west virginia department of environmental protection

Division of Water and Waste Management
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
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# CONSENT ORDER
# ISSUED UNDER THE
# WATER POLLUTION CONTROL ACT
# WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11
# AND THE
# SOLID WASTE MANAGEMENT ACT
# WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 15

TO: Antero Midstream LLC
Attn: Ward McNeilly, VP of Reserves Planning & Midstream
1615 Wynkoop Street
Denver, CO 80202

DATE: February 22, 2016

ORDER NO.: MM-16-04

## 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, Chapter 22, Article 11, Section 1 et seq. and Chapter 22, Article 15, Section 1 et seq. to Antero Midstream LLC (hereinafter "Antero").

## FINDINGS OF FACT

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

1. Antero is a natural gas gathering company offering midstream services. Antero is conducting land disturbance activity in Doddridge, Pleasants, Ritchie, and Tyler Counties, West Virginia.

2. On May 13, 2013, WVDEP issued the General Water Pollution Control Permit for Stormwater Associated with Oil and Gas Related Construction Activities. This permit became effective on June 12, 2013. Activities that began after the effective date of the permit were required to apply for coverage.

3. On May 29, 2013, WVDEP personnel conducted an inspection of an Antero pipeline project in Ritchie County at or near GPS coordinates 39° 18.8218 N 80° 54.2471 W.

During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids. Specifically, settleable solids were allowed to leave the pipeline right-of-way and enter into an Unnamed Tributary (UT) of Buck Run.

As a result of the aforementioned violation, NOV No. W-NW-TJK-052913-001 was issued to Antero.

4. On June 10, 2013, WVDEP personnel conducted an inspection of an Antero pipeline project in Ritchie County at or near GPS coordinates 39° 11.6185' N 80° 53.3500' W. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids. Specifically, sediment-laden water was allowed to enter into a UT of Little White Oak Creek.

As a result of the aforementioned violation, NOV No. W-NW-TJK-061013-001 was issued to Antero.

5. From August 8, 2013 to August 12, 2013, WVDEP personnel conducted an inspection of an Antero pipeline project in Pleasants County at or near GPS coordinates 39° 22.6249' N 81° 01.5337' W. During the inspection, violations of the following sections of WV Legislative Rules were observed and documented:

a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids at or near GPS coordinates 39° 22' 36.41" N 81° 1' 29.03" W. Specifically, sediment deposits were observed in a UT of McKim Creek, and a defined channel was observed where sediment left the project and entered into the UT.
b. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids at or near GPS coordinates 39° 24' 54.6" N 81° 3' 58.7" W. Specifically, sediment entered a UT of Sugar Creek due to an unmaintained creek crossing and unmaintained BMPs.

As a result of the aforementioned violations, NOV Nos. W-NW-TJK-080813-001 and W-NW-TJK-080913-001 were issued to Antero.

6. On August 27, 2013, WVDEP and Antero entered into Consent Order No. 7761. The Order was a result of violations of West Virginia Legislative Rules accrued from April 8, 2011 to April 24, 2013. The Order required Antero to:

a. Take all measures to initiate compliance with all pertinent laws and rules.
b. Provide proof within twenty (20) days of the effective date of the Order of its current dust control measures and a list of any dust suppressant products being used.

c. Provide proof within thirty (30) days of the effective date of the Order of the development and implementation of a training program for all employees working at sites in West Virginia which are required to draft and maintain a Spill Prevention Control and Countermeasure (SPCC) plan regarding spill identification, reporting and response.
d. Submit for approval within thirty (30) days of the effective date of the Order a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Antero will achieve compliance with all pertinent laws and rules.

To date, Antero is in compliance with the aforementioned Order for Compliance section of Consent Order No. 7761.

7. On October 9, 2013, WVDEP personnel conducted an inspection of the Antero Ohio to Annie pipeline project in Pleasants County at or near GPS coordinates 39° 25' 59.6" N 81° 04' 53.6" W. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids. Specifically, material from the pipeline right-of-way slipped off the stockpile area and entered into a UT of Middle Island Creek.

    As a result of the aforementioned violation, NOV No. W-NW-TJK-100913-001 was issued to Antero.

8. On October 16, 2013, WVDEP personnel received a Spill Report, self-reported by Antero, concerning an inadvertent return of drilling mud associated with pipeline construction in Pleasants County. During the investigation, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids. Specifically, sediment associated with pipeline construction at or near GPS coordinates 39° 23' 50.27" N 81° 02' 34.61" W caused and/or contributed to settleable solids in Sugar Creek.

    As a result of the aforementioned violation, NOV No. W-NW-JGT-101613-001 was issued to Antero.

