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Division of Water and Waste Management  
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Charleston, WV 25304  
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Austin Caperton, Cabinet Secretary  
www.dep.wv.gov

**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Mountain Valley Pipeline, LLC

Attn: Robert J. Cooper

Senior Vice President, Engineering and Construction

625 Liberty Ave, Ste 1700

Pittsburgh, PA 15222

DATE: April 19, 2019

ORDER NO.: 8951

**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 Mountain Valley Pipeline, LLC (hereinafter "MVP").

**FINDINGS OF FACT**

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

1. MVP is conducting land disturbance activity associated with construction of the Mountain Valley Pipeline in Wetzel, Harrison, Doddridge, Lewis, Webster, Braxton, Nicholas, Fayette, Greenbrier, Summers, and Monroe Counties, West Virginia. On July 14, 2017, MVP was issued Water Pollution Control Permit No. WV0116815, Registration No. WVR310667, for Stormwater Associated with Oil and Gas Related Construction Activities.
2. On April 3, 2018, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of the permit were observed and documented:
  - a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at the Bradshaw Compressor Station.

Promoting a healthy environment.

- b. Section G.4.e.2 - MVP failed to properly implement controls. There was a lack of drop inlet protection at the Mobley Compressor Station.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W18-52-021-RDD was issued to MVP.

- 3. On May 9, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
  - a. Section G.4.e.2 - MVP failed to properly implement controls, which allowed a failure of controls at station 9492+92.85.
  - b. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device.
  - c. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the stream.

As a result of the aforementioned violations, NOV No. W18-52-001-CP was issued to MVP.

- 4. On June 6, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of the permit were observed and documented:
  - a. Section B - MVP failed to comply with the approved Storm Water Pollution Prevention Plan (SWPPP). Perimeter controls and treatment at water bar outlets were not in place as detailed by the SWPPP from 513+64 to 556+00. There were no Best Management Practices (BMPs) in place to prevent sediment laden water from leaving the site.
  - b. Section G.4.c - MVP failed to modify its SWPPP when the SWPPP proved to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges. Additional controls were not added to areas where installed controls had failed.
  - c. Section G.4.e.2 - MVP failed to implement controls. Water bars/slope breakers were improperly installed. They did not have outlets; the outlet was directed down a denuded slope; the slope was inappropriate; and/or there was an inadequate number installed.
  - d. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at stations 6812+58 (sheet 6.38) and 6854+00 (sheet 6.39).

As a result of the aforementioned violation, NOV Nos. W18-17-065-TJC and W18-52-002-CP were issued to MVP.

- 5. On July 6, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:

- a. Section G.4.e.2 - MVP failed to properly implement controls. Improperly installed water bars were present throughout the inspected area. An improperly installed BMP at the terminus of a water bar located adjacent to the Dry Fork access (MVP-DO-049) caused sediment laden water to bypass the device.
- b. Section D.1 - MVP failed to operate and maintain all erosion control devices. An improperly operated temporary right of way diversion and outlet were noted at 1851+00. This deficiency caused sediment laden water to leave the site, which resulted in sediment in the stream.
- c. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device throughout the inspected area.
- d. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the Unnamed Tributary (UNT) of Meathouse Fork (39° 11.891' X 80° 33.209').
- e. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of the UNT of Dry Fork (39° 11.384' X 80° 33.554').

As a result of the aforementioned violations, NOV No. W18-09-076-TJC was issued to MVP.

6. On July 17, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
  - a. Section G.4.e.2 - MVP failed to properly implement controls. Installed controls failed, allowing sediment laden water to leave site and flow into the UNT of Birch River (S-F34).
  - b. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device near station 5518+00 (38° 25.4570'N, 80° 34.2329'W).
  - c. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the UNT of Birch River (S-F34).

As a result of the aforementioned violations, NOV No. W18-52-003-CP was issued to MVP.

7. On July 18, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
  - a. Section G.4.e.2 - MVP failed to properly implement controls at the terminus of water bars.
  - b. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at several locations along the UNT of Harmony Creek.
  - c. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the UNT of Harmony Creek.

As a result of the aforementioned violations, NOV No. W18-52-004-CP was issued to MVP.

8. On July 27, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
  - a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Grass Run.
  - b. Section G.4.e.2 - MVP failed to properly implement controls. Improperly constructed water bars were noted throughout the inspected area.
  - c. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of Grass Run (S-A11a).

As a result of the aforementioned violations, NOV No. W18-17-077-TJC was issued to MVP.

9. On August 1 and 6, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
  - a. Section G.4.e.2 - MVP failed to properly implement controls. Improperly installed water bars were noted throughout the inspected area. Water bars did not shed stormwater off the project area in small quantities as designed. Sheet flow BMPs (Super Silt Fence) were noted in concentrated flow areas throughout the inspected area.
  - b. Section D.1 - MVP failed to operate and maintain all erosion control devices. Improperly operated and maintained BMPs were present throughout the inspected area.
  - c. G.4.e.2.A.ii.f - MVP failed to protect fill slopes. Concentrated flow was being directed over unstable fill slopes throughout the inspected area.
  - d. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device throughout the inspected area.
  - e. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the following three (3) locations: the Right Fork of Big Elk Creek (39° 26.6589' X 80° 28.9724'), Goose Run (39° 26.17952' X 80° 28.5256'), and the UNT of Goose Run (39° 26.100' X 80° 28.4922').
  - f. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by allowing sediment deposits in the following three (3) locations: the UNT of Goose Run (39° 26.100' X 80° 28.4922'), Seal Run (39° 20.4891' X 80° 30.7324'), and Grass Run (39° 20.1127' X 80° 31.3233').

As a result of the aforementioned violations, NOV No. W18-17-082-TJC was issued to MVP.

10. On August 2, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
- a. Section G.4.e.2 - MVP failed to properly implement controls. Controls at Wayside/Talcott (station 9466+16) and Slate Run (station 9624+00) were insufficient to prevent the release of sediment laden water into the adjacent streams of Stony Creek and Slate Run.
  - b. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Wayside/Talcott (station 9416+16) and Slate Run (station 9624+00).
  - c. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the following two (2) locations: Stony Creek and Slate Run.

As a result of the aforementioned violations, NOV No. W18-52-005-CP was issued to MVP.

11. On August 10, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
- a. Section G.4.e.2 - MVP failed to properly implement controls. Improperly installed water bars were noted throughout the inspected area. Water bars were installed at steep angles; discharged stormwater into unstable diversions; terminated prior to the edge of the LOD; and/or did not discharge stormwater off site in small quantities as designed.
  - b. Section D.1 - MVP failed to operate and maintain all erosion control devices. BMPs that were not properly operated and maintained resulted in offsite sediment deposits throughout the inspected area.
  - c. G.4.e.2.A.ii.f - MVP failed to protect fill slopes. Concentrated flow that was being directed over fill slopes and/or unstable diversions that caused fill slope erosion were noted throughout the inspected area.
  - d. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device throughout the inspected area.
  - e. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the UNT of Meathouse Fork (39° 11.891' X 80° 33.209').
  - f. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by creating sediment deposits at the following eight (8) locations: the UNT of Meathouse Fork (39° 11.891' X 80° 33.209'), the UNT of Dry Fork (39° 11.377' X 80° 33.566'), the UNT of Kincheloe Creek (39° 10.006' X 80° 34.736'), the Wetland UNT of Kincheloe Creek (WJ-40) (39° 10.060' X 80° 34.626'), the Wetland UNT of Smoke Camp Run (W-I26) (39° 08.208' X 80° 34.610'), the Wetland UNT of Left Fork of Freemans Creek (W-B47) (39° 04.744' X 80° 34.904), the UNT of Laurel Run (39° 01.133' X 80° 35.813'), and Laurel Run (39° 01.043' X 80° 35.867').

As a result of the aforementioned violations, NOV No. W18-09-083-TJC was issued to MVP.

12. On August 13, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the terms and conditions of the permit were observed and documented:
  - a. Section G.4.e.2 - MVP failed to properly implement controls. Perimeter controls were being used for concentrated flow in multiple locations, and silt fence on the southern portion of the pad area was not joined or trenched in properly.
  - b. Section D.1 - MVP failed to operate and maintain erosion control devices. Perimeter controls in multiple locations were not maintained.
  - c. Section G.4.c - MVP failed to modify its SWPPP when it proved to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges. Alterations/modifications to the SWPPP had not occurred for areas where failed controls repeatedly led to off-site sediment deposits.
  - d. Section B - MVP failed to comply with the approved SWPPP. The roadside diversion with checks and several cross drains were not in place as prescribed in the SWPPP. This lack of stormwater control in the lower portion of the site resulted in erosion, lack of proper treatment, and standing water in the fuel storage area.
  - e. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at six (6) locations along the project LOD perimeter.
  - f. 47CSR2 Section 3.2.b - MVP caused conditions not allowable in waters of the State by creating sediment deposits at the following two (2) locations: wetland WQR-1 and stream A-104 (which are UTs of Buffalo Creek of the Meadow River).

