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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0470  
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Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

**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: Stonewall Gas Gathering LLC  
Attn: Frank Tsuru, President & CEO  
742 Fairmont Road, Suite E  
Westover, WV 26501

DATE: April 25, 2016

ORDER NO.: MM-16-11

**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 Stonewall Gas Gathering LLC (hereinafter "Stonewall").

**FINDINGS OF FACT**

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

**WVR310402**

1. Stonewall is conducting land disturbance activity in Doddridge, Harrison, Lewis, and Braxton Counties, West Virginia. On January 29, 2015, Stonewall was issued Permit No. WV0116815, Registration No. WVR310402, for the Stonewall Pipeline Project.
2. On June 16, 2015, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the Stonewall Pipeline Project. During the inspection, violations of the following sections of WV Legislative Rules and Stonewall's permit were observed and documented:

- a. 47CSR2 Section 3.2.a - Stonewall caused conditions not allowable in waters of the State. Specifically, settleable solids associated with pipeline construction were observed in Buffalo Calf Fork.
- b. Section D.1 - Stonewall failed to properly operate and maintain all facilities and systems of treatment and control.
- c. Section G.4.b.5 - Stonewall failed to display a sign for the duration of the construction project near the entrance of the project.
- d. Section G.4.e.1.D - Stonewall failed to have stone access entrances, exit drives, and parking areas to reduce the tracking of sediment onto public or private roads.
- e. Section G.4.e.2.A.ii.j - Stonewall allowed sediment-laden water to leave the site without going through an appropriate best management practice (BMP).
- f. Section B - Stonewall failed to comply with this General Permit, the Stormwater Pollution Prevention Plan (SWPPP), and the Groundwater Protection Plan (GPP).

As a result of the aforementioned violations, Notice of Violation (NOV) No. W-NW-JGT-061615-001 and five (5) warnings were issued to Stonewall.

3. On July 7, 2015, WVDEP personnel, in response to a complaint, conducted an inspection of the Stonewall Pipeline Project. During the inspection, violations of the following sections of Stonewall's permit were observed and documented:
  - a. Section D.1 – Stonewall failed to at all times properly operate and maintain all facilities and systems of treatment and control. Specifically, perimeter controls were nonfunctional and/or in need of maintenance in multiple locations.
  - b. Section G.4.e.2.A.ii.j – Stonewall allowed sediment-laden water to leave the site without first going through an appropriate BMP.
  - c. Section B - Stonewall failed to comply with this General Permit, the SWPPP, and the GPP.

As a result of the aforementioned violations, NOV No. W-NW-JGT-070715-001 and two (2) warnings were issued to Stonewall.

4. From July 14, 2015 to July 15, 2015, WVDEP personnel conducted inspections of the Stonewall Pipeline Project. During the inspections, violations of the following sections of WV Legislative Rules and Stonewall's permit were observed and documented:
  - a. 47CSR2 Section 3.2.a - Stonewall caused conditions not allowable in waters of the State. Specifically, settleable solids associated with pipeline construction were observed in:
    - i. an Unnamed Tributary (UT) of Laurel Run at or near GPS coordinates 39° 11.7043' N, 80° 32.8183' W.
    - ii. a UT of Laurel Run at or near GPS coordinates 39° 11.6631' N, 80° 32.7989' W.
    - iii. a UT of Right Fork at or near GPS coordinates 39° 09.497' N 80° 30.950' W.
    - iv. a UT of Right Fork at or near GPS coordinates 39° 10.200' N 80° 31.343' W.

- v. Big Isaac Creek at or near GPS coordinates 39° 12.0494' N, 80° 33.3733' W.
  - vi. a UT of Indian Fork at or near GPS coordinates 39° 13.2417' N, 80° 35.3321' W.
  - vii. a UT of Indian Fork at or near GPS coordinates 39° 13.2562' N, 80° 35.3268' W.
  - viii. a UT of Indian Fork at or near GPS coordinates 39° 13.2803' N, 80° 35.3931' W.
  - ix. a UT of Indian Fork at or near GPS coordinates 39° 13.3263' N, 80° 36.1991' W.
  - x. a UT of Buckeye Creek at or near GPS coordinates 39° 13.374' N, 80° 37.216' W.
  - xi. Buckeye Creek at or near GPS coordinates 39° 13.313' N, 80° 36.216' W.
- b. Section F.2 and 47CSR11 Section 2.2.a - Stonewall failed to report any noncompliance which may have endangered health or the environment immediately after becoming aware of the circumstances. Specifically, an earthen slip impacted a UT of Laurel Run, and Stonewall failed to notify WVDEP. In addition, an earthen slip impacted a UT of Indian Fork at or near GPS coordinates 39° 13.2803' N, 80° 35.3931' W, and Stonewall failed to notify WVDEP.
  - c. G.4.e.1.D - Stonewall failed to install stone access entrances and exits to reduce tracking sediment onto public or private roads. Specifically, a poorly stoned construction access road allowed sediment to be tracked onto County Route 35/5.
  - d. Section G.4.e.2.A.ii.j - Stonewall allowed sediment-laden water to leave the site without going through an appropriate BMP at or near GPS coordinates 39° 11.7043' N, 80° 32.8183' W.
  - e. Section D.1 - Stonewall failed to at all times properly operate and maintain all facilities and systems of treatment and control. Specifically, numerous erosion and sediment controls were in poorly maintained condition.
  - f. Section G.4.d.1.B - Stonewall failed to maintain good housekeeping and a clean and orderly project.
  - g. Section G.4.e.2.A.i.c - Stonewall failed to immediately reseed areas where the seed failed to germinate adequately (uniform perennial vegetative cover with a density of 70%) within thirty (30) days after seeding and mulching.
  - h. Section G.4.e.2.D.i - Stonewall failed to inspect and clean debris originating from the construction site from all public and private roads adjacent to the construction entrance.
  - i. Section G.4.e.2.A.ii.j - Stonewall allowed sediment-laden water to leave the site without first going through an appropriate BMP.
  - j. Section B - Stonewall failed to comply with this General Permit, the SWPPP, and the GPP.

