



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

SEP 03 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alan S. Armstrong
President and CEO
The Williams Companies, Inc.
One Williams Center
Tulsa, Oklahoma 74172

Re: EPA Docket No. CWA-03-2015-0241DW
ADMINISTRATIVE ORDER FOR COMPLIANCE

Dear Mr. Armstrong:

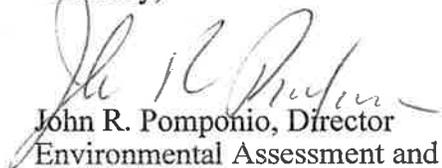
Please find enclosed an Administrative Order for Compliance ("Order"), Docket. No. CWA-03-2015-0241DW, which the United States Environmental Protection Agency ("EPA") is issuing to The Williams Companies, Inc. ("Respondent") for violations of Section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1311(a), at the Fort Beeler Cryogenic Processing Plant, located approximately 0.5 mile south of the intersection of Middle Grave Creek (County Highway 34) and Waynesburg Pike (US-250), Marshall County, West Virginia (the "Site").

Section 301(a) of the CWA prohibits any person from discharging a pollutant from a point source to a water of the United States without specific authorization. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), authorizes EPA to issue an Administrative Order for Compliance whenever any person is in violation of any condition or limitation which implements, *inter alia*, Section 301(a) of the CWA. Based upon its August 14, 2012 inspection along with other information available to it, EPA has determined that persons acting on behalf of and/or at the direction of Caiman Energy discharged dredged and/or fill material to waters of the United States without a permit issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA, 33 U.S.C. §1344. The Respondent has since taken over the Site and with it, the liabilities associated with this violation. The enclosed Order notifies Respondent of these violations and describes actions that will return the Site to compliance.

You are entitled to assert a claim of business confidentiality covering any part or all of the information submitted in response to the Order, in a manner described at 40 C.F.R. §2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to you.

If you have any questions regarding the Order, or wish to submit any written material you believe to be relevant to the agency's findings, please contact Stephanie Andreescu, Office of Environmental Programs, at (215) 814-2747, or your counsel may contact Pamela Lazos, the attorney assigned to this matter, at (215) 814-2658.

Sincerely,



John R. Pomponio, Director
Environmental Assessment and
Innovation Division

Enclosure

cc: Ms. Karen Kochenbach – USACE, Pittsburgh District
Ms. Dana Adipietro – USACE, Pittsburgh District
Mr. Jeremy Bandy – WVDEP
Mr. David Belcher – WVDEP
Ms. Jackie Thornton – WVDEP
Ms. Wilma Reip – WVDEP
Mr. Clifford Brown – WVDNR
Mr. Brian Ham – Williams Energy



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

REGIONAL HEARING OFFICE
EPA REGION III, PHILA, PA

2015 SEP -3 PM 3:40

RECEIVED

In the Matter of:
The Williams Companies, Inc.
One Williams Center
Tulsa, Oklahoma 74172

Respondent

Property Located At:
Fort Beeler Cryogenic Plant Site
0.5 miles south of the intersection of
Middle Grave Creek (County Highway 34)
and Waynesburg Pike (US 250)
Marshall County, West Virginia
39.878, -80.589

Proceeding Under Section 309(a) of the Clean
Water Act, 33 U.S.C. §§ 1318(a), 1319(a)

ORDER FOR COMPLIANCE

Docket. No. CWA-03-2015-0241DW

I. STATUTORY AUTHORITY

1. This Order for Compliance (“Order”) is issued under the authority vested in the United States Environmental Protection Agency (“EPA”) by Section 309(a) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region III who in turn has delegated it to the Director of the Environmental Assessment and Innovation Division.