As a result of the aforementioned violations, NOV No. W18-10-001-JHH was issued to MVP.

13. On August 16, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the permit were observed and documented:
  - a. Section D.1 - MVP failed to properly operate and maintain all systems of treatment and controls. The water bar terminus needed maintenance near Bingham Road station 7450+00, the timber mat bridge fabric was torn at station 7465+00, and the CFS needed maintenance near Bingham Road and station 7232+00.
  - b. Section G.4.c - MVP failed to modify its SWPPP when the SWPPP proved to be ineffective. The water bar terminus at station 7084+00 failed, and added controls proved inadequate to control flow. An inadequate number of water bars were installed on the slope between 7084+00 to 7093+50, resulting in continued failure of installed water bars.
  - c. Section G.4.e.2 - MVP failed to properly implement controls. Inadequate controls were installed near the ROW entrance of Bingham Road station 7450+00; water bars were improperly sloped near Bingham Road station 7450+00; water bars lacked outlets near Bingham Road station 7450+00; inadequate controls were installed at the base of the fill slope at 7158+00, an inadequate number of water bars were installed

between stations 7084+00 to 7093+50; inadequate controls were installed at the water bar terminus at station 7084+00; and ditch checks were not installed in the road side ditch below the failed control at 7084+00.

- d. Section G.4.e.2.A.i.b - MVP failed to provide interim stabilization on areas where construction activities temporarily ceased for more than twenty-one (21) days on waste piles near Bingham Road station 7465+37, Bamboo Road station 7158+00, and several other areas.
- e. Section G.4.e.2.A.ii.f - MVP failed to protect fill slopes at station 7158+00.
- f. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment-laden water from the failed water bar terminus was conveyed through the road side ditch into culverts that left the perimeter at GPS location 38° 5.84131'N, 80° 43.1339'W.

As a result of the aforementioned violations, NOV No. W18-52-006-CP was issued to MVP.

14. On August 21, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the permit were observed and documented:
  - a. Section D.1 - MVP failed to properly operate and maintain all systems of treatment and controls. Installation of the underdrain outlet remained unfinished while the underdrain was operational, as noted during the previous inspection on July 31, 2018.
  - b. Section G.4.e.2 - MVP failed to properly implement controls. There was an improperly installed concrete washout device, which was filtering particles but releasing water without treatment for pH adjustment.
  - c. Section G.4.e.2.A.i.c - MVP failed to reseed areas that failed to germinate within thirty (30) days after seeding.

As a result of the aforementioned violations, NOV No. W18-52-007-CP was issued to MVP.

15. On September 11, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of the permit was observed and documented:
  - a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Station 900 where concentrated flow over-topped installed perimeter controls.

As a result of the aforementioned violation, NOV No. W18-52-008-CP was issued to MVP.

16. On September 20, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:

- a. Section D.1 - MVP failed to properly operate and maintain all systems of treatment and controls. Silt fence along access road 231.01, off Painters Run Road, near station 10270 needed to be replaced.
- b. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device along access road 231.01, off Painters Run Road, near station 10270.
- c. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the UNT of Painters Run, along access road 231.01, off Painters Run Road, near station 10270.

As a result of the aforementioned violations, NOV No. W18-52-009-CP was issued to MVP.

17. On September 25, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:

- a. Section G.4.e.2 - MVP failed to properly implement controls. There were inadequate controls at the sumps near station 3625+00, near station 3634+00, and at the base of the fill slope at station 550, which allowed sediment laden water to leave the site.
- b. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at the UNT of Knawls Creek and the UNT of Little Kanawha River.
- c. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the following two (2) locations: the UNT of Knawls Creek and the UNT of Little Kanawha River.

As a result of the aforementioned violations, NOV Nos. W18-52-010-CP and W18-52-011-CP were issued to MVP.

18. On September 26, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:

- a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at multiple locations from station numbers 9915+00 through 9897+00.
- b. Section D.1 - MVP failed to properly operate and maintain all facilities and systems. Waterbar outlets were not being maintained to limit impacts off the ROW.
- c. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the following two (2) locations: Stream S-H58 and Stream TTWV-S-E58.

As a result of the aforementioned violations, NOV No. W18-32-001-JTL was issued to MVP.



19. On September 27, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
- a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at CR 23/9, and at/near station numbers 9630+00, 9417+75, 9779+00, and 9778+00.
  - b. Section G.4.e.2.D.i - MVP failed to inspect and clean all adjacent public and private roads of debris originating from the construction site along CR 23/9 Ellison Ridge Road.
  - c. Section D.1 - MVP failed to properly operate and maintain all facilities and systems. Multiple waterbar outlets were overwhelmed.
  - d. Section G.4.e.2.A.ii.f - MVP failed to protect fill slopes.
  - e. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the following five (5) locations: Stream S-A60, Stream S-Z4, Stream S-Z5, Wetland W-22, and Indian Creek.

As a result of the aforementioned violations, NOV No. W18-32-002-JTL was issued to MVP.

20. On October 2, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:
- a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device near station number 9687 and at station numbers 9717+52 and 9724+51.
  - b. Section G.4.e.2.A.ii.f - MVP failed to protect fill slopes and stabilize channels at station number 9687.
  - c. Section D.1 - MVP failed to properly operate and maintain all facilities and systems. BMPs were not being maintained to limit impacts off the ROW.
  - d. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the pond (P-D1) and the stream (S-D29) at station number 9687.

As a result of the aforementioned violations, NOV No. W18-32-003-JTL was issued to MVP.

21. On October 3, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of the permit was observed and documented:
- a. Section D.1 - MVP failed to properly operate and maintain all systems of treatment and controls. A large amount of sediment was left in the sumps after maintenance was performed at Painters Run Road station number 10270.

As a result of the aforementioned violation, NOV No. W18-52-012-CP was issued to MVP.

22. On October 10, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the permit were observed and documented:

- a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at AR 210 and Painter's Run Road station number 10270.
- b. Section G.4.e.2.D.i - MVP failed to inspect and clean all adjacent public and private roads of debris originating from the construction site at AR 210 and Painter's Run Road station number 10270.

As a result of the aforementioned violations, NOV No. W18-52-013-CP was issued to MVP.

23. On October 25, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the permit were observed and documented:

- a. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Station numbers 489 and 493.
- b. Section D.1 - MVP failed to properly operate and maintain all systems of treatment and controls. Specifically, MVP failed to properly operate and maintain the diversion ditch near Mainion Run, the perimeter controls near Sams run crossing, and the waterbars and associated sumps near Sams Run.

As a result of the aforementioned violations, NOV No. W18-52-033-RDD was issued to MVP.

24. On November 27, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:

- a. Section G.4.e.2 - MVP failed to properly implement controls sufficient to prevent release of sediment laden water into Knawl's Creek.
- b. Section G.4.e.2.A.ii.j - MVP failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Knawl's Creek.
- c. 47CSR2 Section 3.2.a - MVP caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in Knawl's Creek.

As a result of the aforementioned violations, NOV No. W18-52-014-CP was issued to MVP.

25. On November 30, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the permit were observed and documented:

- a. Section G.4.e.1.E. - MVP failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads. Access Roads WV-

HA – 31.1 off CR 50/4, WV-HA-29.04 off CR 50/5, and WV-HA-29.5 off CR 50/5 lacked stable construction entrances, and track-out was noted on the adjacent public roadways as a result.

- b. Section G.4.e.2.D.i. - MVP failed to inspect and clean all adjacent public and private roads of debris originating from the construction site. A film of sediment that originated from the site covered the road at CR 50/5.

As a result of the aforementioned violations, NOV No. W18-17-113-TJC was issued to MVP.

### **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. MVP shall immediately take all measures to initiate compliance with all terms and conditions of its permit and pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, MVP shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when MVP will achieve compliance with all terms and conditions of its permit and pertinent laws and rules. The plan of corrective action shall include, but not be limited to, provisions for proper remediation of all areas identified in this Order where conditions not allowable were observed and documented in waters of the State, as defined in WV Legislative Rule 47CSR2 Section 3.2. In addition, the plan of corrective action shall include, but not be limited to, provisions for submittal of a report which documents that proper remediation of the aforementioned areas has occurred. The plan of corrective action shall make reference to Permit No. WV0116815, Registration No. WVR310667, and Order No. 8951. The plan of corrective action shall be submitted to:

**Chief Inspector  
Environmental Enforcement - Mail Code #031328  
WVDEP  
601 57<sup>th</sup> 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.