As a result of the aforementioned violations, NOV Nos. W-NW-JGT-071415-001, W-NW-JGT-071415-002, W-NW-JGT-071415-003, W-NW-TJK-071415-001, W-NW-TJK-071415-002, W-NW-TJK-071415-003, W-NW-JGT-071515-001, W-NW-JGT-071515-002, W-NW-JGT-071515-003, W-NW-JGT-071515-004, W-NW-JGT-071515-005, W-NW-JGT-071515-006, W-NW-JGT-071515-007, W-NW-TJK-071515-001, W-NW-TJK-071515-002, W-NW-TJK-071515-003 and five (5) warnings were issued to Stonewall.

5. On July 28, 2015, WVDEP personnel conducted aerial reconnaissance of the Stonewall Pipeline Project. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:

- a. 47CSR2 Section 3.2.b-Stonewall caused conditions not allowable in waters of the State. Specifically, sediment deposits were observed in Canoe Run as a result of pipeline construction activities at or near GPS coordinates 38° 55.1805' N 80° 31.9665' W.

As a result of the aforementioned violation, NOV No. W-NW-TJK-072815-001 was issued to Stonewall.

6. On August 12, 2015, WVDEP personnel, in response to a complaint, conducted an inspection of the Stonewall Pipeline Project. During the inspection, violations of the following sections of WV Legislative Rules and Stonewall's permit were observed and documented:

- a. 47CSR2 Section 3.2.a - Stonewall caused conditions not allowable in waters of the State. Specifically, a sediment discharge originating from a timber mat bridge was observed entering into Goosepen Run, creating distinctly visible solids at or near GPS coordinates 38° 56.312' N 80° 32.934' W.
- b. Section D.1 - Stonewall failed to at all times properly operate and maintain all facilities and systems of treatment and control. Specifically, filter fencing was observed knocked over in some areas and sediment deposits overtopping it in others.
- c. Section G.4.e.1.D - Stonewall failed to have stone access entrances, exit drives, and parking areas to reduce the tracking of sediment onto public or private roads.
- d. Section G.4.e.2.A.ii.j - Stonewall allowed sediment-laden water to leave the site without first going through an appropriate BMP.

As a result of the aforementioned violations, NOV Nos. W-NW-TJK-081215-001, W-NW-TJK-081215-002, and two (2) warnings were issued to Stonewall.

7. From August 20, 2015 to August 21, 2015, WVDEP personnel conducted inspections of the Stonewall Pipeline Project. During the inspections, violations of the following sections of WV Legislative Rules and Stonewall's permit were observed and documented:

- a. 47CSR2 Section 3.2.a-Stonewall created conditions not allowable in waters of the State. Specifically, suspended and/or settleable solids associated with pipeline construction were observed in:
  - i. a UT of Meadow Run (SWV-CDK-147 EXT) at or near GPS coordinates 38° 52.6459' N, 80° 31.3085' W.
  - ii. a UT of Clover Fork (SWV-CDK-055) at or near GPS coordinates 38° 52.0664' N 80° 30.8597' W.
  - iii. a UT of Clover Fork (SWV-CDK-053) at or near GPS coordinates 38° 52.1016' N, 80° 30.9625' W.

- iv. a UT of Clover Fork (SWV-CDK-049) at or near GPS coordinates 38° 52.1803' N 80° 30.9863' W.
  - v. Left Fork Falls Run at or near GPS coordinates 38° 47.4764' N, 80° 31.1418' W.
  - vi. a UT of Left Fork Falls Run at or near GPS coordinates 38° 47.3262' N, 80° 30.7630' W.
  - vii. a UT of Falls Run at or near GPS coordinates 38° 46.7398' N, 80° 30.6367' W.
  - viii. a UT of Stonecoal Run, which discharged sediment-laden water into Stonecoal Run at or near GPS coordinates 38° 43.6313' N, 80° 30.7656' W.
- b. Section G.4.e.1.D - Stonewall failed to adequately stone access entrances and exit drives of the project.
- c. 47CSR2 Section 3.2.b-Stonewall caused conditions not allowable in waters of the State by creating sediment deposits in:
- i. an Unnamed Tributary (UT) of Stonecoal Run at or near GPS coordinates 38° 43.8500' N, 80° 30.6170' W. A timber mat stream crossing had been constructed with no sediment control features, allowing sediment to be deposited onto the stream bed.
  - ii. Barbecue Run at or near GPS coordinates 38° 50.5413' N 80° 30.8911' W.
  - iii. a UT of Barbecue Run at or near GPS coordinates 38° 50.3611' N, 80° 30.8436' W. Poorly maintained and inadequate controls on the stream crossing structure allowed sediment to be discharged into the receiving stream.
  - iv. an UT of Left Fork Knawl Creek at or near GPS coordinates 38° 50.0116' N, 80° 30.7480' W. Poorly maintained and inadequate controls on the stream crossing structure allowed sediment to be discharged into the receiving stream.
- d. Section D.1 - Stonewall failed to at all times properly operate and maintain all facilities and systems of treatment and control. Specifically, perimeter controls and stream crossings across the site were in poorly maintained and, in some cases, non-functioning condition.
- e. Section G.4.e.2.D.i - Stonewall failed to inspect and clean debris originating from the construction site from all public and private roads adjacent to a construction entrance.
- f. Section G.4.e.2.C.i - Stonewall failed to dispose of all solid waste and construction/demolition material in accordance with WV State Code and WV Legislative Rule 33CSR1.