II. FINDINGS OF FACT and CONCLUSIONS OF LAW

2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person from a point source to navigable waters except in compliance with, *inter alia*, a permit issued by the Secretary of the Army under Section 404 of the CWA, 33 U.S.C. § 1344.
3. Respondent, The Williams Companies, Inc., is a corporation doing business in the state of West Virginia and a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

4. The term “pollutant” means dredged spoil, solid waste, incinerator residue, sewage, garbage, sludge, biological material, rock and sand, among other things pursuant to 33 U.S.C. § 502(6) of the CWA.
5. Fill material is a “pollutant” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
6. The term “discharge of a pollutant” means “any addition of any pollutant to navigable waters from any point source.” Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
7. The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
8. 40 C.F.R. § 232.2 defines “fill material” as “material placed in waters of the United States where the material has the effect of: 1) [r]eplacing any portion of a water of the United States with dry land; or 2) [c]hanging the bottom elevation of any portion of a water of the United States.”
9. The term “navigable waters” means the waters of the United States, including the territorial seas. Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
10. 40 C.F.R. § 232.2 defines “waters of the United States” to include, *inter alia*, waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce (hereinafter “traditionally navigable waters”) and tributaries of such waters.
11. Respondent, The Williams Companies, Inc. is the operator of the Fort Beeler Cryogenic Plant located 0.5 miles south of the intersection of Middle Grave Creek (County Highway 34) and Waynesburg Pike (US 250) in Marshall County, West Virginia.
12. The Site is located on unnamed tributaries (UNTs) of Middle Grave Creek. These tributaries flow to Middle Grave Creek, to Grave Creek, and then to the Ohio River. Grave Creek has been identified as a traditional navigable water. The UNTs to Middle Grave Creek each have a bed, banks, and ordinary high water mark as well as a surface hydrologic connection and significant nexus to downstream traditional navigable waters and are “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), 40 C.F.R 232.2.
13. On the basis of information available, Respondent, or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to UNTs at the Site, which are waters of the United States.

14. On the basis of information available, the dredged and/or fill material was discharged by equipment which constitutes a "point source" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
15. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the "waters of the United States" located on the Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
16. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the "waters of the United States" without authorization.

III. ORDER FOR COMPLIANCE

Therefore, this 3RD day of ~~SEPTEMBER~~ 2015, the Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. 1319(a) to perform the following actions:

17. Within thirty (30) days of the effective date of this Order, Respondent shall submit a wetland and stream delineation of pre-disturbance conditions ("Delineation") and associated report ("Delineation Report") to EPA for approval. The Delineation and Delineation Report shall identify any and all areas at the Site which, prior to construction, were streams and/or wetlands, and will show the extent of the waters. The Respondent shall utilize a methodology for identifying wetlands and streams in disturbed and undisturbed areas consistent with methods accepted by EPA and the U.S. Army Corps of Engineers including the 1987 Manual for the Delineation of Wetlands and the Regional Supplement for the Eastern Mountains and Piedmont Region version 2.0.
18. EPA will review Respondent's Delineation and Delineation Report and either: a) approve the Delineation and/or the Delineation Report, or b) approve the Delineation and the Delineation Report in part, and request modifications to address and correct any noted deficiencies, or c) disapprove of the Delineation and/or the Delineation Report, in writing.
19. Within fourteen (14) days of Respondent's receipt of EPA's request for modifications or EPA's disapproval, of any submission required by Paragraph 13, above, Respondent shall address and correct all noted deficiencies and resubmit the Delineation and/or the Delineation Report to EPA for approval.
20. Within thirty (30) days of EPA's approval of the Delineation and Delineation Report, Respondent shall submit a detailed Site restoration plan ("Restoration Plan") to EPA for approval. The Restoration Plan shall include the actions that shall be taken to remove the material from the regulated waters, stabilize the Site, and return the Site to pre-disturbance grade and conditions.