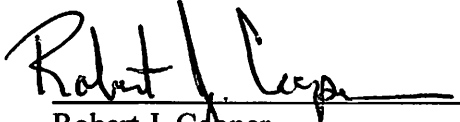
3. Because of MVP's Legislative Rule and permit violations, MVP shall be assessed a civil administrative penalty of two hundred sixty-five thousand nine hundred seventy-two dollars (\$265,972) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management 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. MVP 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, MVP 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, MVP 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 MVP 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, MVP 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 MVP becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and MVP 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 MVP 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 MVP (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 MVP 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 MVP 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 MVP, its successors and assigns.
7. This Order shall terminate upon MVP's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

  
\_\_\_\_\_  
Robert J. Cooper  
Senior Vice President, Engineering and  
Construction  
Mountain Valley Pipeline, LLC

MAY 6, 2019  
Date

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Harold D. Ward, Acting Director  
Division of Water and Waste Management

\_\_\_\_\_  
Date



Disturbed area near the reported slip area.



Reported slip area near Bradshaw Compressor Station.



Concentrated flow eroding slope near slip.



Hillside above slip near Bradshaw Compressor Station.



Slope above slip area.



Sediment laden water leaving site at Bradshaw Compressor Station.





Second site of sediment laden water leaving site at Bradshaw Compressor Station.



Third site of sediment laden water leaving site at Bradshaw Compressor Station.



UT of Mobley Run near Mobley Compressor Station.



Unprotected drop inlet at Mobley Compressor Station.



Sediment laden water leaving site into UT of Mobley Run.



Sediment laden water leaving site into UT of Mobley Run.



Sediment laden water leaving site through drop inlet.



Line clearing off North Fork Road.



Photo 1: Delineation of topsoil stockpiles from subsoil with black silt fence and path to sump prior to stream.



Photo 2: Topsoil delineation, sump, perimeter fencing and vegetative buffer prior to stream.



Photo 3: station 10146+32, sheet 9.35 - stream has been partially returned to channel. Rock/soil pile resulted from landowner removing debris to restore to channel.



Photo 4: Downslope view of site of sediment laden water leaving site- erosion gullies observed on slope. (view south)



Photo 5: Stream crossing where sediment laden water left site after controls failed at stream S-IJ65 (view north). Additional controls added prior to re-building of bridge.



Photo 6: Location of control failure and breach allowing sediment laden water to leave site. Additional control (larger silt sock) added prior to bridge re-build.

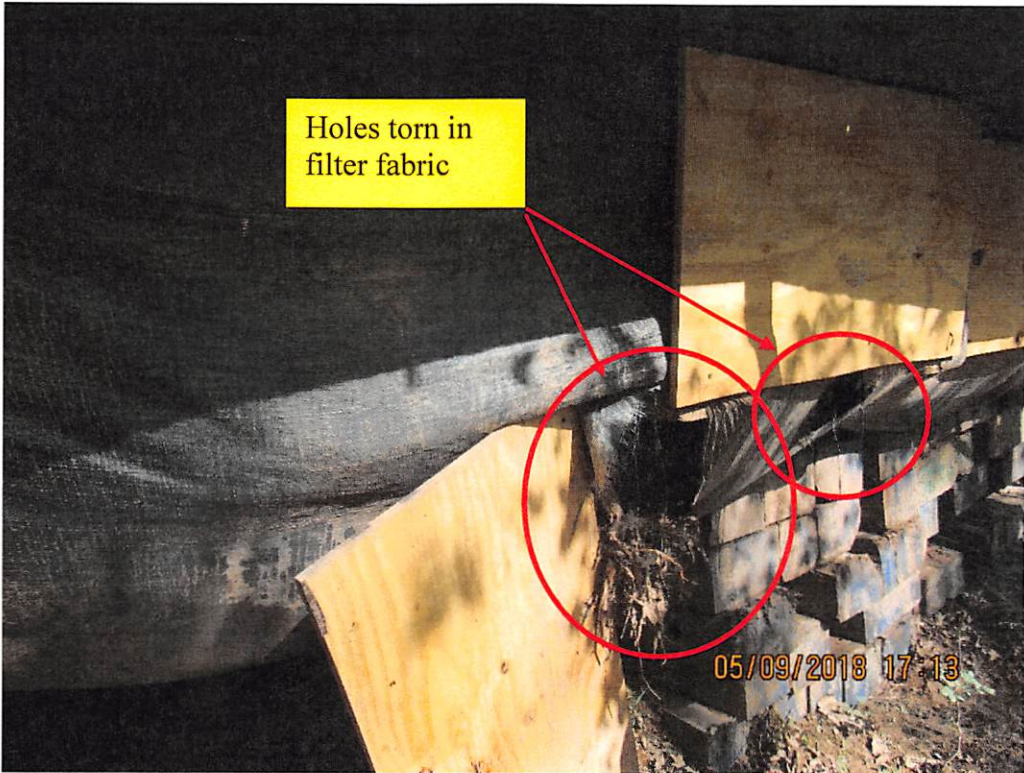


Photo 7: Tears in bridge filter fabric contributing to sediment laden water leaving site.



Photo 8: Downstream view of sediment deposits in stream S-IJ65 creating conditions not allowable. (view west)



MOUNTAIN VALLEY PIPELINE, LLC, WVR310667,- Spread A, 6/6/2018  
W18-17-065-TJC



Areas of the project that have been cleared to mineral soil and BMPs are not in place as indicated in the SWPPP.



Areas of the project that have been cleared to mineral soil and BMPs are not in place as indicated in the SWPPP.



Photo 1: Station 6782+00 control failure repair but additional controls not added.



Photo 2: Station 6782+00 control failure repair but additional controls not added.

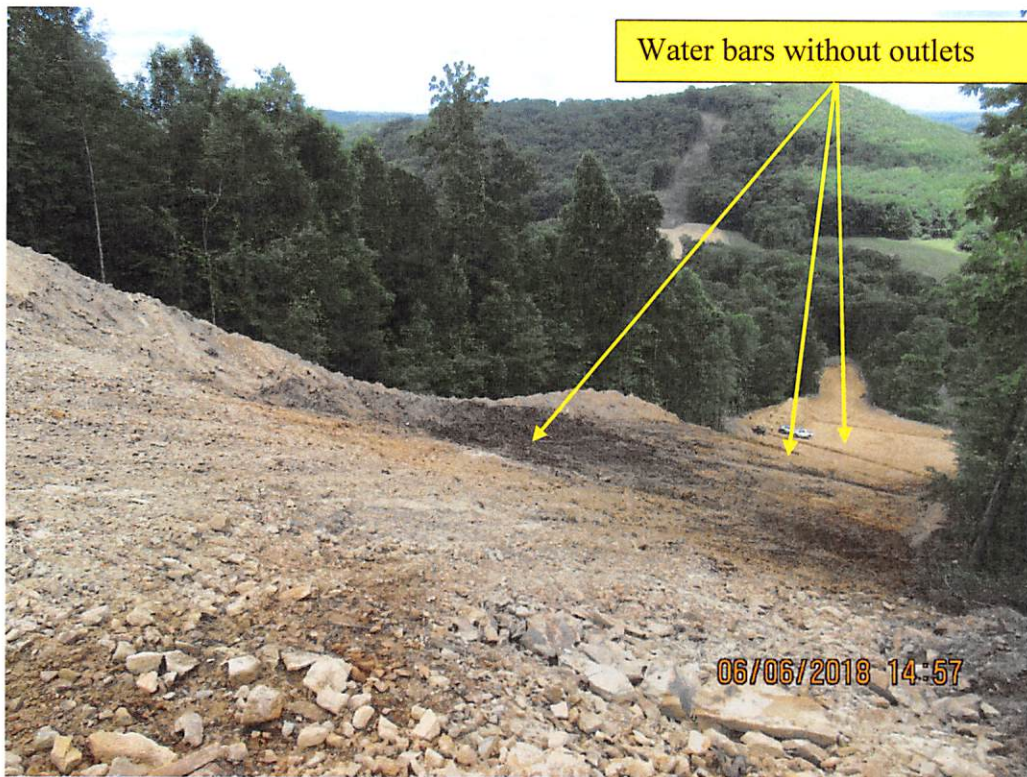


Photo 3: Water bars installed without adequate outlets near station # 6801+38 with  $<24^{\circ}$  to  $>30^{\circ}$  slope.



