



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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Mr. Paul Rady
Antero Resources Corporation
1625 17th Street, Suite 300
Denver, CO 80202

Re: EPA Docket No. CWA-03-2011-0247DW
ORDER FOR COMPLIANCE

Dear Mr. Rady:

Enclosed is an Order for Compliance that requires you to mitigate for the unauthorized activity associated with the construction of the "Rosasco Site," located along County Highway 9/5 (Katy Lick Run Road), in Harrison County, West Virginia. The Order requires mitigation for the environmental harm which was caused by the unlawful discharge to waters of the United States. The U.S. Environmental Protection Agency (EPA) has issued this Order under the authority of Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a).

The CWA prohibits discharges to waters of the United States, including dredge or fill material, without a permit from the U.S. Army Corps of Engineers pursuant to CWA §404, 33 USC §1344. Activities performed by Antero Resources Corporation have resulted in discharges to jurisdictional waters of the United States without a permit. These activities constitute a violation of Sections 301 and 404 of the CWA and include the placement of fill material into wetlands and a tributary to Katy Lick Run. To come into compliance you must remove all fill material encroaching into the streams and wetlands associated with the above activities and return all impacted areas to pre-disturbance conditions.

EPA is prepared to answer any questions you may have. Ms. Carrie Traver is assigned to this matter and may be reached by phone at 215-814-2772.

Sincerely,


John R. Pomponio, Director
Environmental Assessment and
Innovation Division

Enclosure

cc: Mr. Scott Hans – US Army Corps of Engineers, Pittsburgh District
Mr. Frank Jernejcic – WV Department of Natural Resources
Mr. Mike Zeto – WV Department of Environmental Protection
Mr. Jerry Alberts – Antero Resources Corporation

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In The Matter of:)	
)	
Antero Resources LLC)	Proceeding Under Section
)	309(a) of the Clean Water
)	Act, 33 U.S.C. § 1319(a)
)	
Property Located at:)	
)	
County Highway 9/5 (Katy Lick Run Road))	
West of intersection with County Highway 7/3)	
Clarksburg, WV 26301)	ORDER FOR COMPLIANCE
Known as the "Rossco Site")	
)	
Respondent)	Docket No. CWA-03-2011-0247DW

I. STATUTORY AUTHORITY

1. This Order for Compliance is issued under the authority vested in the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) ("CWA" or "Act"). The Administrator has delegated this authority to the Regional Administrator of EPA Region III who in turn has redelegated it to the Director of the Environmental Assessment and Innovation Division pursuant to Delegation No. 2-22 (9/1/05).

II. ALLEGATIONS

2. Respondent, Antero Resources LLC, is a corporation organized and existing under the laws of Delaware and is authorized to do business in the state of West Virginia. Respondent is, therefore, a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
3. Respondent, Antero Resources Corporation, is the leasee and/or operator of property located off of County Route 9/5 west of the intersection with County Route 7/3 in Harrison County, West Virginia, identified as the "Rossco Site" or "the Site" on the attached map labeled Exhibit "A". The site contains wetlands and unnamed tributaries to Katy Lick Run. Katy Lick Run is a tributary of Tenmile Creek, which flows to the West Fork River. The West Fork River is a traditionally navigable water, and is a tributary of the Monongahela River, a navigable-in-fact body of water. Therefore, the area is

considered "waters of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7); 40 C.F.R. § 232.2; 40 C.F.R. § 122.2.

4. On information and belief, commencing on or about August 17, 2010, Respondent, or persons acting on behalf of Respondent, operated heavy equipment which discharged dredged and/or fill material to waters of the United States, including, but not limited to, unnamed tributaries to Katy Lick Run and associated wetlands, for the construction of the natural gas drilling pad and any and all associated facilities, including but not limited to all pipelines, compressor stations, access roads, tanks, and other appurtenances.
5. The term "fill material" within the meaning of 40 C.F.R. § 232.2, includes any pollutant which replaces portions of "waters of the United States" with dry land or which changes the bottom elevation of a water body for any purpose.
6. The equipment referenced in Paragraph 4, above, which has discharged dredged and/or fill material to "waters of the United States", constitutes a "point source" within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).
7. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of dredged and/or fill material from point sources to "waters of the United States" except in compliance with a permit issued by the Secretary of the Army under Section 404 of the Act, 33 U.S.C. § 1344.
8. At no time during the discharge of dredged and/or fill material to the "waters of the United States" located on the Site did the Respondent have a permit from the Secretary of the Army as required by Section 404 of the Act, 33 U.S.C. § 1344.
9. Respondent, by discharging dredged and/or fill material to the "waters of the United States" without authorization, has violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

