west virginia department of environmental protection

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

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

July 11, 2012

Grenadier Energy Partners, LLC
E. Byron Hailey III, VP of Operations
1610 Woodstead Ct., Suite 330
The Woodlands, TX 77380

CERTIFIED RETURN RECEIPT REQUESTED
91 7199 9991 7031 5499 9427

RE: Violation of Chapter 22, Article 11 of the WV State Code

Dear Mr. Hailey:

Enclosed is revised CONSENT ORDER NUMBER 7587 dated July 11, 2012. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Environmental Enforcement unit in response to Grenadier Energy Partners, LLC violating Chapter 22, Article 11 of the WV State Code at its facility located in Wetzel County, West Virginia. This revision is based upon your recent meeting with David C. Simmons, Enforcement Hearing Officer. This administrative settlement is being offered on behalf of the director of the Division of Water and Waste Management.

Please review, sign and return the original copy of the revised ORDER to me within five (5) working days of receipt. Subsequently, WVDEP will initiate the public notice process.

Sincerely,

Michael A. Zeto
Chief Inspector

Enclosure

cc: Scott G. Mandirola, Director, DWWM (via e-mail)
Yogesh Patel, Asst. Director, DWWM/Permits
Joseph M. Hickman, Assistant Chief Inspector, EE/WW (via e-mail)
Jeremy Bandy, Assistant Chief Inspector, EE (via e-mail)
David C. Simmons, Enforcement Hearing Officer, EE (via e-mail)
Laura McGee, Environmental Resources Specialist, EE (via e-mail)
Brad Swiger, Environmental Inspector Supervisor, EE/WW (via e-mail)
Tonya Mather, Environmental Inspector, EE/WW (via e-mail)
James Tallman, Environmental Inspector, EE/WW (via e-mail)
M. Ann Bradley, Spilman Thomas & Battle, PLLC (via e-mail)
Shyrel Moellendick, MSSS, EE (via e-mail)

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Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
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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

TO: Grenadier Energy Partners, LLC
E. Byron Hailey III, VP of Operations
1610 Woodstead Ct., Suite 330
The Woodlands, TX 77380

DATE: July 11, 2012

ORDER NO.: 7587

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. to Grenadier Energy Partners, LLC (hereinafter "Grenadier").

FINDINGS OF FACT

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

1. Grenadier is an onshore oil and natural gas company operating within West Virginia and other States.

2. Grenadier Energy Gathering, LLC is a subsidiary of Grenadier and is tasked with constructing compressor stations and gathering pipelines for the purpose of transmitting natural gas.

3. In October of 2011, West Virginia Department of Environmental Protection (WVDEP) personnel identified a site along County Route 7 in Wetzel County, West Virginia where excavated soil was deposited at the head of a ravine in conjunction with Grenadier's Jolliffe impoundment.

4. On January 18, 2012, the United States Environmental Protection Agency (US EPA), Army Corps of Engineers, and WVDEP personnel conducted an inspection to evaluate land disturbance associated with the Jolliffe impoundment in the vicinity of Knob Fork.

5. On January 18, 2012, WVDEP personnel investigated pipeline construction activity near the Jolliffe impoundment in the vicinity of the community of Knob Fork and observed and documented the following:

    a. At or near GPS coordinates 39° 39.370' N and 80° 33.199' W, pipeline construction activity caused sediment to enter an unnamed tributary (UT) of Knob Fork, a tributary of Fish Creek, in Wetzel County, West Virginia. The sediment caused a distinctly visible plume of muddy water in the UT of Knob Fork. Creating conditions not allowable in waters of the State is a violation of WV Legislative Rule 47CSR2 Section 3.2.a.

    Notice of Violation (NOV) No. NW-TAM-011812-001 was issued to Grenadier in response to the aforementioned violation.

6. On January 26, 2012, WVDEP personnel conducted an inspection of an area of hillside slippage at Grenadier's Rt. 7 compressor station and adjoining pipeline in the vicinity of the community of Knob Fork. During the inspection, the following violation was observed and documented:

    a. Sediment from the site caused conditions not allowable in waters of the State. Specifically, a distinctly visible brown plume was evident in the UT of Sugar Run, a tributary of Fish Creek, in Wetzel County, West Virginia, a violation of WV Legislative Rule 47CSR2 Section 3.2.a.