Photo 4: Control failure at station 6812+58 allowing sediment laden water to leave site.



Photo 5: Scoured path from control failure at station 6812+58.



Photo 6: Continued scoured path from control failure at station 6812+58.



Photo 7: Water leaving the site from control failure at station 6812+58.



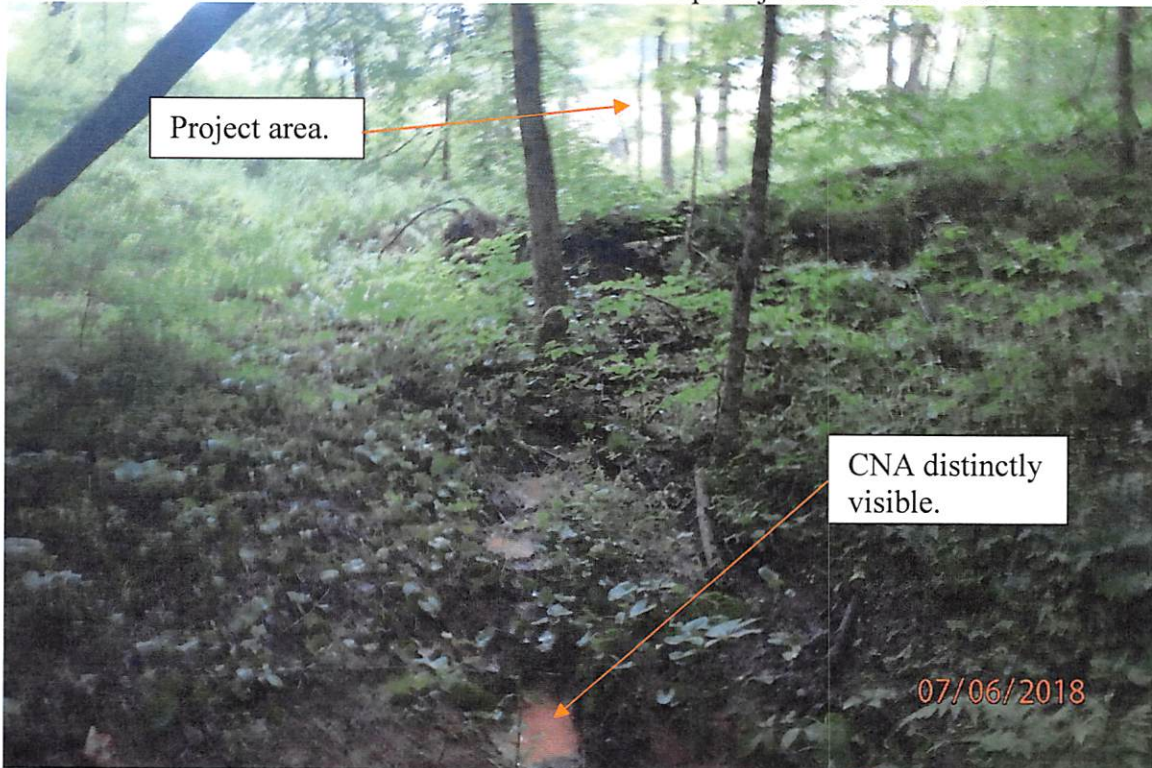
Photo 8: Control failure near station 6854+00 where sediment laden water left site.



The installed temporary right of way diversion and outlet adjacent to 1851+00 that was collecting stormwater from multiple water bars without adequate outlets. This caused concentrated flow to overwhelm the installed BMP at the base of the slope.



Overwhelmed BMP at the base of the slope adjacent to 1851+00.



Sediment laden water in UNT Meathouse Fork that originates from site.





Sediment laden water in UNT Meathouse Fork (39° 11.891' X 80° 33.209') that originates from site.



Improperly installed BMP at the terminus of a water bar adjacent to MVPDO-049 (1891+00) that allowed sediment laden water to leave the site and caused CNA in UNT Dry Fork.



CNA deposits in UNT Dry Fork (39° 11.384' X 80° 33.554').



Installed temporary tight of way diversion and outlet that does not have adequate outlets adjacent to 1876+00. Evidence of the terminus BMP being overwhelmed in lower picture.



Water bar that has been installed at a steep angle with erosion and the associated offsite sediment deposits.



Water bars that are not installed properly and do not shed stormwater off of the LOD in small quantities as designed located adjacent to Laurel Run of Meathouse Fork crossing.



Photo 1: Sump at access road 129 needs maintenance.



Photo 2: Proximity of outlet of sump and amount of accumulated sediment creates an area of concern.



Photo 3: Drainage area where sediment laden water left site.



Photo 4: Station 5518+00 where water went around and undercut compost filter sock allowing sediment laden water to leave the site.





Photo 5: Next set of compost filter sock in sequence which was overtopped allowing sediment laden water to leave site.



Photo 6: Last compost filter sock in sequence and path sediment laden water created leading to stream.



Photo 7: Sediment build up and muddy water temporarily stopped against downed tree.



Photo 8: Sediment deposits below temporary tree dam.



Photo 9: Sediment deposits in UNT of Birch River (S-F34)



Photo 10: Upslope view of sediment deposits from control failure.



Photo 11: UNT #2 of Birch River (S-F365) at station 5548+00 where breached control upstream allowed sediment laden water in UNT #1 of Birch River (S-F34)



Photo 1: Station 6857+28 at access road 164 without temporary stabilization on large spoil pile. Photo is representative of project.



Photo 2: Controls at end of water bar were over topped at station 6898+59.



Photo 3: Down gradient of over topped water bar control at station 6898+59.



Photo 4: Sediment down gradient of straw bale pile (on right in above photo).



Photo 5: Upslope view of station 6898+59.



Photo 6: Sediment deposits in UNT of Harmony Creek at bridge near station 6781+87



Photo 7: Sediment deposits in UNT of Harmony Creek- upstream of Photo 6. Terminus of control failure in Photos 9 & 10 (vegetation indication under date/time stamp)



Photo 8: Sediment deposits in UNT of Harmony Creek below 1<sup>st</sup> water bar failure





Photo 9: Control sequence near station 6781+87 with multiple control failure.



Photo 10: Last control in sequence allowing sediment laden water to leave site.



Photo 11: Down gradient of control failure from Photo 10. Photo #7 shows terminus of this control failure.



Photo 12: Terminus of sediment laden water leaving site from control failure near station 6785+50 (between MP 128.3 & 128.5)



Photo 13: Up gradient of terminus of sediment laden water leaving site.



Photo 14: Sediment deposits off limits of disturbance from station 6785+50 control failure.



Photo 15: Scour through woods off limits of disturbance upgradient of sediment deposits in Photo 14.



Photo 16: Down gradient view of scour from control failure at 6785+50.



Photo 17: Erosion gullies from failed control at end of water bar near station 6785+50, which allowed sediment laden water to leave site.



Photo 18: Installed controls at end of water bar proved inadequate and failed allowing sediment laden water to leave site.



Overview of Grass Run crossing.



Point where sediment leaves the site.



Offsite sediment deposits in Grass Run (S-A11a) that originate from site.



Improperly installed water bars that do not shed stormwater off site as designed.

