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west virginia department of environmental protection

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Environmental Enforcement  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Telephone: (304) 926-0470 Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

October 19, 2023

Horus West Virginia 1, LLC  
Attn: Luise Polo Gomez  
110 Front Street Suite 300  
Jupiter, Fl 33477


**CERTIFIED RETURN RECEIPT REQUESTED**

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Luise Polo Gomez:

Enclosed is Order No. 10223. This Order is issued to Horus West Virginia 1, LLC by the director of the Division of Water and Waste Management under the authority of West Virginia State Code 22-11-12. This Order contains notification of the right of appeal under the provisions of West Virginia State Code 22-11-21.

  
Jeremy W. Bandy  
Chief Inspector

cc: Harold D. Ward, Cabinet Secretary, WVDEP (via e-mail)  
Katheryn Emery, P.E., Director, DWWM (via e-mail)  
Scott G. Mandirola, Deputy Secretary for External Affairs, WVDEP (via e-mail)  
Yogesh Patel, Assistant Director, DWWM/Permits (via e-mail)  
Brad Wright, Assistant Chief Inspector, EE/WW (via e-mail)  
David C. Simmons, Assistant Chief Inspector, EE (via e-mail)  
Laura McGee, Environmental Resources Program Manager, EE (via e-mail)  
Cindy Blugerman, Environmental Resources Specialist, EE (via e-mail)  
Amaris Elliott, Environmental Resources Associate, EE (via e-mail)  
Tim Casto, Environmental Inspector Supervisor, EE/WW (via e-mail)  
Keith Allison, Environmental Inspector, EE/WW (via e-mail)  
Shyrel Moellendick, MSSS, EE (via e-mail)  
Allison Gieda, US EPA, Region III (via e-mail)



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Harold D. Ward, Cabinet Secretary  
dep.wv.gov

**ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Horus West Virginia 1, LLC  
Attn: Luise Polo Gomez  
110 Front Street Suite 300  
Jupiter, FL 33477

DATE: October 19, 2023

ORDER NO.: 10223

**INTRODUCTION**

The following findings are made and Order issued to Horus West Virginia 1, LLC pursuant to the authority vested in the Director of the Division of Water and Waste Management under West Virginia State Code 22-11-1 et seq.

**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.

Promoting a healthy environment.

- 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.

### **ORDER FOR COMPLIANCE**

And now, this day of October 19, 2023, Horus West Virginia 1, LLC is hereby ORDERED by the Director as follows:

1. Horus West Virginia 1, LLC shall immediately take 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. 10223. 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.

### **OTHER PROVISIONS**

1. 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 enforcement action in accordance with the applicable law.

2. 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.
3. This Order is binding on Horus West Virginia 1, LLC, its successors and assigns.
4. 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.

**RIGHT OF APPEAL**

Notice is hereby given of your right to appeal the terms and conditions of this Order which you are aggrieved to the Environmental Quality Board by filing a NOTICE of APPEAL on the form prescribed by such Board, in accordance with the provisions of WV State Code 22-11-21 within thirty (30) days after receipt of this Order.

This Order shall become effective upon receipt.



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Katheryn Emery, P.E., Director  
Division of Water and Waste Management



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.



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.



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



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



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.



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.



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.



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.





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.

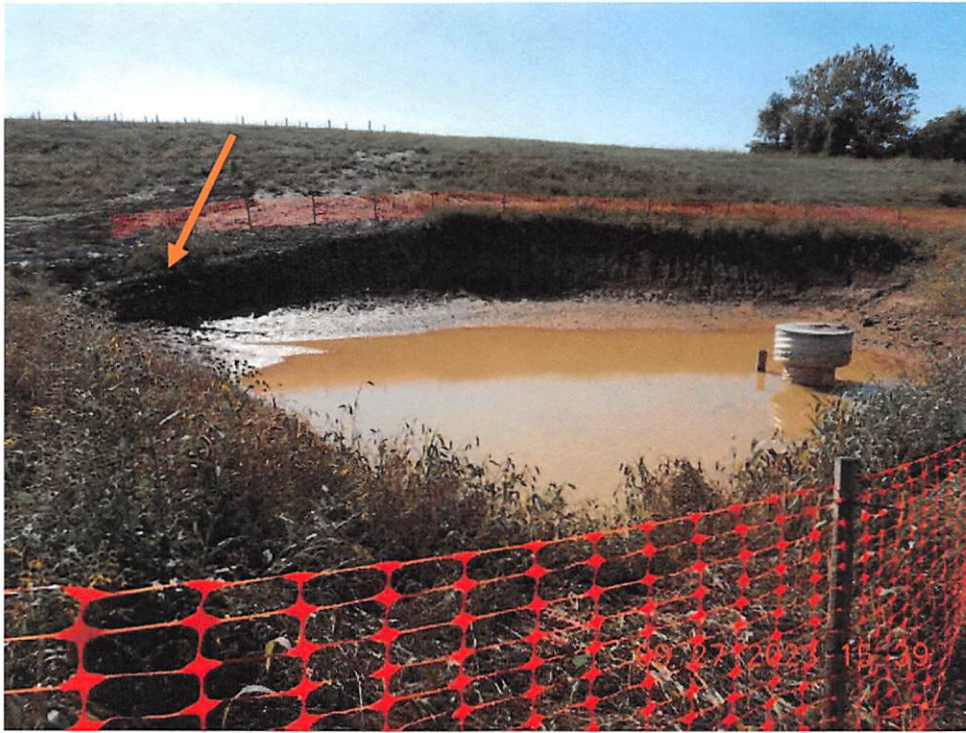
Horus West Virginia I,LLC, WVR111839, Blake Solar Project, 9/26/2023