9. On October 31, 2013, WVDEP personnel conducted an inspection of the Antero Ohio to Annie pipeline project in Ritchie County. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.b-Antero caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of a UT of Lizzies Roost Run at or near GPS coordinates 39° 21' 1.6" N 80° 56' 10.7" W. Specifically, the stream channel was filled with sediment as a result of moving a timber mat bridge by dragging it through the stream channel. In-stream BMPs were also documented at the time of inspection.

As a result of the aforementioned violation, NOV No. W-NW-TJK-103113-001 was issued to Antero.

10. On December 6, 2013, WVDEP personnel conducted an inspection of the Antero McGill Lateral pipeline project in Doddridge County. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids. Specifically, activities associated with construction located at or near GPS coordinate 39° 16.5110' N 80° 50.7183' W caused a distinctly visible plume in a UT of Wilhelm Run.

    As a result of the aforementioned violation, NOV No. W-NW-JGT-120613-001 was issued to Antero.

11. On December 9, 2013, WVDEP personnel conducted a site review of the Antero Mountain Compressor Station project in Tyler County at or near GPS coordinates 39° 21' 08.48" N 80° 57' 06.70" W. On November 19, 2013, Antero was issued Permit No. WV0116815, Registration No. WVR310092, for regulated activities at the Mountain Compressor Station project. During the review, violations of the following sections of WV Legislative Rules and Antero's permit were observed and documented:

    a. Section G.4.a and 47CSR10 Section 5.1-Antero failed to comply with the conditions of its WV/NPDES permit by failing to retain a copy of the Storm Water Pollution Prevention Plan (SWPPP) and/or Groundwater Pollution Prevention Plan (GPP) on site. No plan was made available at the time of inspection.

    As a result of the aforementioned violation, NOV No. W-NW-TJK-120913-001 was issued to Antero.

12. On December 17, 2013, WVDEP personnel conducted aerial reconnaissance, which included multiple Antero project sites in Doddridge, Pleasants, Tyler, and Ritchie Counties. During the reconnaissance, violations of the following sections of WV Legislative Rules were observed and documented:

    a. 47CSR2 Section 3.2.f- Antero caused conditions not allowable in waters of the State by creating a distinctly visible plume at or near GPS coordinates N 39° 22' 06.3" W 81° 00' 12.5" in Tyler County. Specifically, sediment-laden water was observed leaving the Ohio to Annie pipeline project site and causing a distinctly visible plume in McKim Creek.
    b. 47CSR10 Section 3.1-Antero failed to obtain authorization pursuant to a WV/NPDES Permit prior to commencing a hydrostatic testing discharge in Tyler County. Specifically, multiple discharges were observed originating from air relief valve vaults on the Ohio to Annie pipeline project.

    As a result of the aforementioned violations, NOV Nos. W-NW-TJK-121713-001 and W-NW-TJK-121713-002 were issued to Antero.

13. On December 18, 2013, WVDEP personnel conducted field investigations of the Antero Ohio to Annie pipeline project in Ritchie County at or near GPS coordinates 39° 20' 00.7" N 80° 55' 21.0" W based on aerial reconnaissance from December 17, 2013. During the investigation, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.b- Antero caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of North Fork Hughes River. Specifically, dewatering operations caused sediment deposits on the stream bed due to a filter bag being placed on the stream bank at or near GPS coordinates N 39° 20' 00.7" W 80° 55' 21.0."

    As a result of the aforementioned violation, NOV No. W-NW-TJK-121813-001 was issued to Antero.

14. On December 20, 2013, WVDEP personnel conducted field investigations of the Antero Ohio to Annie pipeline project in Pleasants County at or near GPS coordinates 39° 22' 31.6 N 81° 01' 48.7" W based on aerial reconnaissance from December 17, 2013. During the investigation, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.b- Antero caused conditions not allowable in waters of the State by creating deposits. Specifically, a UT of Grimes Run was observed to have deposits on the stream bed due to construction traffic driving on an inadequately stabilized access road at or near GPS coordinates N 39° 22' 31.6" W 81° 01' 48.7."

    As a result of the aforementioned violation, NOV No. W-NW-TJK-122013-001 was issued to Antero.

15. On December 30, 2013, WVDEP personnel investigated a spoil and stockpile site utilized by Antero in Doddridge County at or near GPS coordinates 39° 19.9789' N 80° 43.8080' W. During the investigation, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.b- Antero caused conditions not allowable in waters of the State by creating deposits. Specifically, activities associated with access road ditchline maintenance located at or near GPS coordinate 39° 19.9789' N 80° 43.8080' W caused deposits in Poverty Run.

    As a result of the aforementioned violation, NOV No. W-NW-JGT-123013-001 was issued to Antero. Antero represented that the stockpile originated from a mutual contract between EQT and Antero. Subsequent to the issuance of this NOV, EQT took measures to address the violation by installing erosion and sediment controls along the perimeter of the site and the bank of the downslope area leading to Poverty Run.