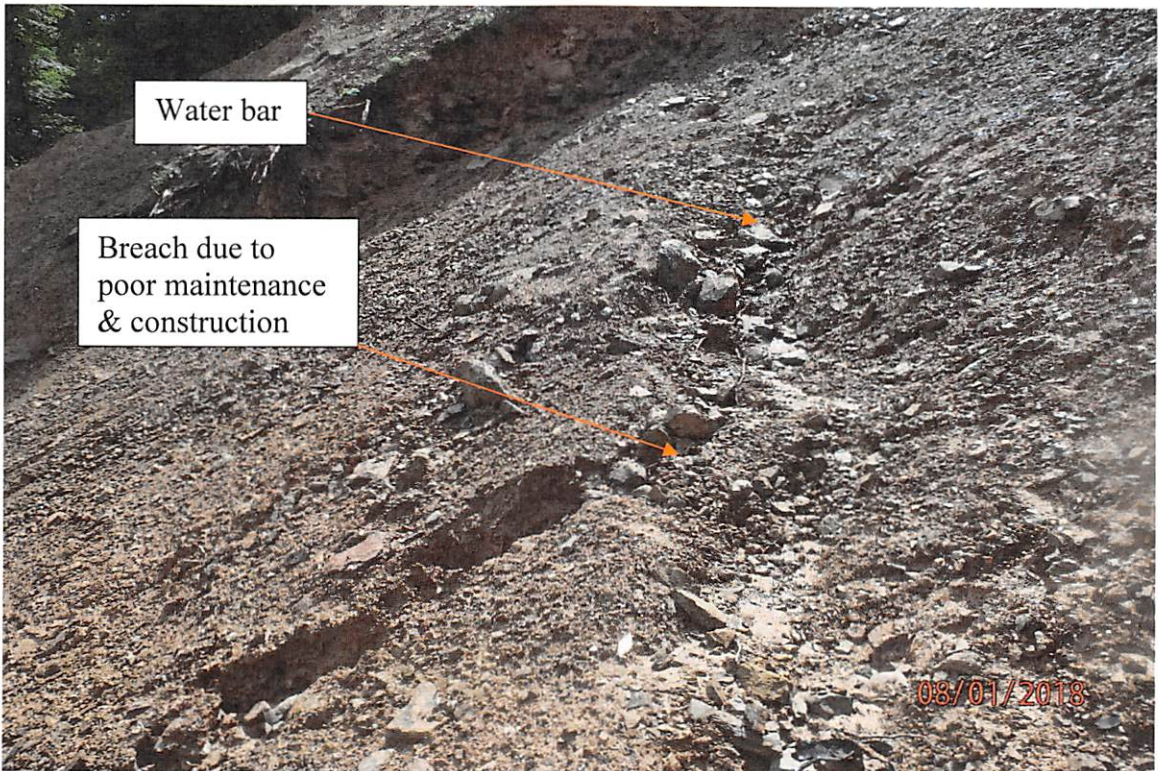




Water bar that lacked outlet protection was noted upslope of grass run adjacent to 1142+00.



Improperly installed water bars that have caused fill slope erosion in the Big Elk Creek watershed.



Improperly installed water bars in Big Elk Creek watershed. Improperly installed water bars that have caused fill slope erosion in the Big Elk Creek watershed.



Perimeter controls adjacent to Big Elk Creek that are overwhelmed due to improperly installed water bars.



Perimeter controls adjacent to Goose Run that are overwhelmed due to improperly installed water bars.  
Both pictures show BMPs that are being undermined and overwhelmed due to excessive flow that is caused by improperly installed water bars.

MOUNTAIN VALLEY PIPELINE, LLC, WVR310667, Mountain Valley Pipeline Project – Spread B,  
8/1 & 8/6/2018



Concentrated flow from water bar outlet that is being treated by sheet flow BMP in the Big Elk Creek watershed.



Sediment laden water that is bypassing the installed BMPs due to improper BMP operation and installation.



Improperly operated BMP that is causing sediment laden water to leave the site and CNA visible in Big Elk Creek.



CNA visible plume in in Right Fork of Big Elk Creek (39° 26.6589' X 80° 28.9724').





Improperly installed and poorly maintained water bars in the Goose Run watershed.



Concentrated flow being channeled along perimeter control trench due to improperly installed water bars in the Goose Run watershed.



Perimeter control that has been overwhelmed due to concentrated flow from improperly installed water bars in the Goose Run watershed.



Visible plume in Goose Run (39° 26.17952' X 80° 28.5256') originating from site.



Goose Run water quality upstream of project.



Perimeter controls adjacent to Goose Run that are undermined and allowing sediment laden water to leave the site.



CNA offsite sediment deposits and visible plume in UNT Goose Run (39° 26.100' X 80° 28.4922')  
originating from site.



Perimeter control that was overwhelmed by concentrated flow and caused CNA deposits in Seal Run.



CNA offsite deposits in Seal Run (39° 20.4891' X 80° 30.7324') that originate from site.



Water bar in Grass Run watershed that is improperly installed and led to CNA deposits in the stream.





Concentrated flow being directed over fill slope into a sheet flow super silt fence from improperly installed water bars in Grass Run.



Offsite sediment deposits in Grass Run watershed that lead from site to the receiving stream due to above pictured issue.



Offsite CNA deposits in Grass Run (39° 20.1127' X 80° 31.3233') that originate from site.



Improperly installed water bars and associated fill slope erosion in the Tenmile Creek watershed.



Improperly installed water bars and associated fill slope erosion in the Little Rockcamp Run watershed.



Rockcamp Run watershed.

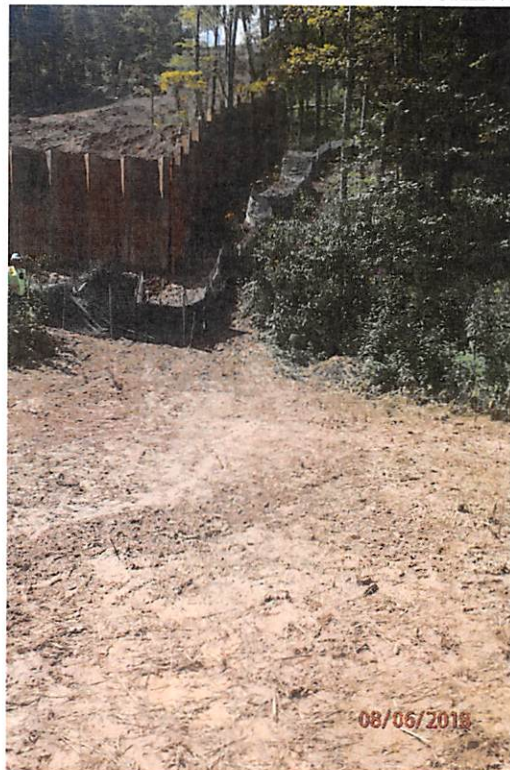


Seal Run watershed.

Unstable diversions that collect stormwater from water bar outlets and direct the concentrated flow downslope.



Sheet flow BMP adjacent to Rockcamp Run that is being utilized to treat concentrated flow from previously pictured unstable diversion that collects stormwater from water bars.



Offsite sediment deposits associated with the overwhelmed BMP at Rockcamp Run.



BMP in Seal Run watershed in need of maintenance that led to offsite sediment deposits.



Improperly operated BMP in Right Fork of Big Elk watershed.

MOUNTAIN VALLEY PIPELINE, LLC, WVR310667, Mountain Valley Pipeline Project – Spread B,  
8/1 & 8/6/2018



Area adjacent to wetland (W-UU1) in the Salem Fork watershed that lacks the BMPs that are indicated in the approved SWPPP.



Water bar discharge mixing with sediment in road side ditch with crew performing maintenance.



In process of stabilizing slope. Mud on road from crews performing maintenance.





End of road side ditch prior to culvert diverting to laydown yard.



Sediment has been deposited on bank protection product, which is being picked back up prior to entering stream



Sediment plume entering Stony Creek



Stony Creek below sediment plume entering stream.



Sediment deposits observed below base of Slate Run bridge.



Sediment laden water traced under bridge matting.



Source of sediment laden water in Slate Run.



Sediment laden water near Lindsie Methodist Church.



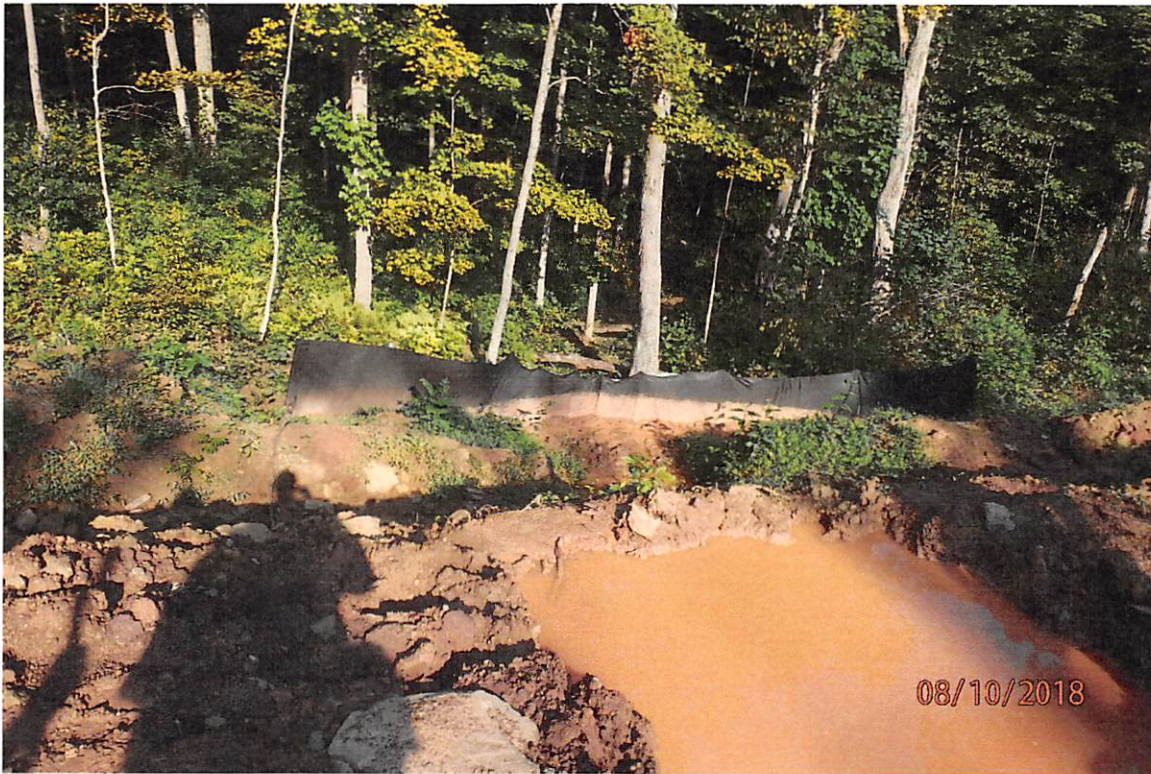
Station 10270+00, sump is full.