As a result of the aforementioned violations, NOV Nos. W-NW-TAM-082015-001, W-NW-TAM-082015-002, W-NW-TAM-082015-003, W-NW-TAM-082015-004, W-NW-TAM-082015-005, W-NW-JGT-082015-001, W-NW-JGT-082015-002, W-NW-JGT-082015-003, W-NW-TJK-082015-001, W-NW-TJK-082015-002, W-NW-TJK-082115-001, W-NW-TJK-082115-002, W-NW-TJK-082115-003, W-NW-TJK-082115-004 and two (2) warnings were issued to Stonewall.

8. From September 21, 2015 to September 22, 2015, WVDEP personnel conducted inspections of the Stonewall Pipeline Project. During the inspections, violations of the

following sections of WV Legislative Rules and Stonewall's permit were observed and documented:

- a. 47CSR2 Section 3.2.a – Stonewall created conditions not allowable in waters of the State. Specifically, settleable solids associated with pipeline construction were observed in:
  - i. a UT of Mulberry Run at or near GPS coordinates 38° 51.0686' N, 80° 30.7714' W.
  - ii. Elliot Run at or near GPS coordinates 38° 45.0920' N, 80° 30.8907' W.
  - iii. a UT of Crooked Fork at or near GPS coordinates 38° 57.362' N, 80° 33.105' W.
  - iv. a UT of Crooked Fork at or near GPS coordinates 38° 57.610' N, 80° 33.141' W.
- b. 47CSR2 Section 3.2.b – Stonewall caused conditions not allowable in waters of the State by creating sediment deposits in a UT of Crooked Fork at or near Access Road 45A.
- c. Section D.1 – Stonewall failed to at all times properly operate and maintain all facilities and systems of treatment and control. Specifically, perimeter controls and rock construction entrances were observed to be in need of maintenance in multiple areas.
- d. 47CSR10 Section 5.1 – Stonewall failed to comply with the approved SWPPP. Specifically, multiple access roads, including 45A and 46, were without erosion and sediment controls as required by the SWPPP.

As a result of the aforementioned violations, NOV Nos. W-NW-JGT-092115-001, W-NW-JGT-0921155-002, W-NW-JGT-0921155-003, W-NW-TJK-092215-001, W-NW-TJK-092215-002, W-NW-TJK-092215-003, and W-TJK-092215-004 were issued to Stonewall.

9. On October 8, 2015, WVDEP personnel conducted an inspection of the Stonewall Pipeline Project. During the inspection, a violation of the following section of WV Legislative Rules was observed and documented:
  - a. 47CSR2 Section 3.2.b-Stonewall caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the stream. Specifically, an inadvertent return allowed drill mud used for a horizontal direction drill to enter into a UT of Goosepen Run at or near access road 50.

As a result of the aforementioned violation, NOV No. W-NW-TJK-100815-001 was issued to Stonewall.

10. On October 13, 2015, WVDEP personnel conducted an inspection of the Stonewall Pipeline Project. During the inspection, violations of the following sections of WV Legislative Rules and Stonewall's permit were observed and documented:
  - a. 47CSR2 Section 3.2.a-Stonewall caused conditions not allowable in waters of the State. Specifically, sediment associated with pipeline construction at or near GPS

coordinates 39° 15.4442' N, 80° 38.0814' W created settleable solids in Buffalo Calf Fork.

- b. Section B - Stonewall failed to comply with its SWPPP and GPP. Specifically, Stonewall failed to install a stone construction entrance where vehicular traffic (an excavator) was entering an adjacent road.

As a result of the aforementioned violations, NOV Nos. W-NW-JGT-101315-001 and W-NW-JGT-101315-002 were issued to Stonewall.

11. On October 28, 2015, WVDEP personnel conducted an inspection of the Stonewall Pipeline Project. During the inspection, violations of the following sections of WV Legislative Rules and Stonewall's permit were observed and documented:

- a. 47CSR2 Section 3.2.a-Stonewall caused conditions not allowable in waters of the State. Specifically, sediment associated with pipeline construction at or near GPS coordinates 38° 55.6394' N, 80° 32.0903' W created settleable solids in Middle Fork.
- b. Section D.1-Stonewall failed to at all times properly operate and maintain all facilities and systems of treatment and control. Specifically, perimeter controls, water bars, and slope breakers were in need of maintenance in multiple areas.

As a result of the aforementioned violations, NOV Nos. W-NW-JGT-102815-001 and W-NW-JGT-102815-002 were issued to Stonewall.

12. On November 4, 2015, WVDEP personnel conducted an inspection of the Stonewall Pipeline Project. During the inspection, violations of the following sections of the terms and conditions of Stonewall's permit were observed and documented:

- a. Section D.1-Stonewall failed to at all times properly operate and maintain all facilities and systems of treatment and control. Specifically, a stream crossing was without appropriate BMPs, and adjacent perimeter controls were absent.
- b. Section G.4.e.2.C.i-Stonewall failed to dispose of all solid waste and construction/demolition material in accordance with WV State Code and WV Legislative Rule 33CSR1. Specifically, used construction materials, including perimeter controls, were improperly disposed of in multiple locations throughout the right-of-way.

As a result of the aforementioned violations, NOV Nos. W-NW-JGT-110415-001 and W-NW-JGT-110415-002 were issued to Stonewall.

**WVR310445**

13. Stonewall is conducting land disturbance activity in Harrison County, West Virginia. On April 7, 2015, Stonewall was issued Water Pollution Control Permit No. WV0116815, Registration No. WVR310445, for the Tichenal to Bobcat Pipeline Project.
14. On July 30, 2015, WVDEP personnel conducted an inspection of the Tichenal to Bobcat Pipeline Project. During the inspection, a violation of the following section of WV State Code was observed and documented:

- a. 22-15-10(a)-Stonewall created an open dump. Specifically, drill cuttings were disposed of in a pipeline right-of-way. Through communication with Stonewall, it has been determined that this material is routinely disposed of in this manner on this project and others.