7. On January 26, 2012, WVDEP personnel identified and investigated pipeline construction operations conducted by Grenadier at or near GPS coordinate 39° 40.2564' N and 80° 32.7908' W in Wetzel County, West Virginia. During the inspection, the following violations were observed and documented:

    a. Erosion & Sediment controls and/or Best Management Practices (BMPs) were either absent or not maintained in certain locations on the pipeline project.

    b. A UT of Knob Fork of Fish Creek impacted by soil in runoff from pipeline construction operations. Creating conditions not allowable in waters of the State is a violation of WV Legislative Rule 47CSR2 Section 3.2.b.

    c. Sediment-laden surface runoff was observed leaving the construction site and entering the UT of Knob Fork, causing a distinct visible brown plume of muddy water downstream of the pipeline construction activity, a violation of WV Legislative Rule 47CSR2 Section 3.2.a.

ORDER FOR COMPLIANCE

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

1. Grenadier shall immediately take all measures to initiate compliance with all applicable laws and rules.

2. Grenadier agrees it will seek and secure all required authorization/permits from local, state and federal authorities prior to initiation of all future construction activities.

3. Grenadier shall apply for coverage under WV/NPDES General Water Pollution Control Permit for Stormwater Associated with Construction Activities, Permit No. WV0115924 ("WV/NPDES Stormwater Construction Permit" or the "Permit") for those locations described in Findings of Fact 5,6 and 7 of this Order that have not achieved "final stabilization" as defined in the Permit as of the entry of this Order. Upon achieving final stabilization for the locations for which coverage under the Permit is authorized, Grenadier may file a Notice of Termination form as provided in the Permit and, if final stabilization is determined by WVDEP to have been achieved for such locations, coverage under the Permit shall be terminated. WVDEP agrees that site stabilization activities at the locations addressed in this paragraph may continue while coverage under the Permit is being pursued, provided that adequate erosion and sediment measures are implemented.

4. Following the entry of this Order, construction activities, including grubbing operations, shall not be undertaken by Grenadier at any location not addressed in this Order unless notice of such activities has been provided to WVDEP at least ten days in advance of the commencement of such activities. In the event the WVDEP issues a final general permit other than the WV/NPDES Stormwater Construction Permit under the WV Water Pollution Control Act applicable to oil and gas construction activities, this paragraph shall no longer apply and future construction activities by Grenadier shall be governed by the applicable provisions of such permit once it is in full force and effect.

5. Within sixty (60) days of entry of this Order, Grenadier shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Grenadier will achieve compliance with all applicable laws and rules at the locations described in this Order. The plan of corrective action shall be submitted to:

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

A copy of this plan 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.

6. Because of Grenadier's Legislative Rule violations, Grenadier shall be assessed a civil administrative penalty of fourteen thousand seven hundred seventy dollars ($14,770) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of entry of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall be mailed to:**

Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304

OTHER PROVISIONS

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

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

E. Byron Hailey III

E. Byron Hailey III, VP of Operations
Grenadier Energy Partners, LLC

7/23/12
Date

Public Notice begin: _____
Date

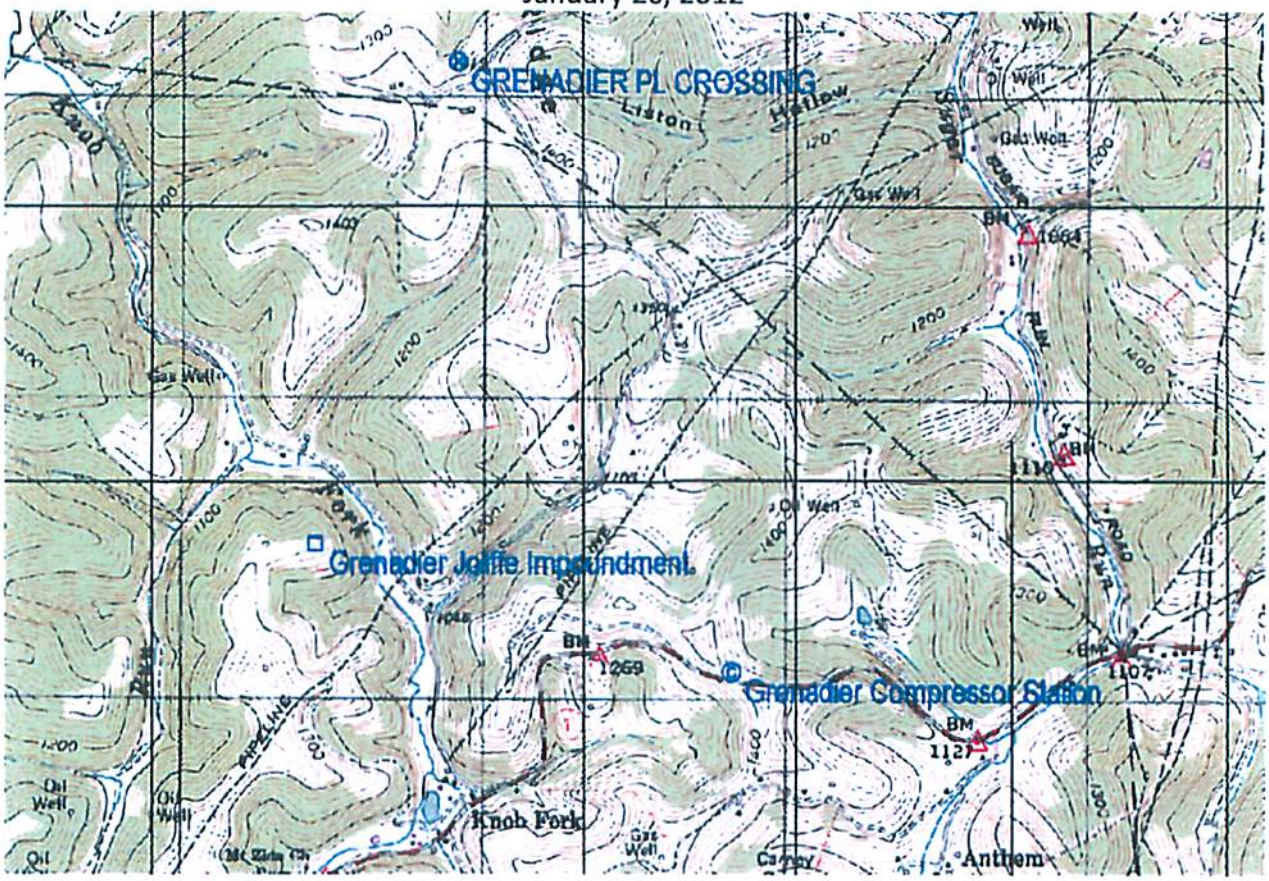
Public Notice end: _____
Date

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

_____
Date

revised April 2010

Grenadier Energy Partners, LLC
Wetzel County
January 26, 2012



Site Name	Description	Approximate Coordinate	Stream Name	Action
Grenadier Compressor Station	Compressor Station	39° 39.2704' N 80° 31.6476' W	UT of Sugar Run	N/A
Grenadier PL Crossing	Pipeline stream crossing	39° 40.2564' N 80° 32.7908' W	UT of Knob Fork	N/A
Grenadier Joliffe Impoundment	Impoundment	39° 39.3854' N 80° 33.1205' W	UT of Knob Fork	NOV NW-TAM-011812-001

Photo 1. Slippage area adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 2. Slippage area adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 3. Slippage area adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 4. Slippage area adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 5. Unnamed tributaries of Sugar Run adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 6. Distinct visible plume in unnamed tributary of Sugar Run adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 7. Sediment-laden runoff due to pipeline construction activities adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 8. Sediment-laden runoff due to pipeline construction activities adjacent to Grenadier compressor station on County Route 7, west of Burton, WV.

Photo 9. Unstabilized Grenadier pipeline construction activity at or near 39° 40.2564' N and 80° 32.7908' W in Wetzel County.

Photo 10. Stream filled in by Grenadier at or near 39° 40.2564' N and 80° 32.7908' W in Wetzel County.

Photo 11. Stream filled in by Grenadier carrying sediment-laden runoff at or near 39° 40.2564' N and 80° 32.7908' W in Wetzel County.

Photo 12. Stream filled in by Grenadier carrying sediment-laden runoff into remaining streambed at or near 39° 40.2564' N and 80° 32.7908' W in Wetzel County.

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Grenadier Energy Partners, LLC **Receiving Stream:** UT of Knob Fork and Sugar Run of Fish Creek

Treatment System Design Maximum Flow: _____ **MGD**

Treatment System Actual Average Flow: _____ **MGD** (if known)

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

			FOF#												
1)	**Potential for Harm Factor**	**Factor Range**	**5.a**	**6.a**	**7.b**										
a)	Amount of Pollutant Released	1 to 3	2	2	2										
b)	Toxicity of Pollutant	0 to 3	1	1	1										
c)	Sensitivity of the Environment	0 to 3	1	1	1										
d)	Length of Time	1 to 3	1	1	2										
e)	Actual Exposure and Effects thereon	0 to 3	2	2	2										
	Average Potential for Harm Factor		1.4	1.4	1.6	No	No	No	No	No	No	No	No	No	No
2)	**Extent of Deviation Factor**	**Factor Range**													
	Degree of Non-Compliance	1 to 3	3	3	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
5.a	Moderate	Major	$4,400	1	$4,400
6.a	Moderate	Major	$4,400	1	$4,400
7.b	Moderate	Major	$4,600	1	$4,600
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					$13,400

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		$1,340
6.2.b.4 - Compliance/noncompliance history	0		$0
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			$0
6.2.b.5 - Ability to Pay			$0
Penalty Adjustments			**$1,370**
Penalty =			**$14,770**

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:	