16. On January 13, 2014, WVDEP personnel conducted an inspection of the Antero New Milton Compressor Site in the vicinity of New Milton, Doddridge County. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids. Specifically, activities associated with construction located at or near GPS coordinate 39° 13.5694' N 80° 41.8846' W caused settleable solids in Toms Fork.

As a result of the aforementioned violation, NOV No. W-NW-JGT-011314-001 was issued to Antero.

17. On January 15, 2014, WVDEP personnel received a Spill Report, self-reported by Antero, concerning an earthen slip on the Ohio to Annie pipeline project in Pleasants County at or near GPS coordinates 39° 26' 1.95" N 81° 5' 24.81" W. During the investigation, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids. Specifically, sediment and vegetative debris entered a UT of Tackers Run due to pipeline construction. A visible plume was observed entering Tackers Run at or near GPS coordinates N 39° 25' 39.85" W 81° 05' 08.09."

    As a result of the aforementioned violation, NOV No. W-NW-TJK-011514-001 was issued to Antero.

18. On March 7, 2014, WVDEP personnel conducted an inspection of the Antero Hattie to Eddy Pipeline project in Ritchie County at or near GPS coordinates 39° 20' 00.7" N 80° 55' 21.0" W. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.f-Antero caused conditions not allowable in waters of the State by creating a distinctly visible plume in the receiving stream. Specifically, material from trench dewatering associated with pipeline construction was discharged into an agricultural field which has a drain used to dewater for agricultural purposes. The material from the trench dewatering entered this field drain and was discharged into North Fork Hughes River.

    As a result of the aforementioned violation, NOV No. W-NW-TJK-030714-001 was issued to Antero.

19. On April 8, 2014, WVDEP personnel investigated a self-reported inadvertent return of drilling mud from an HDD (Horizontal Directional Drill) activity associated with pipeline construction in the vicinity of Morgansville, Doddridge County. During the investigation, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating settleable solids in Morgans Run at or near GPS coordinate 39.286183 N 80.690538 W.

As a result of the aforementioned violations, NOV No. W-NW-JGT-040813-001 was issued to Antero.

20. On May 1, 2014, WVDEP personnel investigated a plume in a UT of Buck Run in Ritchie County at or near GPS coordinates 39° 18' 49.6" N 80° 54' 13.1" W. During the investigation, a violation of the following section of WV Legislative Rules was observed and documented:

    a. 47CSR2 Section 3.2.f-Antero caused conditions not allowable in waters of the State by creating a distinctly visible plume in the receiving stream. Specifically, sediment-laden water was entering a UT of Buck Run from two sources. Sediment-laden water was observed leaving the pipeline right-of-way, entering into a Division of Highways drainage ditch, and then entering into a UT of Buck Run. Sediment-laden water was observed leaving the pipeline right-of-way and entering into a UT of Buck Run without going through any BMPs.

    As a result of the aforementioned violation, NOV No. W-NW-TJK-050114-001 was issued to Antero.

21. On May 15, 2014, WVDEP personnel conducted an inspection of the Antero Mountain Gathering Pipeline project in Ritchie County at or near GPS coordinates 39° 18' 50.1" N 80° 54' 13.9" W. On December 26, 2013, Antero was issued Permit No. WV0116815, Registration No. WVR310156, for regulated activities at the Mountain Gathering Pipeline project. During the inspection, a violation of the following section of Antero's permit was observed and documented:

    a. Section D.1 - Antero failed to at all times properly operate and maintain all facilities and systems of treatment and control. Unmaintained silt fencing allowed soil and sediment to leave the site and enter into a UT of Buck Run.

    As a result of the aforementioned violation, NOV No. W-NW-TJK-051514-001 was issued to Antero.

22. On June 9, 2014, and June 12, 2014, WVDEP personnel conducted an inspection of the Antero Primm West Pipeline project in the vicinity of Joy in Doddridge and Ritchie Counties. On January 29, 2014, Antero was issued Permit No. WV0116815, Registration No. WVR310172, for regulated activities at the Primm West Pipeline project. During the inspection, violations of the following sections of WV Legislative Rules and Antero's permit were observed and documented:

    a. Section D.1-Antero failed to at all times properly operate and maintain all facilities and systems of treatment and control. On June 9, 2014, several areas at or near GPS coordinates 39° 13' 2.8" N 80° 55' 28.1" W, 39° 14' 9.7" N 80° 53' 38" W, and 39° 13' 52.8" N 80° 54' 53.6" W had stream crossing BMPs that were unmaintained and ineffective. On June 12, 2014, the stream crossings had not been repaired.
    b. 47CSR2 Section 3.2.b-Antero caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the stream. Specifically, unmaintained or missing BMPs allowed sediment to accumulate on the bottom of Lynncamp Run at or near GPS coordinates 39° 13' 2.8" N 80° 55' 28.1" W.

