document or series of documents containing material describing methods for complying with the requirements of a VSMP or the VSMP Regulations. 9 VAC 25-870-10.
26. “SWPPP” means Stormwater Pollution Prevention Plan, which is a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under a VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan. 9 VAC 25-870-10.
27. “Virginia Stormwater Management Act” means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Va. Code.
28. “Va. Code” means the Code of Virginia (1950), as amended.
29. “VAC” means the Virginia Administrative Code.
30. “VPDES” means Virginia Pollutant Discharge Elimination System.
31. “VSMP” means the Virginia Stormwater Management Program, which is a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations. Va. Code § 62.1-44.15:24.
32. “VSMP authority” means an authority approved by the Board after September 13, 2011, to operate a VSMP or, until such approval is given, the Department. An authority may include a locality; state entity, including the Department; federal entity; or for linear projects subject annual standards and specifications in accordance with subsection B of § 62.1-44.15-31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102. Va. Code § 62.1-44.15:24.
33. “VSMP Regulations” means the Virginia Stormwater Management Program (VSMP) Regulations, 9 VAC 25-870-10 et seq.

34. “Wetlands” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. 9 VAC 25-210-10.

**SECTION C: Findings of Fact and Conclusions of Law**

1. Energix owns the Buckingham Solar II LLC facility located in Buckingham County, Virginia, from which stormwater associated with construction activity is discharged.
2. DEQ is the VSMP authority for the Site.
3. Energix applied for and, on August 28, 2020, was granted coverage under the 2019 Permit, VAR10 of the General Permit Regulation. Energix was assigned registration number VAR10K840.
4. The 2019 Permit allows Energix to discharge stormwater associated with construction activities from the Facility to an unnamed tributary of Payne Creek, in strict compliance with the terms and conditions of the 2019 Permit.
5. The unnamed tributary of Payne Creek is a surface water located wholly within the Commonwealth and is a “state water” under the State Water Control Law.
6. The unnamed tributary of Payne Creek is located in the James River Basin (Middle James River Sub-basin).
7. During the DEQ inspection on September 28, 2021, sediment had escaped the erosion and sediment control perimeter controls and was deposited in the downstream stream channel. The SWPPP did not identify the discharge of sediment.

2019 Permit Part II(C)(4)(e) states in part: “The operator shall update the SWPPP as soon as possible but no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items: (e) The date of any prohibited discharges, the discharge volume released, and what actions were taken to minimize the impact of the release”

2019 Permit Part II(C)(4)(f) states in part: “The operator shall update the SWPPP as soon as possible but no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items: (f) Measures taken to prevent the reoccurrence of any prohibited discharge”

2019 Permit Part II(C)(4)(g) states in part: “The operator shall update the SWPPP as soon as possible but no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following

items: (g) Measures taken to address any evidence identified as a result of an inspection required under Part II G.”

9 VAC 25-870-54(G) states: “The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.”

8. During the September 28, 2021 and December 16, 2021 inspections, sediment traps and stone outlets were not installed per the approved ESC plan and the ESC plan sequence was not followed. The permanent outlet pipes were installed and functioning before the sediment traps were converted into the permanent best management practice configuration.

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

9. During the September 28 2021 inspection, interior side slopes were eroding at basins, stormwater conveyance channels were eroding at basins, and inadequate soil stabilization was evident at basins.

2019 Permit Part II(F)(1) states: “1. All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.”

9 VAC 25-840-40(5) states: “Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation.”

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

10. During the September 28, 2021 inspection, sediment had escaped the ESC perimeter control between basins and was deposited in a downstream stream channel. The stream channel was impacted with approximately 200 linear feet of deposited sediment.

Va. Code § 62.1-44:15:20(A)(3) states: Except in compliance with an individual or general Virginia Water Protection Permit issued in accordance with this article, it shall be unlawful to: 3. Alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses unless authorized by a certificate issued by the Board.”

9 VAC 25-210-50(A) states: Except in compliance with a VWP permit, unless the activity is otherwise exempted or excluded, no person shall dredge, fill, or discharge any pollutant into, or adjacent to surface waters; withdraw surface water; otherwise alter the physical, chemical, or biological properties of state waters regulated under this chapter and make them detrimental to the public health, to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; excavate in wetlands; or on or after October 1, 2001, conduct the following activities in a wetland: 1. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions; 2. Filling or dumping; 3. Permanent flooding or impounding; or 4. New activities that cause significant alteration or degradation of existing wetland acreage or functions.”

11. During the December 16, 2021 inspection, the SWPPP inspection reports were not dated as required by the 2019 Permit.

2019 Permit Part II(G)(3)(a)(1) states in part: “As part of the inspection, the qualified personnel shall: (1) Record the date and time of the inspection...”

12. During the December 16, 2021 inspection, denuded areas, lacking stabilization measures, were present throughout the Facility.

2019 Permit Part II(B)(5)(b)(1) states in part: “Provide clear direction in the SWPPP that: (1) Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site.”

2019 Permit Part II(B)(2)(c)(8) states: “An approved erosion and sediment control plan, "agreement in lieu of a plan," or erosion and sediment control plan prepared in accordance with department-approved annual standards and specifications, implemented to: (8) Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days.”

9 VAC 25-840-40(1) states: “Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may

not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.”

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

13. During the December 16, 2021 inspection, the Facility basin dam area was denuded and lacking stabilization measures.

9 VAC 25-840-40(7) states: “Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Slopes that are found to be eroding excessively within one year of permanent stabilization shall be provided with additional slope stabilizing measures until the problem is corrected.”