Sediment laden water entering culvert.



Culvert outlet into wetland area across road from full sump.



Improperly operated and maintained BMP at a water bar terminus in the Meathouse Fork watershed that led to CNA deposits and distinctly visible settleable solids in UNT Meathouse Fork (39° 11.891' X 80° 33.209').

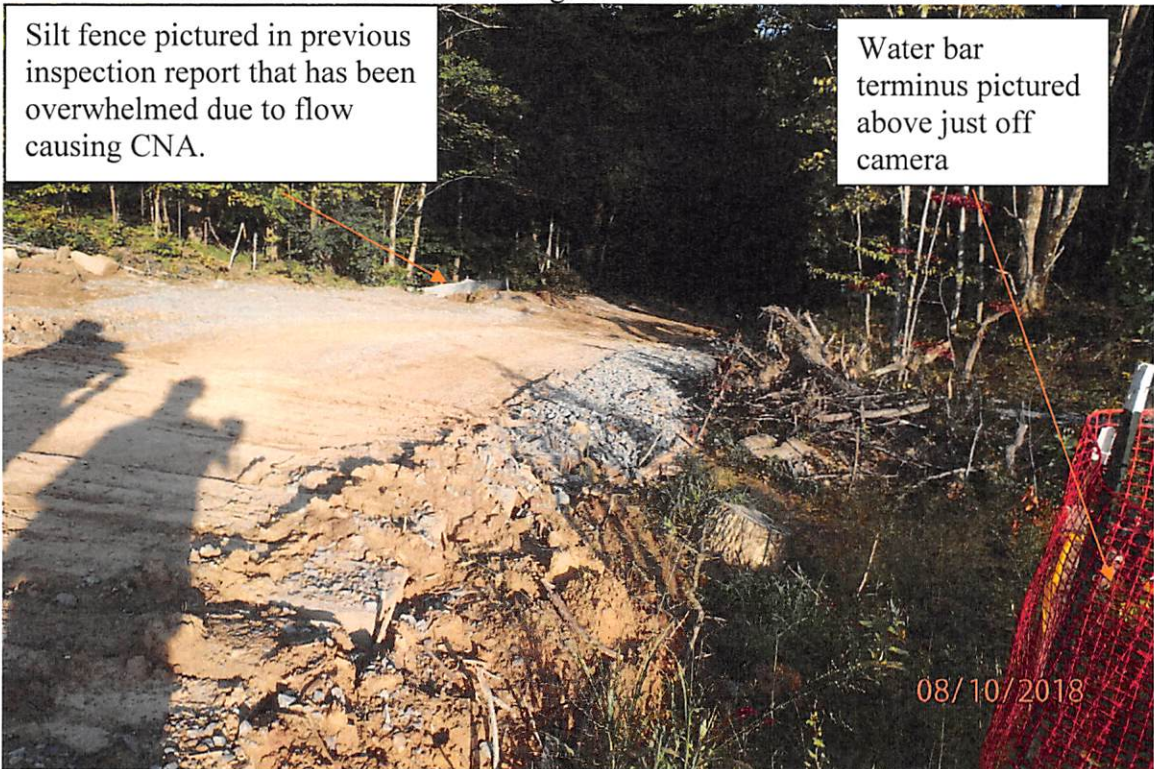


CNA deposits and distinctly visible settleable solids in UNT Meathouse Fork (39° 11.891' X 80° 33.209') that originate from site because of the previously pictured deficiencies.





Water bar terminus that discharges onto MVP-DO-049 access road.



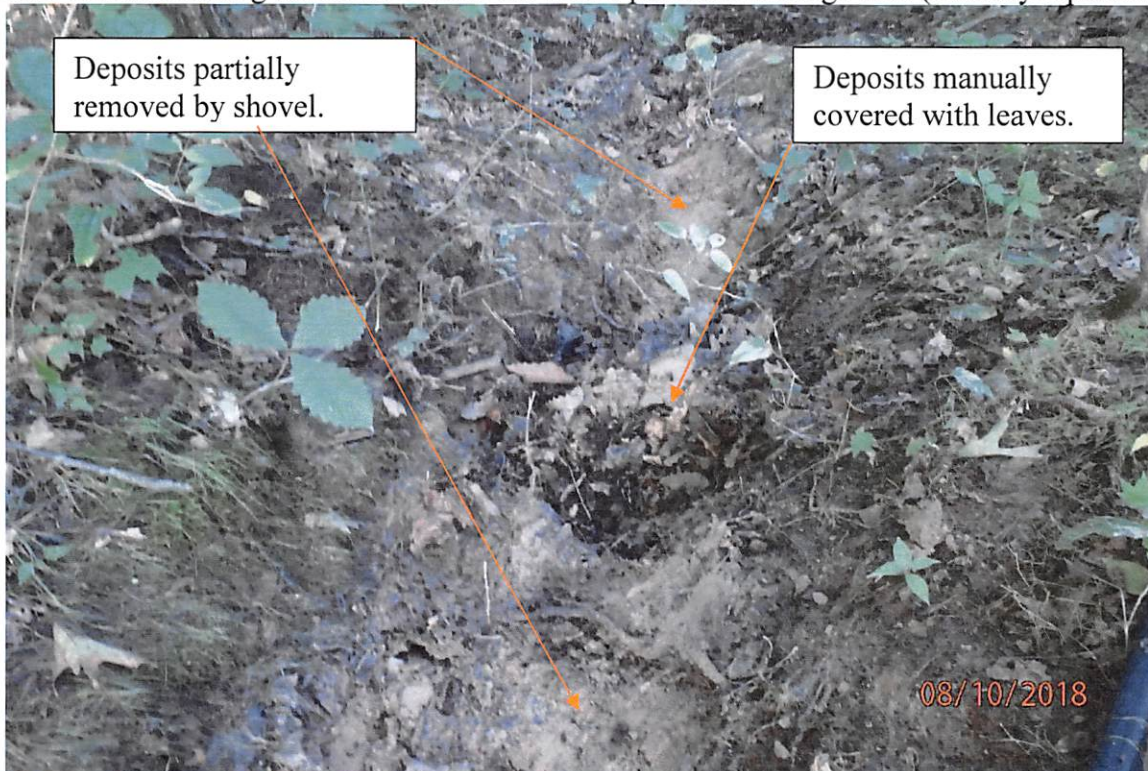
Silt fence pictured in previous inspection report that has been overwhelmed due to flow causing CNA.

Water bar terminus pictured above just off camera

Overview of drainage area leading to BMP that is continuously overwhelmed due to the amount of flow at access road MVP-DO-049. Recent CNA deposits in UNT Dry Fork (39° 11.377' X 80° 33.566') were noted as a result.



BMP that is handling stormwater from the above pictured drainage area (recently replaced).



CNA deposits in UNT Dry Fork (39° 11.377' X 80° 33.566') that originate from site. Evidence of a portion of the deposits being removed by shovel and some deposits being manually covered with leaves was noted.

MOUNTAIN VALLEY PIPELINE, LLC, WVR310667, Mountain Valley Pipeline Project – Stallworth  
Compressor Station, 8-13-2018



At St. 00+220 a series of perimeter controls used in a concentrated flow area had failed allowing sediment laden water to leave the site. Sediment deposits were noted in receiving stream A-104 creating Conditions Not Allowable in the Waters of the State.