c. 47CSR2 Section 3.2.f-Antero caused conditions not allowable in waters of the State by creating a distinctly visible plume in the receiving stream. Specifically, unmaintained BMPs allowed sediment-laden water to leave the site and cause a distinctly visible plume in a UT of Cabin Run at or near GPS coordinates 39° 14' 9.7" N 80° 53' 38" W.
d. Section G.4.d.1.B - Antero failed to maintain a clean and orderly project. Specifically, Antero failed to maintain good housekeeping by failing to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and stormwater.
e. Section G.4.e.2.D.i - Antero failed to inspect and clean construction debris from all public and private roads adjacent to a construction entrance.

As a result of the aforementioned violations, NOV Nos. W-NW-TJK-061214-001, W-NW-TJK-061214-002, and W-NW-TJK-061214-003 were issued to Antero.

23. On July 31, 2014, WVDEP personnel investigated a complaint related to the Antero West Union Pipeline project at or near GPS coordinates 39° 16.8408' N 80° 50.2646' W in the vicinity of West Union, Doddridge County. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

a. 33CSR1 Section 7.1-Antero failed to properly dispose of all solid waste and construction/demolition material.

As a result of the aforementioned violation, NOV No. W-NW-JGT-073114-001 was issued to Antero.

24. On August 4, 2014, WVDEP personnel conducted an inspection of the Antero Langford West to Glass Waterline project in the vicinity of Oxford, Ritchie County. On April 22, 2014, Antero was issued Permit No. WV0116815, Registration No. WVR310224, for regulated activities at the Langford West to Glass Waterline project. During the inspection, violations of the following sections of WV Legislative Rules and Antero's permit were observed and documented:

a. 47CSR2 Section 3.2.b-Antero caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of a UT of Little White Oak Creek at or near GPS coordinates 39° 11' 28" N 80° 53' 26.7" W. In addition, a filter sock was installed in the stream channel.
b. Section G.4.e.2.A.i - Antero failed to install stabilization measures, such as seed and mulch, on portions of the site where construction activities had temporarily or permanently ceased for greater than seven (>7) days and would not resume within twenty-one (21) days.

As a result of the aforementioned violations, NOV No. W-NW-TJK-080414-001 and a warning was issued to Antero.

25. On August 25, 2014, WVDEP personnel conducted an inspection of the Antero Lettie Pad to Annie Pad Pipeline project. On June 5, 2014, Antero was issued Permit No. WV0116815, Registration No. WVR310211, for regulated activities at the Lettie Pad to

Annie Pad Pipeline project. During the inspection, violations of the following sections of WV Legislative Rules and Antero's permit were observed and documented:

a. G.4.e.2.C.i.-Antero failed to dispose of all solid waste and construction/demolition material in accordance with WV Legislative Rule Title 33CSR1. Specifically, a burn pile composed of aerosol cans, an oil filter, and other materials were observed on the permitted project site.
b. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in Straight Run at or near GPS coordinates 39° 21' 43.8" N 80° 54' 31.6" W. Specifically, distinctly visible settleable solids were present where a stream crossing was previously placed.

As a result of the aforementioned violations, NOV Nos. W-NW-TJK-082514-001 and W-NW-TJK-082514-002 were issued to Antero.

26. On August 29, 2014, WVDEP personnel received a Spill Report, self-reported by Antero personnel, regarding a water line break in Doddridge County at or near GPS coordinates 39.238422° N 80.613325° W. On September 3, 2014, WVDEP personnel conducted a site visit. During the visit, a violation of the following section of WV Legislative Rules was observed and documented:

a. 47CSR2 Section 3.2.a-Antero caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in a UT of Greenbrier Creek.

As a result of the aforementioned violation, NOV No. W-NW-JGT-090314-001 was issued to Antero.

27. During the time frame contained within this Order, WVDEP personnel conducted eight (8) additional inspections of Antero sites which resulted in the issuance of warnings regarding noncompliance with laws and rules similar to the aforementioned violations.

## ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. and Chapter 22, Article 15, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Antero shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permits and pertinent laws and rules.

2. Upon the effective date of this Order, Antero shall take immediate action to properly construct access roads and stabilized construction entrances for all current and completed project sites. Antero shall utilize BMPs in accordance with the most recent WVDEP DWWM Erosion and Sediment Control BMP Manual.

3. Within thirty (30) days of the effective date of this Order, Antero shall provide a list of all currently unpermitted project sites, including the name of the project, GPS coordinates, acreage, and county or counties in which the project is located.