As a result of the aforementioned violation, NOV No. W-NW-TJK-073015-001 was issued to Stonewall.

**WVG670609**

15. Stonewall operates a hydrostatic testing water filtration treatment system located near Roanoke, Lewis County, West Virginia. Stonewall was issued WV/NPDES Water Pollution Control Permit No. WV0113069, Registration No. WVG670609, on April 11, 2015.
16. On November 13, 2015, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and Stonewall's WV/NPDES permit were observed and documented:
  - a. 47CSR2 Section 3.2.a-Stonewall caused conditions not allowable in waters of the State. Specifically, sediment associated with pipeline hydrostatic testing water discharge at or near GPS coordinates 38° 53.6952' N, 80° 31.8524' W created distinctly visible black settleable and suspended solids in Oil Creek.
  - b. Appendix A.II.1-Stonewall failed to operate and maintain all facilities and systems of treatment and control devices. Specifically, the filtration treatment unit was improperly operated, allowing hydrostatic testing water discharge to create conditions not allowable in waters of the State.
  - c. Appendix A.IV.2.a.-Stonewall failed to immediately report to the designated spill alert telephone number the aforementioned conditions not allowable in waters of the State which may have endangered health or the environment.

As a result of the aforementioned violations, NOV Nos. W-NW-SW-111315-01, W-NW-SW-111315-02, and W-NW-SW-111315-03 were issued to Stonewall.

17. On April 6, 2016, WVDEP personnel met with representatives of Stonewall to discuss the terms and conditions of the Order.

**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. Stonewall shall immediately take all measures to initiate compliance with all terms and conditions of its permit and pertinent laws and rules.
2. Within seven (7) days of weekly inspections, Stonewall shall repair any identified deficiencies in regard to the approved SWPPP and properly document all repairs. This

requirement shall remain in effect for the duration of the Stonewall Pipeline Project and the Tichenal to Bobcat Pipeline Project.

3. Within ten (10) days of the effective date of this Order, Stonewall shall provide all documentation regarding the disposal of all drill mud used on the Stonewall Pipeline Project and the Tichenal to Bobcat Pipeline Project.
4. Within ten (10) days of the effective date of this Order, Stonewall shall develop and implement a standard operating procedure (SOP) for horizontal directional drilling (HDD). The SOP shall include, but not be limited to:
  - a. A list of any potential materials used.
  - b. Containment procedures.
  - c. Disposal procedures.
  - d. A detailed description of BMPs.
  - e. Drilling sequence.
  - f. Emergency procedures.

A copy of the HDD SOP shall remain onsite during all HDD operations and made available for review by WVDEP personnel upon request.

5. Within thirty (30) days of the effective date of this Order, Stonewall shall develop and implement a written training procedure for all Stonewall field personnel and contractors associated with Stonewall projects. The training procedure shall include, but not be limited to:
  - a. Spill and reporting procedures.
  - b. Proper BMPs.
  - c. Sediment and erosion control installation requirements.
  - d. SWPPP requirements.
  - e. GPP requirements.
6. Upon the effective date of this Order, Stonewall shall begin electronically notifying WVDEP personnel seven (7) days prior to any stream disturbance. Stream disturbance includes, but is not limited to, HDD drilling and open trenches. This notification requirement shall remain in effect for a period of eighteen (18) months from the effective date of this order. All notification shall be addressed to Tonya Mather, Inspector Supervisor, at [Tonya.A.Mather@wv.gov](mailto:Tonya.A.Mather@wv.gov).
7. Within thirty (30) days of the effective date of this Order, Stonewall shall develop a written SOP for inadvertent returns. The SOP shall include, but not be limited to, the following:
  - a. Preventative measures.
  - b. A method of identifying inadvertent returns which occur on and off of the right-of-way.
  - c. Containment/remediation procedures for in-stream and land-based inadvertent returns.

- d. Provisions for preservation of aquatic life.
- e. A list of constituents used in drilling mud, including any potential additives.
- f. Provisions for return pit construction and abandonment.
- g. Methods for proper disposal of inadvertent return materials.

This SOP shall remain onsite at all HDD operations and shall be made available for review by WVDEP personnel upon request. The SOP shall be consistent with all pertinent laws and rules.

8. Within ten (10) days of the effective date of this Order, Stonewall shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Stonewall will achieve compliance with all terms and conditions of its permits and pertinent laws and rules. The plan of corrective action shall make reference to Permit No. WV0116815, Registration Nos. WVR310402 and WVR310445, Permit No. WV0113069, Registration No. WVG670609, and Order No. MM-16-11.

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.

The aforementioned plan of corrective action, drill mud disposal documentation, HDD SOP, training procedure, and inadvertent return SOP shall be submitted to:

**Chief Inspector**  
**Environmental Enforcement - Mail Code #031328**  
**WVDEP**  
**601 57<sup>th</sup> Street SE**  
**Charleston, WV 25304**

9. Because of Stonewall's Legislative Rule and permit violations, Stonewall shall be assessed a civil administrative penalty of one hundred six thousand fifty dollars (\$106,050) 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 57<sup>th</sup> Street SE**  
**Charleston, WV 25304**

### **OTHER PROVISIONS**

1. Stonewall 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, Stonewall 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, Stonewall 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 Stonewall 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, Stonewall 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 Stonewall becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Stonewall 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 Stonewall 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 Stonewall (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 Stonewall 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 Stonewall 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 Stonewall, its successors and assigns.