MOUNTAIN VALLEY PIPELINE, LLC, WVR310667, Mountain Valley Pipeline Project – Stallworth Compressor Station, 8-13-2018



Maintenance needed north of the east wall.



Maintenance needed for CFS below the east wall.

MOUNTAIN VALLEY PIPELINE, LLC, WVR310667, Mountain Valley Pipeline Project – Stallworth Compressor Station, 8-13-2018



Maintenance needed for filter sock at Southwest wall.

MOUNTAIN VALLEY PIPELINE, LLC, WVR310667, Mountain Valley Pipeline Project – Stallworth  
Compressor Station, 8-13-2018



Silt fence being installed on the southern portion of the pad area was not joined or trenched in properly.



Photo 1: Eastern view of one of several incorrectly sloped water bars off Bingham Road station 7450+00.



Photo 2: Western view of one of several incorrectly sloped water bars in Photo 1 off Bingham Road station 7450+00.



Photo 3: Incorrectly sloped water bar at Bingham Road station 7450+00- water is flowing away from outlet.

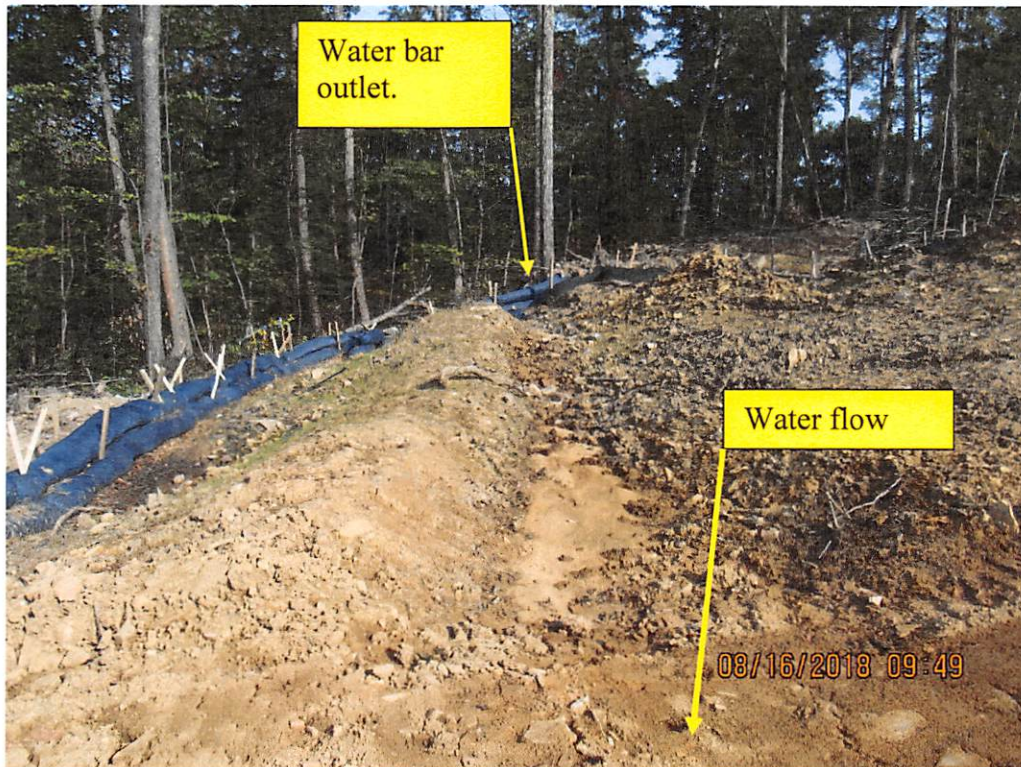


Photo 4: Outlet for water bar in Photo 3.



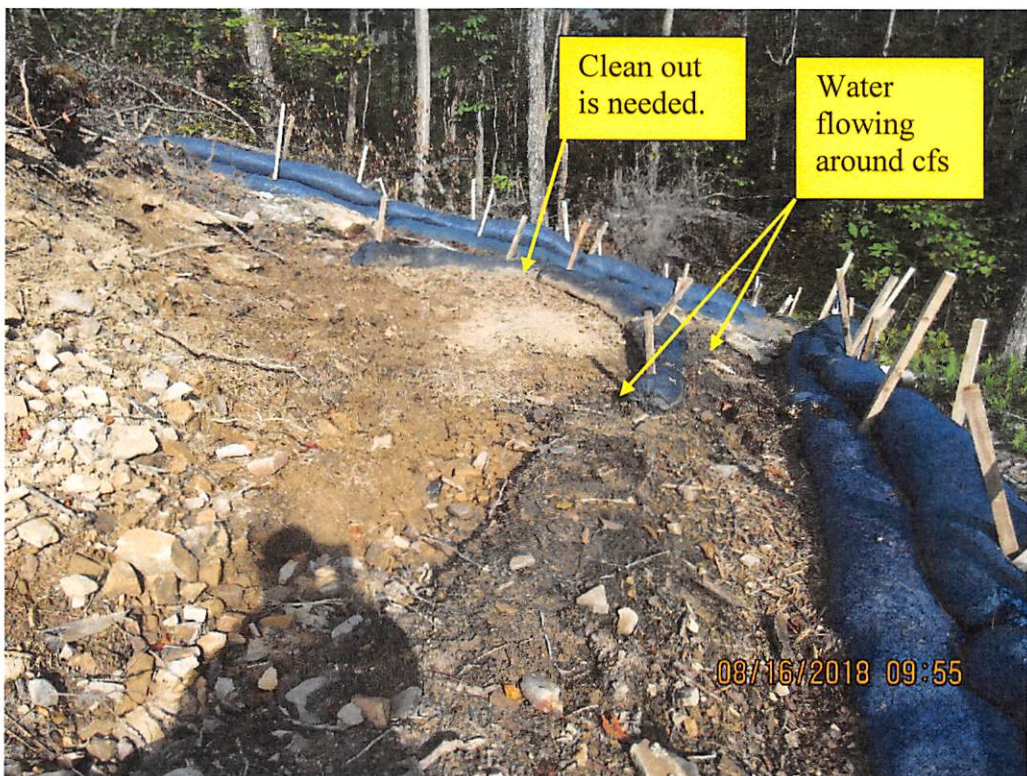


Photo 5: Water bar terminus needs maintenance at Bingham Road station 7450+00.



Photo 6: Western view of water bar without outlet near Bingham Road station 7450+00.



Photo 7: Middle section of water bar without outlet near Bingham Road station 7450+00.



Photo 8: Eastern view of water bar without outlet near Bingham Road.



Photo 9: Timber bridge mat punctured filter fabric at station 7465+00.



Photo 10: Exterior view of punctured fabric in Photo 9.



Photo11: Entrance off Bingham Road (station 7450+00) with inadequate slope breakers near stream.



Photo 12: CFS needs maintenance near Bingham Road station 7450+00.



Photo 13: CFS needs maintenance near station 7232+00



Photo 14: CFS needs maintenance near station 73232+00.



Photo 15: Northern view of Bamboo Road near Station 7158+00 without fill slope protection and temporary stabilization.



Photo 16: Southern view of Bamboo Road near Station 7158+00 without fill slope protection and temporary stabilization.



Photo 17: Inadequate controls for concentrated flow at base of fill slope near station 7158+00.



Photo 18: Close-up of inadequate controls for concentrated flow at base of fill slope near station 7158+00.



Photo 19: Northern view of waste pile with inadequate stabilization. (Photo taken near Bingham Road station 7450+00)



Photo 20: Southern view of waste pile with inadequate stabilization. (Photo taken near Bingham Road station 7450+00)





Photo 21: ROW slope between stations 7084+00- 7093+50 with inadequate number of water bars.



Photo 22: Failure of installed water bars between stations 7084+00 – 7093+50.



Photo 23: Water bar terminus at station 7084+00 with ROW slope of Photo 21 in background.