21. EPA will review Respondent's Restoration Plan and either: a) approve the Restoration Plan, b) approve the Restoration Plan in part, and request modifications to address and correct any noted deficiencies; c) modify the Restoration Plan to cure any deficiencies; or d) disapprove the Restoration Plan, in writing.
22. Within thirty (30) days of Respondent's receipt of any EPA request for modifications, or disapproval, of the Restoration Plan required by paragraph 17, above, Respondent shall address and correct all noted deficiencies and resubmit the Restoration Plan for EPA approval. EPA retains the right, if Restoration Plan is not approved as provided in this AOC, to order compliance in accordance with a Restoration Plan developed by EPA.
23. Upon receipt of EPA's written approval of the Restoration Plan, Respondent shall implement such plan in accordance with its terms. Respondent shall complete all restoration work within ninety (90) days of its receipt of the EPA's approval of the Restoration Plan.
21. Respondent shall not discharge any dredged or fill material into any waters of the United States except in compliance with a CWA Section 404 permit or in accordance with the plans submitted and approved pursuant to this Order.
22. The delineation, restoration plan, and all other correspondence should be sent to:

Stephanie Andreescu
Office of Environmental Programs
United States Environmental Protection Agency
1650 Arch Street (3EA30)
Philadelphia, PA 19103-2029

IV. GENERAL PROVISIONS

23. The following certification must accompany each submission by Respondent pursuant to this Information Requirement and must be signed by a Representative of Respondent authorized to sign on behalf of Respondent:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

24. Respondent's compliance with the terms of this Order shall not relieve Respondent of its obligation to comply with all applicable provisions of the CWA or any other Federal, State or local law or regulation.
25. Failure to comply with the terms of this Section 309(a) Compliance Order may result in your liability for statutory civil penalties under Section 309(d) of the Act, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Should the EPA commence an action seeking penalties for violations of this Compliance Order, a United States District Court may impose civil penalties if, after notice and opportunity for a hearing, the court determines that you have violated the Act and failed to comply with the terms of the Order. The court has the authority to impose separate civil penalties for violation of the Act as well as for violation of this Order.
26. Issuance of this Order does not affect EPA's authority to seek additional information under Section 308 of the CWA, 33 U.S.C. § 1318, or otherwise affect EPA's ability to enforce or implement the CWA.

V. OPPORTUNITY TO CONFER

27. Respondent is invited to confer with the Agency about the findings and conclusions reflected in this Order, including the terms and conditions contained herein. Any such conference can be in person or by electronic means. Respondent may also submit any written material it believes to be relevant to the Agency's determinations. If such a conference is desired, Respondent should contact Stephanie Andreescu at (215) 814-2747.

VI. JUDICIAL REVIEW

28. Respondent may seek federal judicial review of this Compliance Order, issued under Section 309 of the CWA, 33 U.S.C § 1319, pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706 states the scope of such review.

VII. NOTICE OF INTENT TO COMPLY

29. 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:

Stephanie Andreescu
Office of Environmental Programs
United States Environmental Protection Agency
1650 Arch Street (3EA30)
Philadelphia, PA 19103-2029

VIII. EFFECTIVE DATE

30. This Order will become effective thirty (30) days after receipt unless modified or withdrawn.

Date: 9/3/2015



John R. Pomponio, Director
Environmental Assessment and Innovation Division
U.S. EPA Region III

CERTIFICATE OF SERVICE

I hereby certify that on the date shown below I caused one copy of the foregoing Administrative Order issued to The Williams Companies, Inc., Docket No. CWA-03-2015-0241DW to be served by Certified Mail, Return Receipt Requested to the following:

The Williams Companies, Inc.
One Williams Center
Tulsa, Oklahoma 74172

I also certify that on the date shown below I filed by hand the original and one copy of the foregoing Administrative Order issued to The Williams Companies, Inc., Docket No. CWA-03-2015-0241DW with the Regional Hearing Clerk for the U.S. Environmental Protection Agency, Region III at the following address:

3RC00
1650 Arch Street
Philadelphia, PA, 19103

Date: 9/3/2015

for Stephanie Andreescu
Pamela Lazos
Senior Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA Region III
(215) 814-2658
lazos.pamela@epa.gov