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

*Frank D. Tsuru*

Frank Tsuru, President & CEO  
Stonewall Gas Gathering LLC

*4/28/2016*

Date

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

*revised March 2013*

**RECEIVED**

MAY 04 2016

ENVIRONMENTAL  
ENFORCEMENT



DSCF1066 -- Poorly maintained stream crossing. Stream ID #SWV-EMT-016, UT of Right Fork Kincheloe Creek. 7/14/15



DSCF1067 -- Sediment deposits in an UT of Right Fork of Kincheloe Creek. 7/14/15



DSCF1085 -- Poorly maintained controls at the headwaters of a UT of Right Fork of Kincheloe Creek. Stream ID#SWV-EMT-010. 7/14/15



DSCF1086 -- Sediment deposits in an UT of Right Fork Kincheloe Creek. Stream ID #SWV-EMT-010. 7/14/15



DSCF1156 -- Sediment deposits in an UT of Indian Fork. 7/15/15



DSCF1037 -- Poorly maintained filter fencing. 7/14/15



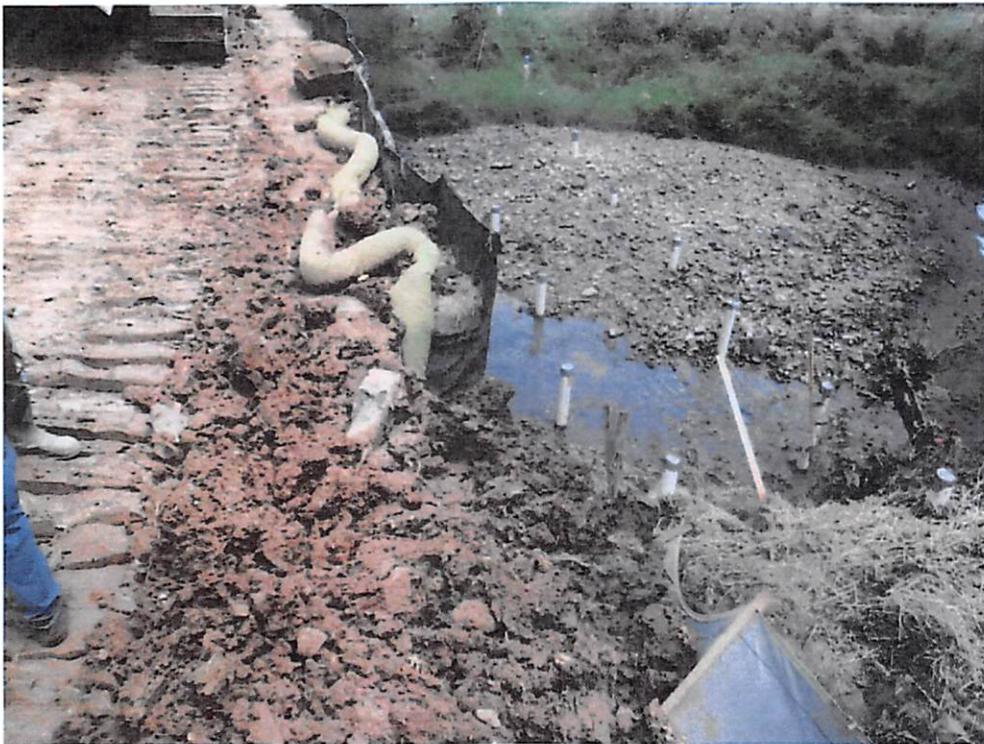
DSCF1081 -- Dirt and debris on County Road 35/5. 7/14/15



DSCF1135 -- UT of Indian Fork filled in with sediment deposits. 7/15/15



DSCF1056 -- Poorly maintained filter fencing, 7/14/15



DSCF1076 -- Poorly maintained stream crossing over Right Fork of Kincheloe Creek, 7/14/15



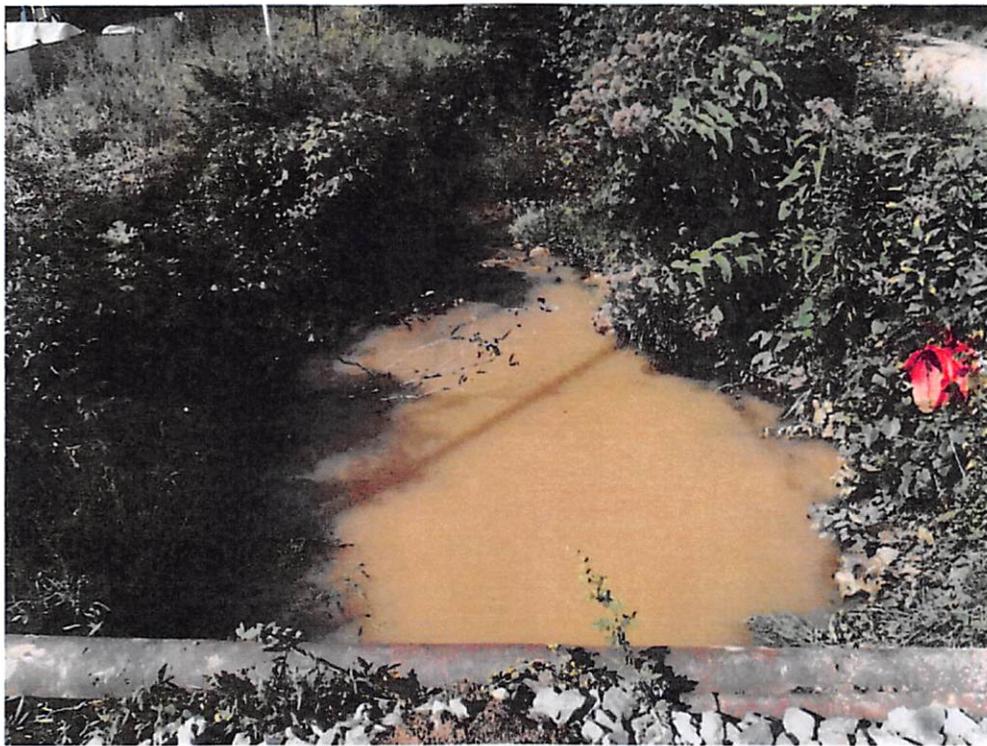
DSCF1201 -- Deposits in an UT of Canoe Run. 7/28/15



