

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

| | | |
|------------------------------|---|--------------------------------------|
| Rice Midstream Holdings, LLC | : | 2012 Oil and Gas Act, and |
| 2200 Energy Drive | : | The Clean Streams Law |
| Canonsburg, PA 15317 | : | The Dam Safety and Encroachments Act |

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty (“CACP”) is entered into this 26th day of February 2019, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and Rice Midstream Holdings, LLC (“RMH”).

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”); the Dam Safety and Encroachments Act, Act of November 26, 1978, P.L. 1375, *as amended*, 32 P.S. §§ 693.1-693.27 (“Dam Safety 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. RMH, a Delaware limited liability company, is engaged in various oil and gas exploration and production activities in Pennsylvania. RMH’s business address is 2200 Energy Drive, Canonsburg, PA 15317.

C. RMH owns and operates the Beta Trunk Pipeline (“Pipeline”), located in Aleppo and Richhill Townships, Greene County.

D. RMH is the permittee of the Erosion and Sediment Control General Permit authorization for earth disturbance associated with the Pipeline, number ESX16-059-0049 (“Beta ESCGP”). The Beta ESCGP includes limits on the earth disturbance that may occur in constructing the Pipeline (“Beta LOD”).

E. RMH is the permittee of the Water Obstruction and Encroachment Permit registration for multiple utility line crossings, number GP05300716-030 (“Beta GP-5”) associated with the Pipeline.

F. On October 11, 2017, sediment laden water from unstabilized portions of the Pipeline overtopped numerous Erosion and Sedimentation Control Best Management Practices (“E & S BMPs”) beyond the Beta LOD and into unnamed tributaries to Mudlick Fork and Harts Run, waters of the Commonwealth. Specifically, numerous sections of super silt fence (“SSF”) were not maintained and several waterbars were not installed, causing numerous sections of SSF to fail, allowing sediment laden water to be carried outside of the Beta LOD.

G. On January 21, January 22, January 23, February 12, February 15, March 6, and March 30, 2018, numerous E & S BMPs had still not been properly implemented and/or maintained along the Pipeline, causing additional discharges to numerous waters of the Commonwealth.

H. As of April 30, 2018, RMH had stabilized the Pipeline, installed and maintained all E&S BMPs, and ceased discharges to waters of the Commonwealth, thus correcting the violations described in Paragraphs F and G, above.

I. On May 25, 2018, three slides had developed within and outside of the Beta LOD. In addition, there was an E&S BMP failure along a different section of the Pipeline. Also,

during construction of the utility line crossings of an unnamed tributary to South Fork Dunkard Fork and a wetland, RMH placed a soil stockpile within a wetland, contrary to the Beta GP-5.

J. As of July 5, 2018, the slides were stabilized, the E&S BMP was maintained, and the soil stockpile was removed from the wetland, thus correcting the violations identified in Paragraph I, above.

K. Sediment is an “industrial waste” as that term is defined in Section 1 of the Clean Streams Law, 35 P.S. § 691.1, 25 Pa. Code § 102.1.

L. On the dates and at the locations set forth in Paragraphs F, G, and I, RMH:

1. Violated 25 Pa. Code §§ 78a.53 and 102.5(m)(4) by failing to install and maintain the E & S BMPs contrary to the terms and conditions of the Beta ESCGP;
2. Violated 25 Pa. Code §§ 78a.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. 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; and
4. Violated 25 Pa. Code §§ 78a.53 and 102.22(b) by failing to implement and maintain temporary stabilization of the Pipeline.

M. The violations described in Paragraph L, above, constitute unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611, Section 18 of the Dam Safety Act, 32 P.S. § 693.18, and Section 3259 of the 2012 Oil and Gas Act, 58 Pa.C.S. § 3259; and,

subject RMH to a claim for civil penalties under Section 605 of the Clean Streams Law, 35 P.S. § 691.605, Section 18 of the Dam Safety Act, 32 P.S. § 693.18, and Section 3256 of the 2012 Oil and Gas Act, 58 Pa C.S. § 3256. The violations described in Paragraph L.3., above, constitute a nuisance under Section 307(c) of the Clean Streams Law, 35 P.S. § 691.307(c).

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 RMH 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, Section 18 of the Dam Safety Act, 32 P.S. § 693.18, and Section 3256 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3256, the Department hereby assesses a civil penalty of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00), which RMH hereby agrees to pay.

2. Civil Penalty Settlement. Upon signing this CACP, RMH 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 L, 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. RMH agrees that the findings in Paragraphs A through M, above, are true and correct and, in any matter or proceeding involving RMH and the Department, RMH 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. RMH 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 RMH certify, under penalty of law, as provided by 18 Pa. C. S. § 4904, that they are authorized to execute this CACP on behalf of RMH; that RMH consents to the entry of this CACP as an ASSESSMENT of the Department; that RMH hereby knowingly waives any right to a hearing under the statutes referenced in this CACP; and that RMH 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 RMH's attorney certifies only that the agreement has been signed after consulting with counsel.

FOR RICE MIDSTREAM
HOLDINGS, LLC



Ralph O. Deer
Sr. Vice President

Name
President or Vice President

: FOR THE COMMONWEALTH OF
: PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:




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



Name
Secretary or Treasurer



Name
Assistant Counsel


Paul Robert Richards
Sr. Staff Attorney

Name
Attorney for Rice Midstream Holdings, LLC