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").



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 I,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.

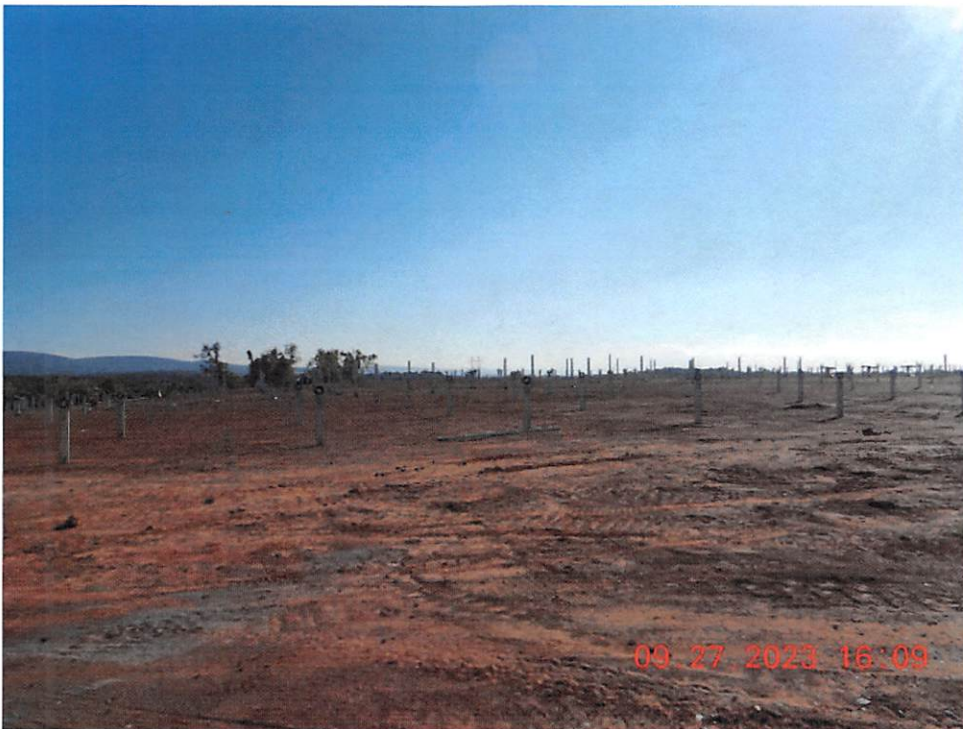


Conditions not allowable - deposits in Evitts Run (39° 15' 17.2288" X -77° 49' 26.9350") from Sediment Basin 5.

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.



October 24, 2023

Dear Environmental Enforcement:

The following is in response to your request for proof of delivery on your item with the tracking number: **9489 0090 0027 6501 9686 16**.


**Item Details**

**Status:** Delivered, Front Desk/Reception/Mail Room  
**Status Date / Time:** October 23, 2023, 12:01 pm  
**Location:** JUPITER, FL 33477  
**Postal Product:** First-Class Mail®  
**Extra Services:** Certified Mail™  
Return Receipt Electronic

**Shipment Details**

**Weight:** 7lb, 3.6oz

**Recipient Signature**

Signature of Recipient:	
Address of Recipient:	110 FRANK 300 ST

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Sincerely,  
United States Postal Service®  
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