DSCF1236 -- Goosepen Run upstream of access road 50. 8/12/15



DSCF1237 -- Timber mat bridge over Goosepen Run. 8/12/15



DSCF1238 -- Goosepen Run downstream of the access road 50 timber mat bridge. 8/12/15



DSCF1250 -- Poorly maintained filter fencing near Route 33 in Pricetown. 8/12/15



DSCF1267 -- Filter fencing in need of maintenance. 8/12/15



DSCF1312 -- Sediment-laden water leaving the right-of-way.



DSCF1315 -- Sediment-laden water entering into Stonecoal Run creating a distinctly visible plume.



DSCF1320 -- Unmarked stream crossing constructed with no sediment control features allowing sediment to be deposited into an UT of Stonecoal Run.



DSCF6021 -- Poorly maintained perimeter controls. Material has left the right-of-way and entered into an Unnamed Tributary (UT).



DSCF6026 -- Poorly maintained perimeter controls.



DSCF6105 -- Poorly maintained perimeter controls.



DSCF6107 -- Drill cuttings which have left deposits on the stream bed.



DSCF6124 -- Stream crossing SWV-ADW-034. Sediment deposits were observed on the stream bottom.



DSCF6141 -- Crossing SWV-CDK-282 with a travel lane above bypassing it.



DSCF6144 -- Downstream of crossing SWV-CDK-282.



DSCF6145 -- Stream crossing SWV-CDK-282.



DSCF3633 -- Sediment from ROW observed to have circumvented perimeter controls and entered Buffalo Calf Fork.



DSCF4595 – Perimeter controls observed to be non-functional and/or in need of maintenance in multiple locations.



DSCF4597 -- Perimeter controls observed to be non-functional and/or in need of maintenance in multiple locations.



DSCF4625 -- Perimeter controls observed to be non-functional and/or in need of maintenance in multiple locations.



DSCF4638 -- Perimeter controls observed to be non-functional and/or in need of maintenance in multiple locations.



DSCF4846 -- Outlet protection on a waterbar was observed to be undercut, resulting in sediment from the ROW entering into an UT of Laurel Run.



DSCF4859 -- Outlet protection on a waterbar was observed to be undercut, resulting in sediment from the ROW entering into an UT of Laurel Run.



DSCF4895 -- Slip material was observed on an improvised platform with no perimeter controls, resulting in sediment associated with pipeline construction entering into an UT of Laurel Run.



DSCF4901 -- Slip material was observed on an improvised platform with no perimeter controls, resulting in sediment associated with pipeline construction entering into an UT of Laurel Run.



DSCF4902 -- Slip material was observed on an improvised platform with no perimeter controls, resulting in sediment associated with pipeline construction entering into an UT of Laurel Run.



DSCF5048 -- Sediment associated with trench dewatering was observed causing a visible plume in Big Isaac Creek.



DSCF5139 -- Perimeter controls were observed to be overrun, resulting in sediment-laden water leaving the ROW without first going through an appropriate BMP.



DSCF5232 -- Sediment and gravel from access road observed in an UT of Indian Fork (SWV-JJP2-057 on E&S plans).



DSCF5231 -- Sediment and gravel from access road observed in an UT of Indian Fork (SWV-JJP2-057 on E&S plans).



DSCF5235 -- Sediment and gravel from access road observed in an UT of Indian Fork (SWV-JJP2-056 on E&S plans).



DSCF5244 -- Slip material observed in an UT of Indian Fork (SWV-CDK-009 on E&S plans).



DSCF5248 -- Slip material observed in an UT of Indian Fork (SWV-CDK-009 on E&S plans).



DSCF5274 -- Sediment associated with pipeline construction observed in an UT of Indian Fork (SWV-CDK-008 on E&S plans).



DSCF5807 -- Perimeter controls were observed to be in need of maintenance, resulting in sediment from the ROW entering into Left Fork Falls Run.



DSCF5874 -- Stream crossing and/or bridge controls were observed to not be installed, resulting in sediment associated with pipeline construction entering an UT of Left Fork Falls Run.



DSCF5878 -- Stream crossing and/or bridge controls were observed to not be installed, resulting in sediment associated with pipeline construction entering an UT of Left Fork Falls Run.



DSCF5930 -- Stream crossing and/or bridge controls were observed to not be installed, resulting in sediment associated with pipeline construction entering an UT of Falls Run.



DSCF5932 -- Stream crossing and/or bridge controls were observed to not be installed, resulting in sediment associated with pipeline construction entering an UT of Falls Run.



DSCF5935 -- Stream crossing and/or bridge controls were observed to not be installed, resulting in sediment associated with pipeline construction entering an UT of Falls Run.



DSCF5937 -- Stream crossing and/or bridge controls were observed to not be installed, resulting in sediment associated with pipeline construction entering an UT of Falls Run.



DSCN2279 -- Sediment laden water originating from the right of way entering into UNT of Meadow Run (SWV-CDK-147 EXT).



DSCN2278 -- Upstream of point source.



DSCN2277 – Downstream of point source.



DSCN2247 -- Sediment laden water entering UNT of Clover Fork (SWV-CDK-055) originating from photo DSCN2244. Sediment deposits also present.



