

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

EQM Gathering OPCO, LLC	:	The Clean Streams Law
2200 Energy Drive	:	The 2012 Oil and Gas Act
Canonsburg, PA 15317	:	

**CONSENT ASSESSMENT OF CIVIL PENALTY**

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 12<sup>th</sup> day of FEBRUARY 2020, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and EQM Gathering OPCO, LLC (“EQM”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 ("Clean Streams Law"); Chapter 32 of Title 58 of the Pennsylvania Consolidated Statutes, 58 Pa. C.S. §§ 3201 – 3274 (“2012 Oil and Gas Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder.

B. EQM, a Delaware limited liability company, is engaged in various oil and gas midstream activities in Pennsylvania. EQM’s business address is 2200 Energy Drive, Canonsburg, PA 15317.

C. EQM owns and operates the NIRI S001 Pipeline (the “Pipeline”), located in Jefferson Township, Greene County.

D. EQM is the permittee of the Erosion and Sediment Control General Permit authorization for earth disturbance associated with the Pipeline, number ESG17-059-0022 (“NIRI S001 ESCGP-2”). The NIRI S001 ESCGP-2 includes limits on the earth disturbance that may occur in constructing the Pipeline (“NIRI S001 LOD”).

E. On March 23, 2018, a slide of approximately 150 feet in length occurred within the NIRI S001 LOD (“Slide”). Sediment laden water from the Slide overtopped Erosion and Sedimentation Control Best Management Practices (“E & S BMPs”) beyond the NIRI S001 LOD.

F. On April 4, 2018, the Slide remained unstabilized. In addition, numerous sections of the Pipeline were unstabilized, exhibited signs of accelerated erosion and sedimentation, numerous E&S BMPs were not maintained or implemented properly, and sediment laden water overtopped numerous E & S BMPs, beyond the NIRI S001 LOD, and into unnamed tributaries to South Fork Tenmile Creek and associated wetlands, high quality waters of the Commonwealth. Specifically, erosion rills developed along the Pipeline, carrying sediment laden water beyond numerous sections of compost filter sock (“CFS”), and numerous sections of CFS were filled to the top with sediment and/or broken apart and not replaced.

G. Sediment laden water is an “industrial waste” as that term is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1.

H. On the date and at the locations set forth in paragraph E, EQM:

1. Violated 25 Pa. Code §§78a.53 and 102.5(m)(4) by failing to maintain the E & S BMPs contrary to the terms and conditions of the NIRI S001 ESCGP-2;

2. Violated 25 Pa. Code §§ 78.53, 102.4(b)(1) and 102.11(a)(1) by failing to implement effective E & S BMPs to minimize accelerated erosion and sedimentation;
3. Violated 25 Pa. Code § 102.22(b) by failing to implement and maintain temporary stabilization of the Pipeline; and,
4. Discharged industrial waste to waters of the Commonwealth in a manner not authorized by the rules and regulations of the Department, in violation of Sections 301 and 307 of The Clean Streams Law, 35 P.S. §§ 691.301, 691.307.

I. As of April 14, 2018, EQM stabilized the Pipeline, including the Slide, and repaired or replaced all E&S BMPs that were not maintained, thus correcting the violations in Paragraph H.

J. The violations described in Paragraph H, above, constitute unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611 and Section 3259 of the 2012 Oil and Gas Act, 58 Pa.C.S. § 3259; a nuisance under Section 307 of The Clean Streams Law, 35 P.S. § 691.307; and, subject EQM to a claim for civil penalties under Section 605 of the Clean Streams Law, 35 P.S. § 691.605 and Section 3256 of the 2012 Oil and Gas Act, 58 Pa C.S. § 3256.

#### ASSESSMENT

After full and complete negotiation of all matters set forth in this CACP and upon mutual exchange of the covenants herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ASSESSED by the Department and AGREED to by EQM as follows:

1. Assessment. In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 605 of the Clean Streams Law, 35 P.S. § 691.605 and Section 3256 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3256, the Department hereby assesses a civil penalty of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00), which EQM hereby agrees to pay.

2. Civil Penalty Settlement. Upon signing this CACP, EQM shall pay the civil penalty assessed in Paragraph 1, above. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraph H, above, covering the dates set forth herein. The payment shall be by corporate check or the like made payable to the "Commonwealth of Pennsylvania" and sent to the Department of Environmental Protection, Oil and Gas Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

3. Findings.

a. EQM agrees that the findings in Paragraphs A through J, above, are true and correct and, in any matter or proceeding involving EQM and the Department, EQM shall not challenge the accuracy or validity of these findings.

b. The parties do not authorize any other persons to use the findings in this CACP in any matter or proceeding.

4. Reservation of Rights. The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the findings. EQM reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.

IN WITNESS WHEREOF, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of EQM certify, under penalty of law, as provided by 18 Pa. C. S. § 4904, that they are authorized to execute this CACP on behalf of EQM; that EQM consents to the entry of this CACP as an ASSESSMENT of the Department; that EQM hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that EQM knowingly waives its right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. §103(a) and Chapters 5A and 7A; or any other provision of law. Signature by EQM's attorney certifies only that the agreement has been signed after consulting with counsel.

FOR EQM GATHERING OPCO, LLC : FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:



Name  
President or Vice President  
**Ralph D. Deer**  
**Sr. Vice President**



Daniel F. Counahan  
District Oil and Gas Manager  
Southwest District Oil and Gas Operations



Name  
Secretary or Treasurer



Richard T. Watling  
Assistant Counsel



Name **P. Robert Richards**  
Attorney for EQM Gathering OPCO, LLC