4. Within sixty (60) days of the effective date of this Order, Antero shall provide a copy of its standard procedures regarding post-construction inspection of pipeline right of ways and how they are maintained post-construction.

5. Within sixty (60) days of the effective date of this Order, Antero shall electronically submit either administratively complete applications to obtain coverage under WV/NPDES Multi-Sector General Water Pollution Control Permit No. WV0111457, Stormwater Activity Associated with Industrial Activity, or administratively complete applications for non-exposure WV/NPDES waivers. Applications shall be submitted for each of the following sites: Bluestone-Salem, Mountain, New Milton, Pennington, Canton North, Monroe and Nichols. Any questions regarding the application process shall be directed to WVDEP DWWM Permitting Section at (304) 926-0495.

6. Within forty-five (45) days of the effective date of this Order, Antero shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Antero will achieve compliance with all terms and conditions of its WV/NPDES permits and pertinent laws and rules. The plan of corrective action shall make reference to applicable WV/NPDES Permit Nos. and Order No. MM-16-04.

   The plan of corrective action and all documents required by this Order shall be submitted to:

   **WVDEP Environmental Inspector Supervisor**
   **NW Regional Environmental Enforcement Office**
   **2031 Pleasant Valley Road**
   **Fairmont, WV 26554**

   A copy of this plan and all documents required by this Order shall be submitted to:

   **Chief Inspector**
   **Environmental Enforcement - Mail Code #031328**
   **WVDEP**
   **601 57th 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.

7. Because of Antero's Legislative Rule and permit violations, Antero shall be assessed a civil administrative penalty of ninety-three thousand one hundred fifty-five dollars ($93,155) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. 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 57th Street SE**
**Charleston, WV 25304**

## OTHER PROVISIONS

1. Antero hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 and/or Chapter 22, Article 15, Section 16 of the Code of West Virginia. Under this Order, Antero 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, Antero 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 Antero 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, Antero 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 Antero becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Antero 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 Antero 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 Antero (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 Antero 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 Antero 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 Antero, its successors and assigns.

7. This Order shall terminate upon Antero's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

W. McNeilly 3/1/2016

Ward McNeilly, VP of Reserves Planning & Midstream
Antero Midstream LLC

Date

Public Notice begin:

Date

Public Notice end:

Date

Scott G. Mandirola, Director
Division of Water and Waste Management

Date

*revised March 2013*

RECEIVED
MAR 02 2016
ENVIRONMENTAL
ENFORCEMENT

FOF No. 3 - P5291241 -- Settleable solids in an UT of Buck Run

FOF No. 4 - P6101349 – Sediment-laden water in an UT of Little White Oak Creek

FOF No. 4 - P6101363 -- Sediment-laden water in an UT of Little White Oak Creek

FOF No. 5 - P8080142 – Sediment deposits in an UT of McKim Creek

FOF No. 5 - P8090258 – Stream crossing with failed BMP's allowing sediment to enter an UT of Sugar Creek

FOF No. 5 - P8090257 – Stream crossing with failed BMP's allowing sediment to enter an UT of Sugar Creek

FOF No. 7 - PA090321 – Stockpile material slipped off of ROW and into an UT of Middle Island Creek

FOF No. 8 - PA160265 – Inadvertent return of drilling mud associated with pipeline construction contributing to settleable solids in Sugar Creek

FOF No. 8 - PA160267 – Inadvertent return of drilling mud associated with pipeline construction contributing to settleable solids in Sugar Creek

FOF No. 9 - PA310511 – In-stream BMP's and sediment blanket on stream bed due to dragging of timber mat crossing across an UT of Lizzies Roost Run

FOF No. 9 - PA310518 – In-stream BMP's and sediment blanket on stream bed due to dragging of timber mat crossing across an UT of Lizzies Roost Run

FOF No. 10 - PC060152 – Improperly-installed and/or poorly-maintained stream crossing and perimeter BMPs contributing to a distinctly-visible plume in an UT of Wilhelm Run

FOF No. 10 - PC060188 – Improperly-installed and/or poorly-maintained stream crossing and perimeter BMPs contributing to a distinctly-visible plume in an UT of Wilhelm Run

FOF No. 10 - PC060194 – Improperly-installed and/or poorly-maintained stream crossing and perimeter BMPs contributing to a distinctly-visible plume in an UT of Wilhelm Run

FOF No. 12 - IMG_5652 – Distinctly visible plume in McKim Creek. Clear water prior to stream crossing, sediment-laden water visible after crossing