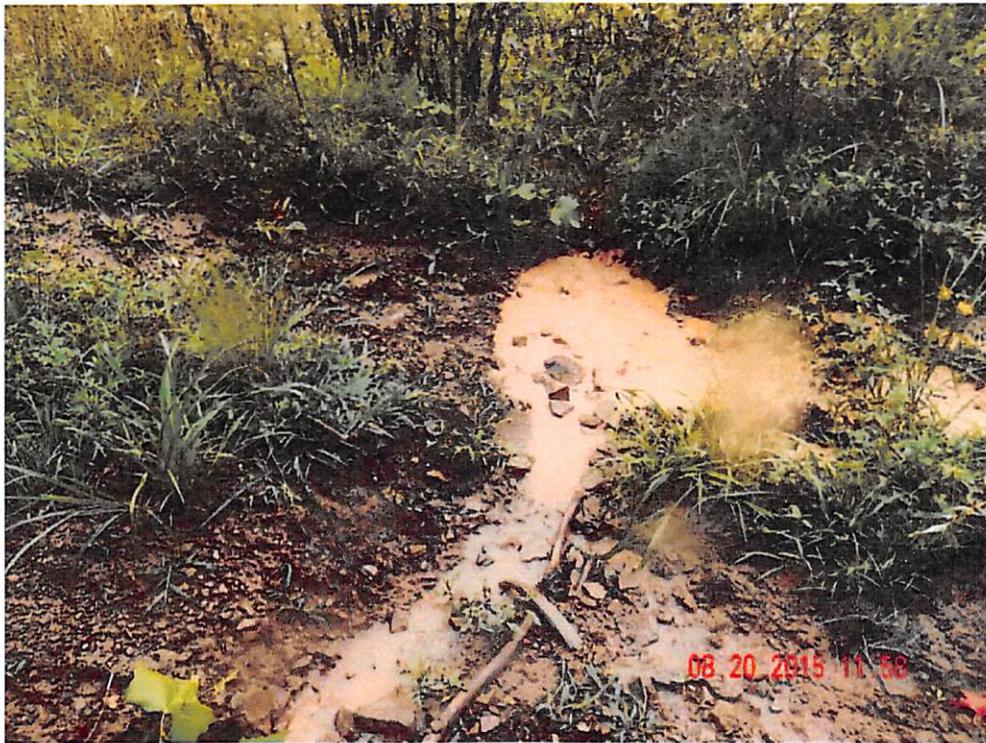
DSCN2254 -- Sediment laden runoff entering into UNT of Clover Fork (SWV-CDK-053). Sediment deposits also present.



DSCN2257 -- Under timber mat bridge at UNT of Clover Fork (SWV-CDK-053).



DSCN2253 -- Downstream photo of DSCN2254 and DSCN2257.



DSCN2262 -- Sediment laden runoff entering UNT of Clover Fork (SWV-CDK-049).



DSCN2272 -- Un-stoned access entrance and exit. Mud originating from right of way on Meadow Drive.



DSCN2290 -- Inadequately stoned access entrance and exit on Oil Creek Road.



DSCN2244 -- Sump at the end of a waterbar blown out on access road.



DSCN2260 – Sediment laden water leaving site.



DSCN2283 – Wattle has not been filled properly. Stream not adequately protected.



DSCN2284 – Silt fence buried at the stream crossing.



Sediment from access road 45A observed in an UT of Crooked Fork.



Slip material observed leaving the project ROW above an UT of Crooked Fork.



Sediment and vegetative debris observed in an UT of Crooked Fork.



Culverted stream crossing on an UT of Crooked Fork.



Culverted stream crossing on an UT of Crooked Fork.



Sediment from project ROW observed entering into an UT of Mulberry Run.



Sediment from project ROW observed entering into an UT of Mulberry Run.



Upstream of Elliot Run adjacent to CR-24/2 being utilized for access.



Conditions Not Allowable observed downstream of culverted stream crossing on CR-24/2.



Construction activity observed on the Stonewall Pipeline Project.



Permitted area observed to lack the required stone construction entrance.



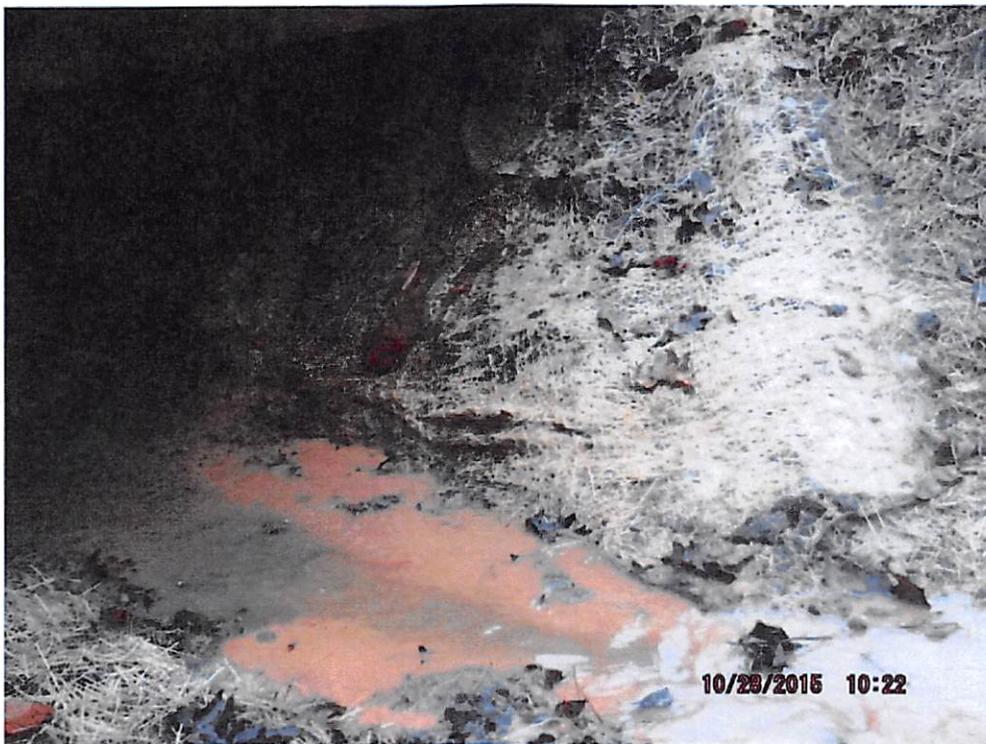
Upstream of crossing on Buffalo Calf Fork.



