

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

Rice Drilling B LLC	:	2012 Oil & Gas Act
400 Woodcliff Dr.	:	The Clean Streams Law
Canonsburg, PA 15317-5851	:	Mac Well Site
	:	Whitely Township, Greene County

CIVIL PENALTY ASSESSMENT

NOW, this 13th day of September, 2022, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Oil and Gas Act, 58 Pa. C.S. §§ 3201-3274 (“2012 Oil and Gas Act”); The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 (“Clean Streams Law”), 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. Rice is a Delaware limited liability company that is engaged in various oil and gas exploration and production activities in Pennsylvania. Rice Drilling B LLC business address is 400 Woodcliff Dr., Canonsburg, PA 15317-5851.

C. Rice is the “owner” as that term is defined in Section 3203 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3203, of the Mac well site (“Well Site”), located in Whitely Township, Greene County.

D. Rice is the permittee of the Erosion and Sediment Control General Permit authorization for earth disturbance associated with the Well Site, number ESX15-059-0034 (“Mac ESCGP-2”). The Mac ESCGP-2 includes limits on the earth disturbance that may occur in constructing and maintaining the Well Site (“LOD”). The Mac ESCGP-2 contains Erosion and Sedimentation Best Management Practices (“E&S BMPs”) to minimize the potential for accelerated erosion and sedimentation.

E. On or before January 9, 2019, Rice failed to implement the E&S BMPs, and as a result, slides developed at the Well Site. Specifically:

- 1) Slides developed in several areas above rain garden No. 3 (“RG3”), a PCSM BMP, causing accelerated erosion and soil to move downslope towards RG3 (“Slide No. 1”).
- 2) Slides developed in several areas above rain garden No. 4 (“RG4”), a PCSM BMP, causing accelerated erosion and soil to move downslope and into RG4 (“Slide No. 2”).
- 3) A slide developed upslope of rain garden No. 6 (“RG6”), a PCSM BMP, causing accelerated erosion and soil to move downslope and into RG6 (“Slide No. 3”).

F. Though Rice attempted to make repairs to Slide Nos. 1, 2, and 3, on or before February 27, 2019, the repairs did not fully remediate the issues. Specifically, Rice covered Slide Nos. 1, 2, and 3 with erosion control matting (“ECM”), but additional sloughing occurred under or adjacent to the ECM.

G. On or before March 11, 2020, Rice failed to fully implement certain E&S BMPs at the Well Site, and as a result:

1) Slides developed in several areas above RG4 causing accelerated erosion and soil to move downslope and into RG4 (“Slide No. 4”). Slide No. 4 is separate from Slide No. 2.

2) RG4 overtopped by water, causing sediment laden water and soil to move downslope, outside of the LOD.

H. On the dates and at the locations set forth in Paragraphs E through G, Rice:

1) Violated 25 Pa. Code §§ 78a.53, 102.4(b)(1), and 102.11(a)(1) by failing to implement and maintain Erosion & Sediment Control BMPs to minimize the potential for accelerated erosion and sedimentation;

2) Violated 25 Pa. Code §§ 78a.53 and 102.5(m)(4) by failing to maintain the PCSM BMPs and E & S BMPs contrary to Condition 14.b. of the Mac ESCGP-2 that states the permittee is responsible for the design, installation, operation, and maintenance of the BMPs identified in the E&S Plan, PCSM/SR Plan, and PPC Plan;

3) Violated 25 Pa. Code § 102.22(a)(1) by failing to implement and maintain permeant stabilization of the Well Site.

I. The Mac ESCGP-2 contains a Post Construction Stormwater Management Plan (“PCSM Plan”) that includes PCSM Best Management Practices (“PCSM BMPs”) to control stormwater volume and runoff and a sequence for construction.

J. On or before January 9, 2019, Rice failed to comply with the terms of the Mac ESCGP-2, specifically:

1) Rice constructed rip rap outlets from RG3 in excavated depressions.

2) Rice constructed RG4 prior to building an infiltration berm, a PCSM BMP.

3) Rice constructed rip rap outlets from RG6 in excavated depressions.

4) Rice constructed a stormwater channel near the well pad at the Well Site that was not approved in the Mac ESCGP-2.

5) On or before February 27, 2019, the rip rap outlets at RG3 and RG6 were still not in compliance with the Mac ESCGP-2.

K. On the date and at the locations set forth in Paragraph J (1) – (5), Rice:

1) Violated 25 Pa. Code § 102.5(c) and (m)(4) by failing to comply with the terms of the Mac ESCGP-2 and by failing to obtain an Erosion and Sediment Control General Permit prior to changing the scope of earth disturbance associated with the Well Site.

2) Violated 25 Pa. Code §§ 78a.53, 102.5(f) and 102.5(m)(4), by failing to implement the PCSM Plan.

L. As of March 11, 2020, Rice corrected and reinstalled the rip rap outlet in accordance with the Mac ESCGP-2, thus correcting those specific deficiencies as described in Paragraphs J (1) (3), and (5), above. As of January 27, 2021, Rice repaired and stabilized Slide Nos. 1, 2, 3, and 4, and the Well Site was otherwise in compliance.

M. The violations described in Paragraphs H and K, 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 Rice 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

NOW, THEREFORE, pursuant to the Department's authority under Section 3256 of the 2012 Oil and Gas Act, 58 Pa. C.S. § 3256 and Section 605 of the Clean Streams Law, 35 P.S. § 691.605, the Department hereby assesses a civil penalty of ONE HUNDRED FORTY-SEVEN THOUSAND TWO HUNDRED FIFTY DOLLARS (\$147,250.00) against Rice for the violations identified above. Payment of this Civil Penalty shall be made 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.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board) pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

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