FOF No. 12 - IMG_5666 – Unpermitted hydrostatic testing discharge

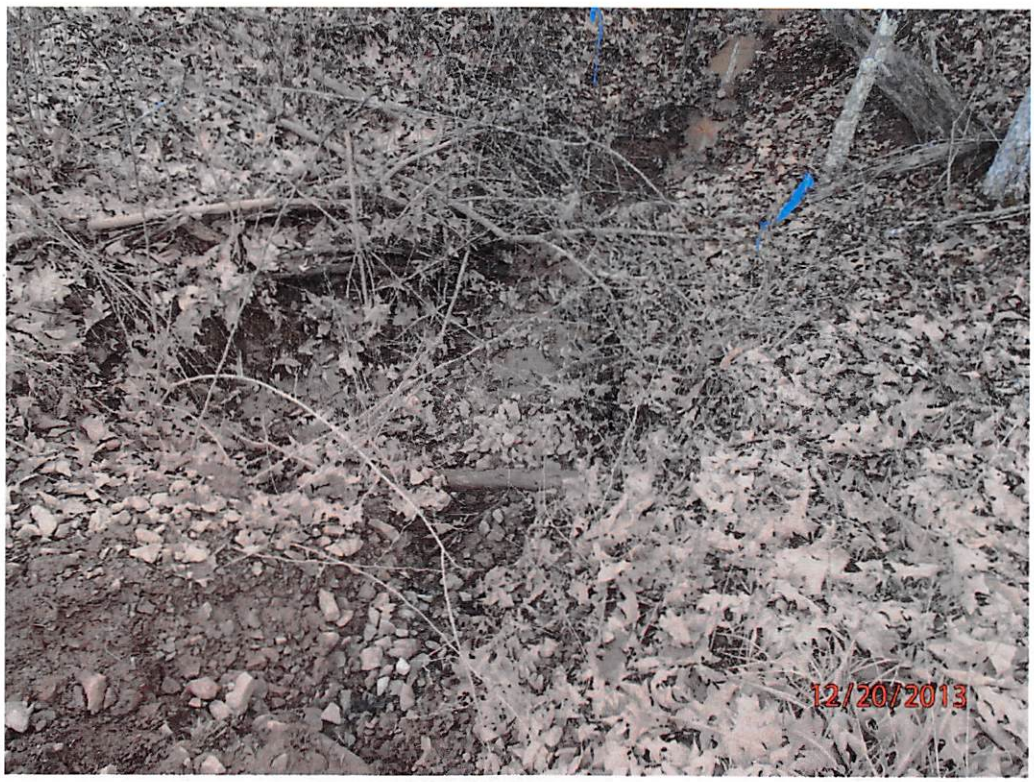
FOF No. 12 - IMG_5670 – Unpermitted hydrostatic testing discharge

FOF No. 13 - PC180685 – Filter bag placed near stream bank caused sediment deposits in North Fork Hughes River

FOF No. 13 - PC180686 – Filter bag placed near stream bank caused sediment deposits in North Fork Hughes River

FOF No. 13 - PC180689 – Filter bag placed near stream bank caused sediment deposits in North Fork Hughes River

FOF No. 14 - PC200697 – Vehicle traffic on an inadequately stabilized access road caused a sediment blanket on an UT of Grimes Run.




FOF No. 14 - PC200689 – Vehicle traffic on an inadequately stabilized access road caused a sediment blanket on an UT of Grimes Run.

FOF No. 15 - PC300166 – Spoil and stockpile site associated with ditchline maintenance observed impacting Poverty Run

FOF No. 15 - PC300169 – Spoil and stockpile site associated with ditchline maintenance observed impacting Poverty Run

FOF No. 15 - PC300176 – Spoil and stockpile site associated with ditchline maintenance observed impacting Poverty Run

FOF No. 16 - P1130026 – Activities associated with Antero causing and/or contributing to sediment deposits in an UT of Limestone Run

FOF No. 16 - P1130042 – Activities associated with Antero causing and/or contributing to sediment deposits in an UT of Limestone Run

FOF No. 17 - P1150748 – Distinctly visible plume entering Taskers Run from pipeline slip

FOF No. 18 - P3070860 – Trench dewatering into an agricultural field resulting in a distinctly visible plume in North Fork Hughes River

FOF No. 18 - P3070861 – Trench dewatering into an agricultural field resulting in a distinctly visible plume in North Fork Hughes River

FOF No. 18 - P3070851 – Trench dewatering into an agricultural field resulting in a distinctly visible plume in North Fork Hughes River

FOF No. 18 - P3070852 – Trench dewatering into an agricultural field resulting in a distinctly visible plume in North Fork Hughes River