9 VAC 25-840-40(8) states: “Concentrated runoff shall not flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume or slope drain structure.”

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

2019 Permit Part II(B)(2)(c)(8) states: “Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days.”

14. During the December 16, 2021 inspection, several Facility basin side slopes were eroded.

9 VAC 25-840-40(7) states: “Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Slopes that are found to be eroding excessively within one year of permanent stabilization shall be provided with additional slope stabilizing measures until the problem is corrected.”

9 VAC 25-840-40(8) states: “Concentrated runoff shall not flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume or slope drain structure.”

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be



designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

2019 Permit Part II(B)(2)(c)(8) states: “Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days.”

15. During the December 16, 2021 inspection, several Facility conveyance channels were not stabilized and were eroded.

9 VAC 25-840-40(11) states: “Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel.”

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

2019 Permit Part II(B)(2)(c)(8) states: “Ensure initiation of stabilization activities, as defined in 9VAC25-880-1, of disturbed areas immediately whenever any clearing, grading, excavating, or other land-disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 days.”

16. During the December 16, 2021 inspection, 300 feet of silt fence and outlet protection swales were in need of maintenance at the Facility.

9 VAC 840-60(A) states: “All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan.”

2019 Permit Part II(F)(1) states: “1. All control measures shall be properly maintained in effective operating condition in accordance with good engineering practices and, where applicable, manufacturer specifications. If a site inspection required by Part II G identifies a control measure that is not operating effectively, corrective actions shall be completed as soon as practicable, but no later than seven days after discovery or a longer period as established by the VSMP authority, to maintain the continued effectiveness of the control measures.”

17. The Department has not issued coverage under any permit or certificate to Energix other than under the 2019 Permit.
18. Based on the results of the September 28, 2021 and December 16, 2021 inspections, the Board concludes that Energix violated Va. Code § 62.1-44.5(A), Va. Code § 62.1-44.15:20(A)(3), 9 VAC 25-210-50(A), 9 VAC 25-840-60(A), 9 VAC 25-870-54(B), 9 VAC 25-870-54(G), 9 VAC 25-870-310(A), and the conditions of 2019 Permit Parts II(B)(2)(c)(8), II(B)(5)(b)(1), II(C)(4)(e), II(C)(4)(f), II(C)(4)(g), II(F)(1), and II(G)(3)(a)(1), as described in paragraphs C(7) through (16) of this Order.
19. PRO issued a Notice of Violation for the violations noted above as follows: NOV No. 2021-10-PRO-201, issued November 3, 2021.
20. On November 17, 2021, Energix responded to the Notice of Violation by submitting a written response to the NOV.
21. On December 16, 2021, Department staff met with representatives of Energix to discuss the violations, including Energix's written response.
22. In order for Energix to complete its return to compliance, DEQ staff and Energix have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, the Board orders Energix, and Energix agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$23,772.50 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Energix shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit as follows: \$16,947.50 for deposit into the Virginia Stormwater Management Fund and \$6,825.00 in the Virginia Environmental Emergency Response Fund

(VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Energix shall be liable for attorneys' fees of 30% of the amount outstanding.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Energix for good cause shown by Energix, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 et seq., after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 2021-10-PRO-201 dated November 3, 2021. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Energix admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Energix consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Energix declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Energix to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Energix shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Energix shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Energix shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred

that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance;  
and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Energix. Nevertheless, Energix agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after Energix has completed all of the requirements of the Order;
  - b. Energix petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Energix.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Energix from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Energix and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Energix certifies that he or she is a responsible officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Energix to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Energix.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Energix voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
James J. Golden, Regional Director  
Department of Environmental Quality

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Energix EPC US LLC voluntarily agrees to the issuance of this Order.

Date: 6/8/22 By: [Signature], Authorized Signatories  
(Person) (Title)  
Energix EPC US LLC

Commonwealth of Virginia  
City/County of Arlington


The foregoing document was signed and acknowledged before me this 8th day of  
June, 2022, by Asa Levinger & Itamar Saorussi who is  
Authorized Signatories of Energix EPC US LLC, on behalf of the company.

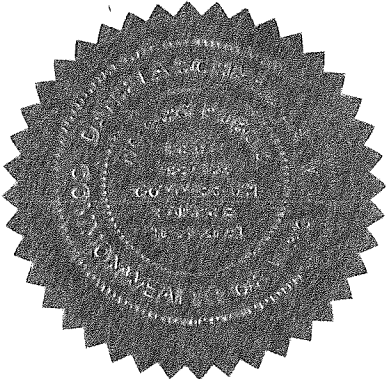
[Signature]  
Notary Public

Registration No. \_\_\_\_\_

My commission expires: \_\_\_\_\_

Notary seal:

 Daniela Schneider  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. # 7887152  
Com. Exp: Oct. 31, 2024



## **APPENDIX A SCHEDULE OF COMPLIANCE**

### 1. Corrective Action

- a. Within 7 days of the effective date of this Consent Order, Energix shall address the maintenance of erosion and sediment controls and the stabilization of denuded and eroded areas as detailed in the December 16, 2021 Site Inspection Report – Request for Corrective Action.
- b. Energix shall submit a report documenting completion of corrective action, in accordance with the Request for Corrective Action, within 10 days of completion of corrective action.

### 2. DEQ Contact

Unless otherwise specified in this Order, Energix shall submit all requirements of Appendix A of this Order to:

Matthew Richardson  
Enforcement Specialist  
VA DEQ – Piedmont Regional Office  
4949-A Cox Road, Glen Allen, Virginia 23060  
804-527-5060  
Matthew.Richardson@DEQ.Virginia.gov