Downstream of crossing on Buffalo Calf Fork.



Hole in geotext on bridge crossing of Middle Fork observed to result in sediment-laden water entering into Middle Fork and creating Conditions Not Allowable in State Waters.



Hole in geotext on bridge crossing of Middle Fork observed to result in sediment-laden water entering into Middle Fork and creating Conditions Not Allowable in State Waters.



Perimeter controls in vicinity of an UT of Crooked Run observed to be in need of maintenance



Perimeter controls observed to be in need of maintenance



Water bars and/or slope breakers observed to be in need of maintenance (had been driven over but not repaired by the end of the previous work day)



Stream crossing on Middle Fork



Perimeter control on access road crossing Clover Fork observed to be in need of maintenance



Used construction materials observed to not be disposed of in an approved manner



Perimeter controls observed to be in need of maintenance



Bridge crossing over an UT of Clover Fork observed to lack appropriate BMPs



Bridge crossing over an UT of Clover Fork observed to lack appropriate BMPs



Used construction materials observed to not be disposed of in an approved manner



Used construction materials observed to not be disposed of in an approved manner



Used construction materials observed to not be disposed of in an approved manner



Drill mud improperly disposed of on the Tichenal to Bobcat Pipeline Project. 7/30/15



Upstream condition of hydrostatic discharge. Note clear condition.(IMG-0634 11-13-15 15:52)



Hydrostatic discharge. Note black condition. (IMG-0635 11-13-15 15:52)



Black stream condition directly downstream of outfall. (IMG-0637 11-13-15 15:52)



Black stream condition downstream of the hydrostatic discharge. (IMG-0638 11-13-15 15:53)



Lower discharge location. Note black stream condition. (IMG-039 11-13-15 15:54)



Hydrostatic discharge downstream condition. (IMG-0641 11-13-15 15:55)

# Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Stonewall Gathering, LLC Receiving Stream: \_\_\_\_\_

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.

1)	Potential for Harm Factor	Factor Range	FOF#												
			2a, 4a, 6a, 7a, 8a, 10a, 11a	3a	4b	4c	4d	4e	5a, 7c, 8b, 9a	6b	7b	7d	8c	8d	10b
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
b)	Toxicity of Pollutant	0 to 3	1	1	0	1	1	1	1	1	1	1	1	1	1
c)	Sensitivity of the Environment	0 to 3	1	1	0	1	1	1	1	1	1	1	1	1	1
d)	Length of Time	1 to 3	1	1	1	1	1	2	1	3	2	3	3	1	1
e)	Actual Exposure and Effects thereon	0 to 3	1	1	0	1	1	1	1	1	1	1	1	1	1
<b>Average Potential for Harm Factor</b>			1	1	0.4	1	1	1.2	1	1.4	1.2	1.4	1.4	1	1
2)	<b>Extent of Deviation Factor</b>	<b>Factor Range</b>													
	Degree of Non-Compliance	1 to 3	3	3	3	3	3	3	3	3	3	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.



		Extent of Deviation from Requirement		
		Major	Moderate	Minor
<b>Potential for Harm to Human Health or the Environment</b>	<b>Major</b>	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	<b>Moderate</b>	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	<b>Minor</b>	\$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
2a, 4a, 6a, 7a, 8a, 10a, 11a	Minor	Major	\$2,000	27	\$54,000
3a	Minor	Major	\$2,000	1	\$2,000
4b	Minor	Major	\$1,700	1	\$1,700
4c	Minor	Major	\$2,000	1	\$2,000
4d	Minor	Major	\$2,000	1	\$2,000
4e	Moderate	Major	\$4,200	1	\$4,200
5a, 7c, 8b, 9a	Minor	Major	\$2,000	7	\$14,000
6b	Moderate	Major	\$4,400	1	\$4,400
7b	Moderate	Major	\$4,200	1	\$4,200
7d	Moderate	Major	\$4,400	1	\$4,400
8c	Moderate	Major	\$4,400	1	\$4,400
8d	Minor	Major	\$2,000	1	\$2,000
10b	Minor	Major	\$2,000	1	\$2,000
11b	Moderate	Major	\$4,400	1	\$4,400
12a	Moderate	Major	\$4,400	1	\$4,400
12b	Minor	Major	\$2,000	1	\$2,000
16a	Minor	Major	\$2,000	1	\$2,000
16b	Minor	Major	\$2,000	1	\$2,000
16c	Minor	Major	\$1,700	1	\$1,700
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
<b>Total Base Penalty</b>					<b>\$117,800</b>

## 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		\$11,780
6.2.b.4 - Compliance/noncompliance history -			\$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		10	(\$11,780)
6.2.b.3 - Cooperation with the Secretary		10	(\$11,780)
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>(\$11,750)</b>
<b>Penalty =</b>			<b>\$106,050</b>

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	
<b>Estimated Economic Benefit</b>	<b>\$0</b>
<b>Comments:</b> No economic benefit warranted.	