III. ORDER FOR COMPLIANCE

Therefore, this 28th day of July, 2011, the Respondent is hereby ORDERED, pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), to do the following:

10. Immediately cease and desist all discharges without a permit to waters of the United States at the Site.

Within thirty (30) days of the effective date of this order, Respondent shall submit a pre-construction wetland and stream delineation to EPA for review and approval which will show the extent of the regulated waters in and adjacent to the work area by fully identifying all areas on the Site that, prior to construction, were streams and/or wetlands. The Respondent shall utilize a methodology for identifying wetlands and streams in

disturbed and undisturbed areas consistent with methods generally accepted by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers.

11. Within thirty (30) days of EPA's approval, Respondent shall submit a detailed restoration and mitigation plan to EPA for approval. The plan must describe the actions to be taken to remove the material from the regulated waters, to stabilize the Site, and to return the streams and wetlands to pre-disturbance grade and conditions.
13. After review of the restoration and mitigation plan, EPA will: a) approve the plan, in whole or in part; b) approve the plan upon specified conditions; c) modify the plan to cure any deficiencies; d) disapprove the plan, in whole or in part, or e) any combination of the above.
14. If EPA disapproves all or part of the restoration plan, Respondent shall, within fourteen (14) days of receipt of EPA's disapproval, correct the deficiencies and resubmit the plan for approval. EPA retains the right, if the plan is not approved as provided in this Order, to order restoration in accordance with a plan developed by EPA. Upon approval of the restoration plan (either with or without conditions or modifications by EPA), Respondent shall implement the plan as approved or modified by EPA as provided below. All restoration work shall be completed within ninety (90) days of EPA's approval of the plan.
15. Respondent's failure to complete the work in a manner consistent with this Order shall be deemed a violation of this Order.
16. The restoration plan and all other correspondence should be sent to:

Carrie Traver
United States Environmental Protection Agency
Region III (3EA30)
1650 Arch Street
Philadelphia, PA 19103-2029
17. Respondent's compliance with the terms of this Order shall not relieve Respondent of its obligation to comply with all applicable provisions of the Clean Water Act or any other Federal, State or local law or regulation. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized by the Clean Water Act. EPA reserves the right to seek any remedy available under the law that it deems appropriate to the violations described herein. Compliance with this Order shall not be a defense to any action commenced pursuant to such authorities.
18. Violation of the terms of this Order may result in further EPA enforcement action including, but not limited to, imposition of administrative penalties pursuant to 33 U.S.C. § 1319(g) as modified by the Debt Collection Procedures Act of 1996 and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19; and/or

initiation of judicial proceedings that allow for civil penalties pursuant to 33 CFR § 1319(b) and (d) as modified by the Debt Collection Procedures Act; and/or for the criminal sanctions of imprisonment and fines of up to \$50,000 per day, 33 U.S.C. § 1319(c).

IV. EFFECTIVE DATE

19. The effective date of this Order shall be the date of receipt by Respondent of the executed document.

V. NOTICE OF INTENT TO COMPLY

20. Within ten (10) days of the effective date of this Order, Respondent shall submit to EPA a Notice of Intent to Comply with the Order. The Notice shall be submitted to:

Carrie Traver
United States Environmental Protection Agency
Region III (3EA30)
1650 Arch Street
Philadelphia, PA 19103-2029

Date:

7/20/11



John R. Pomponio, Director

Environmental Assessment and Innovation Division

CERTIFICATION OF SERVICE

I certify that on this date I filed with the Regional Hearing Clerk, EPA Region III, a copy of the Administrative Order for Compliance with copies going, via certified mail, return receipt requested, to the following:

Mr. Paul Rady
Antero Resources Corporation
1625 17th Street, Suite 300
Denver, CO 80202

for  _____ |
Pamela J. Lazos

_____ |
Date: 7/28/11

Exhibit "A"