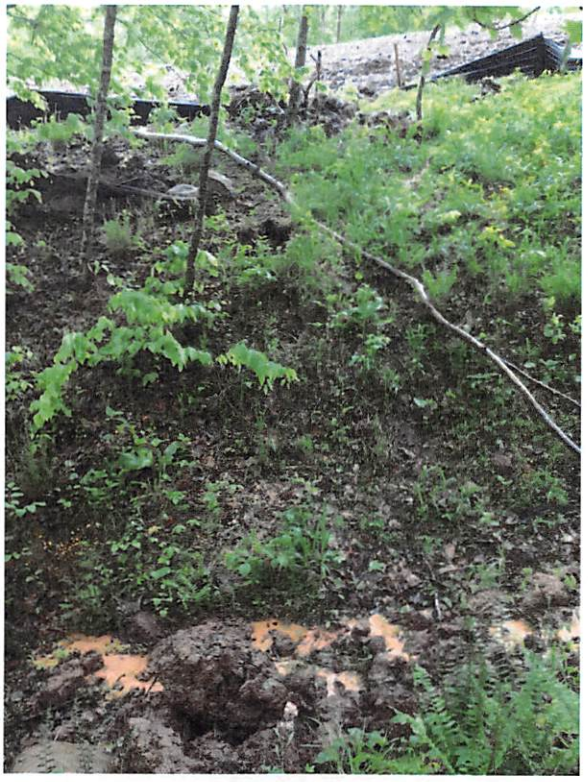
FOF No. 18 - P3070853 – Trench dewatering into an agricultural field resulting in a distinctly visible plume in North Fork Hughes River

FOF No. 19 - P4080213 – Inadvertent return of drill mud causing Conditions Not Allowable in State Waters in Morgans Run

FOF No. 19 - P4080216 – Inadvertent return of drill mud causing Conditions Not Allowable in State Waters in Morgans Run

FOF No. 19 - P4080220 – Inadvertent return of drill mud causing Conditions Not Allowable in State Waters in Morgans Run

FOF No. 20 - P5011168 – Sediment associated with pipeline construction causing Conditions Not Allowable in State Waters in an UT of Buck Run



FOF No. 21 - Photo (3) – Compromised BMPs observed contributing to Conditions Not Allowable in State Waters in an UT of Buck Run

FOF No. 21 - Photo (4) – Compromised BMPs observed contributing to Conditions Not Allowable in State Waters in an UT of Buck Run

FOF No. 22 - P6121321 – Compromised BMPs observed contributing to Conditions Not Allowable in State Waters in Lynncamp Run and an UT of Cabin Run

FOF No. 22 - P6121332 – Compromised BMPs observed contributing to Conditions Not Allowable in State Waters in Lynncamp Run and an UT of Cabin Run

FOF No. 22 - P6121337 – Compromised BMPs observed contributing to Conditions Not Allowable in State Waters in Lynncamp Run and an UT of Cabin Run

FOF No. 22 - P6121349 – Compromised BMPs observed contributing to Conditions Not Allowable in State Waters in Lynncamp Run and an UT of Cabin Run

FOF No. 22 - P6091287 – Solid waste and/or used construction material observed to be improperly disposed

FOF No. 22 - P6121330 – Solid waste and/or used construction material observed to be improperly disposed

FOF No. 23 - P7310067 – Used construction materials observed in an UT of Wilhelm Run

FOF No. 23 - P7310066 – Used construction materials observed in an UT of Wilhelm Run

FOF No. 24 - DSCN1500 – Distinctly visible settleable solids and BMP's in an UT of Little White Oak Creek

FOF No. 25 - P8251726 – Burn pile observed on the Lettie Pad to Annie Pad Pipeline project Right of Way, and a stream crossing observed to be disturbed and contributing to Conditions Not Allowable in State Waters

FOF No. 25 - P8251729 – Burn pile observed on the Lettie Pad to Annie Pad Pipeline project Right of Way, and a stream crossing observed to be disturbed and contributing to Conditions Not Allowable in State Waters

FOF No. 26 - P9030420 – Sediment and erosion in an UT of Greenbrier Creek due to an Antero water line break

FOF No. 26 - P9030417 – Sediment and erosion in an UT of Greenbrier Creek due to an Antero water line break

FOF No. 26 - P9030404 – Sediment and erosion in an UT of Greenbrier Creek due to an Antero water line break

FOF No. 26 - P9030402 – Sediment and erosion in an UT of Greenbrier Creek due to an Antero water line break

FOF No. 26 - P9030399 – Sediment and erosion in an UT of Greenbrier Creek due to an Antero water line break

# Base Penalty Calculation

(pursuant to 47CSR1-6.1)

**Responsible Party:** Antero Midstream LLC **Receiving Stream:** UT of Buck Run, UT of Little White Oak Creek, UT of McKim Creek, UT of Sugar Creek, UT of Greenbrier Creek, UT of Middle Island Creek, Sugar Creek, UT of Wilhelm Run, McKim Creek, Lizzies Roost Run, North Fork Hughes River, UT of Grimes Run, Toms Fork, and Tackers Run

**Treatment System Design Maximum Flow:** N/A **MGD**

**Treatment System Actual Average Flow:** N/A **MGD**

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

| 1) | Potential for Harm Factor | Factor Range | FOF# | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 3a, 4a, 5a-b, 7a, 8a, 10a, 16a, 17a, 19a, 25b, 26a | 9a, 13a, 14a, 22b, 24a | 11a | 12a, 18a, 20a, 22c | 12b | 21a, 22a | 25a | | | | | | | |
| a) | Amount of Pollutant Released | 1 to 3 | 2 | 2 | 1 | 2 | 1 | 1 | 1 | | | | | | | |
| b) | Toxicity of Pollutant | 0 to 3 | 1 | 1 | 0 | 1 | 1 | 1 | 1 | | | | | | | |
| c) | Sensitivity of the Environment | 0 to 3 | 1 | 1 | 0 | 1 | 1 | 1 | 1 | | | | | | | |
| d) | Length of Time | 1 to 3 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | | | | | |
| e) | Actual Exposure and Effects thereon | 0 to 3 | 1 | 1 | 0 | 1 | 1 | 0 | 1 | | | | | | | |
| | **Average Potential for Harm Factor** | | 1.2 | 1.2 | 0 | 1.2 | 1 | 0.8 | 1 | No | No | No | No | No | No | |
| **2)** | **Extent of Deviation Factor** | **Factor Range** | | | | | | | | | | | | | | |
| | Degree of Non-Compliance | 1 to 3 | 2 | 2 | 3 | 2 | 3 | 1 | 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 3.**

| 1) | Potential for Harm Factor | Factor Range | FOF# | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| a) | Amount of Pollutant Released | 1 to 3 | | | | | | | | | | | | | |
| b) | Toxicity of Pollutant | 0 to 3 | | | | | | | | | | | | | |
| c) | Sensitivity of the Environment | 0 to 3 | | | | | | | | | | | | | |
| d) | Length of Time | 1 to 3 | | | | | | | | | | | | | |
| e) | Actual Exposure and Effects thereon | 0 to 3 | | | | | | | | | | | | | |
| | **Average Potential for Harm Factor** | | No | No | No | No | No | No | No | No | No | No | No | No | No |
| **2)** | **Extent of Deviation Factor** | **Factor Range** | | | | | | | | | | | | | |
| | Degree of Non-Compliance | 1 to 3 | | | | | | | | | | | | | |

| | | Extent of Deviation from Requirement | | |
|---|---|---|---|---|
| | | **Major** | **Moderate** | **Minor** |
| **Potential for Harm to Human Health or the Environment** | **Major** | $8,000 to $10,000 | $6,000 to $8,000 | $5,000 to $6,000 |
| | **Moderate** | $4,000 to $5,000 | $3,000 to $4,000 | $2,000 to $3,000 |
| | **Minor** | $1,500 to $2,000 | $1,000 to $1,500 | Up to $1,000 |

| FOF # | Potential for Harm | Extent of Deviation | Penalty | Multiple Factor | Base Penalty |
|---|---|---|---|---|---|
| 3a, 4a, 5a-b, 7a, 8a, 10a, 16a, 17a, 19a, 25b, 26a | Moderate | Moderate | $3,200 | 12 | $38,400 |
| 9a, 13a, 14a, 22b, 24a | Moderate | Moderate | $3,200 | 5 | $16,000 |
| 11a | Minor | Major | $1,700 | 1 | $1,700 |
| 12a, 18a, 20a, 22c | Moderate | Moderate | $3,200 | 4 | $12,800 |
| 12b | Minor | Major | $2,000 | 1 | $2,000 |
| 21a, 22a | Minor | Minor | $800 | 2 | $1,600 |
| 25a | Minor | Major | $2,000 | 1 | $2,000 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| 0 | FALSE | FALSE | FALSE | 1 | $0 |
| **Total Base Penalty** | | | | | $74,500 |

# 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 | | $7,450 |
| 6.2.b.4 - Compliance/noncompliance history - | 25 | | $18,625 |
| 6.2.b.6 - Economic benefits - (flat monetary increase) | | | $0 |
| 6.2.b.7 - Public Interest - (flat monetary increase) | | | $0 |
| 6.2.b.8 - Loss of enjoyment - (flat monetary increase) | | | $0 |
| 6.2.b.9 - Investigative costs - (flat monetary increase) | | | $0 |
| 6.2.b.10 - Other factors (size of violator) | | | $0 |
| 6.2.b.10 - Additional Other Factors - Increase (flat monetary increase) | | | $0 |
| 6.2.b.10 - Additional Other Factors - 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 | ($7,450) |
| 6.2.b.5 - Ability to Pay | | | $0 |
| **Penalty Adjustments** | | | **$18,655** |
| **Penalty =** | | | **$93,155** |

| 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 was considered but not applied. | |