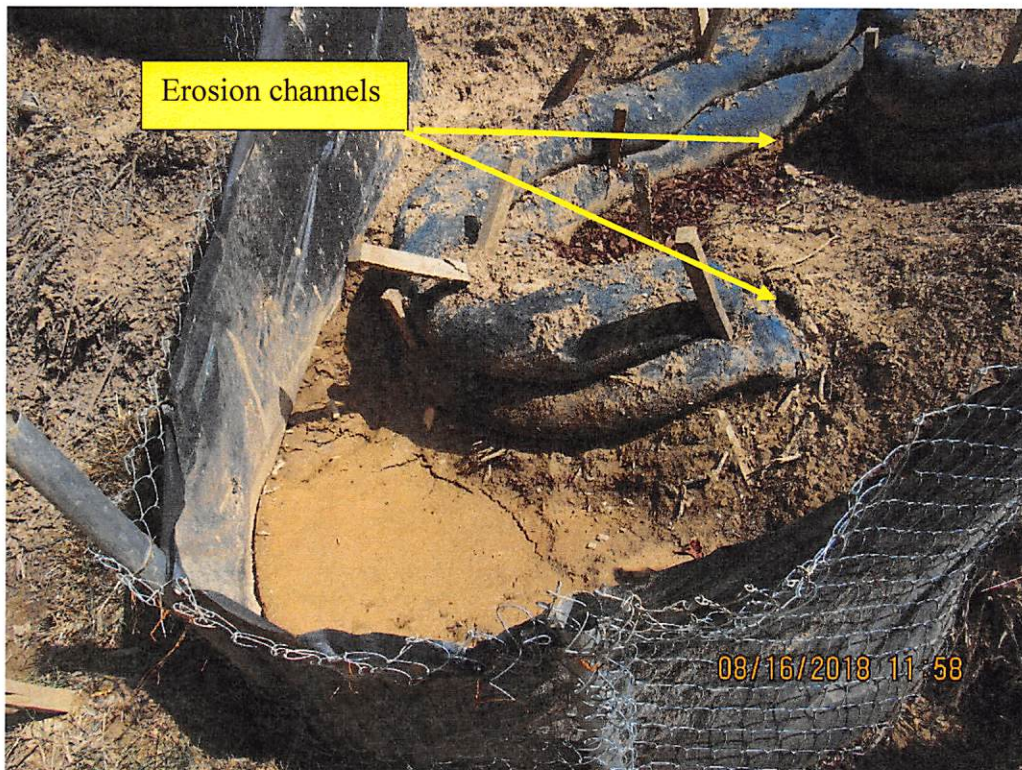


Photo 24: Water bar terminus at station 7084+00. Erosion channels observed at ends of CFS.



Photo 25: Controls and sediment deposits in road side ditch at water bar terminus at station 7084+00.



Photo 26: Road side ditch below water bar terminus in photos 23-25 conveying sediment laden water to installed culvert.



Photo 27: Installed culvert inlet near 7080+00 conveying sediment laden water from water bar terminus in photos 23-25 to SR culvert.

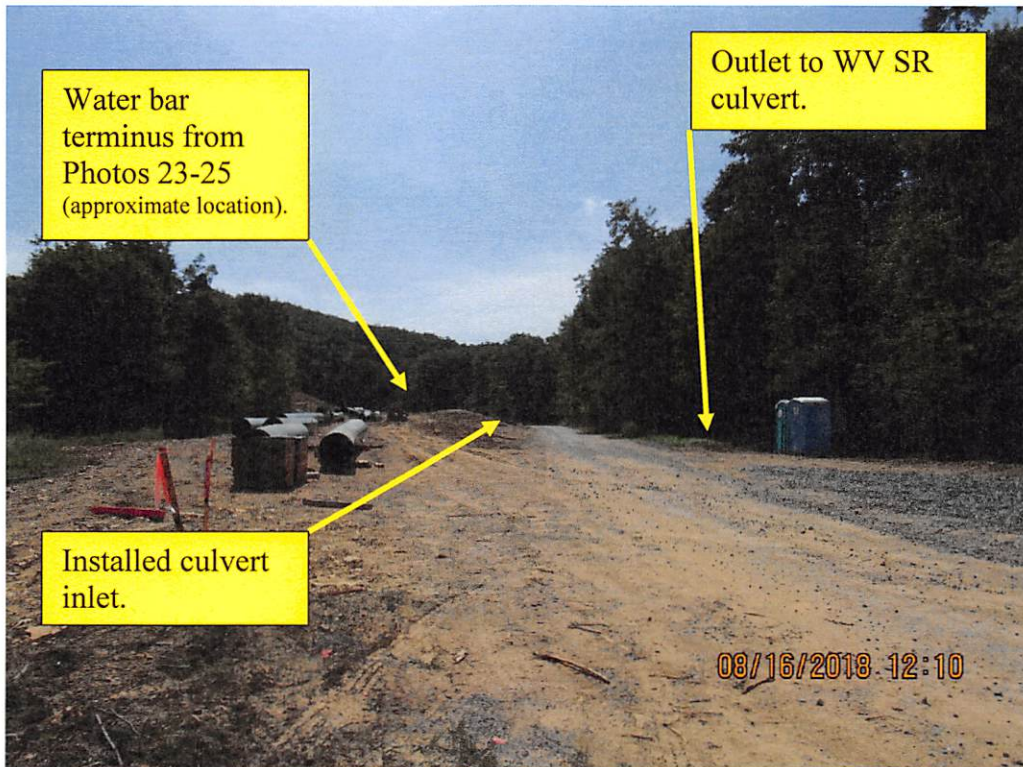


Photo 28: Relative distance of failed water bar terminus, culvert inlet and SR culvert outlet.



Photo 29: Outlet to SR culvert connected to installed culvert in photo 27.



Photo 30: Perimeter controls failure downslope of SR culvert outlet allowing sediment laden water to leave site.



Photo 31: Sumps installed at terminus of water bars near Wahoo Road station 6781+51 which has reduced failure.



Photo 32: Site of historical water bar terminus control failure- sump installed has reduced failure.



Photo 33: Recommended installation of safety fence around sumps near Wahoo Road station 6781+51.



Photo 34: Recommended to lengthen 'J' hooks at end of pipe slope drains at station 6978+70.



Photo 35: Recommended to add additional controls to timber mat bridge adjacent to wetland at station 7232+00.





Photo 1: Unfinished underdrain installation.



Photo 2: Unfinished underdrain installation.



Photo 3: Slope on northwest side of site which has not been reseeded.



Photo 4: Slope on northwest side of site which has not been reseeded.



Photo 5: Area reseeded but growth not observed due to lack of sufficient rain.



Photo 6: Area reseeded but growth not observed due to lack of sufficient rain.



Photo 7: Improperly implemented control for concrete wash out area.



Photo 8: Improperly implemented control for concrete wash out area.



Photo 5: Station 150 (approximately)- controls maintained abating NOV issued 8/13/2018.



Photo 6: Station 900- Culvert outlet concentrating flow from diversion ditch.



Photo 7: Station 900 (approximately) -Flow along silt fence from culvert outlet downslope to sump.



Photo 8: Station 900 (approximately)-Flow below silt fence into sump.



Photo 9: Station 900 (approximately)- outlet of sump below photo 8 with sediment laden water leaving site view down gradient.



Photo 10: Station 900 (approximately)- upslope view of controls and sediment laden water leaving site.



Photo 1: Plume in UNT of Painters Run from control failure off access road 231.01 near station 10270+49.



Photo 2: Silt fence needs replaced along access road 231.01 off Painters Run Road near station 10270+49.





Photo 3: Sediment laden UNT of Painters Run down stream of control failure near station 10270+49



Photo 4: Sump above control failure off access road 231.01 near station 10270+49 Painters Run.



Photo 1: Sediment laden water from sumps near station 3625+00.



Photo 2: Undermined perimeter controls near 3634+00 which failed allowing sediment laden water to leave site.



Photo 3: Failure of perimeter controls near 3634+00 allowing sediment laden water to leave site.



Photo 4: Close-up of failed perimeter controls near station 3634+00 where sediment laden water is entering UNT of Knawls Creek.



Photo 5: Sediment laden water entering UNT of Knowls Creek near station 3634+00 from failed perimeter controls.



Photo 6: Convergence of UNT of Knowls Creek with sediment laden water mixing with Knowls Creek.



Photo 1: Station 550 outlet and sump at base of fill slope where perimeter controls failed allowing sediment laden water to leave site and create conditions not allowable in UNT of Little Kanawha.



Photo 2: Station 550 sump at base of fill slope where perimeter controls failed and sediment laden water leaving site.



Photo 3: Conditions not allowable in UNT of Little Kanawha River down gradient of photo 2.



Photo 4: 1 of 3 improperly installed filter fabric bags still in use on north eastern side of site.



Photo 5: 2 of 3 improperly installed filter fabric bags still in use on north eastern side of site.



Area where sediment laden water was leaving site and being intercepted by road side ditch along Route 122.



Sediment laden water accumulating and draining towards roadside ditch that intersects with S-A60 along Route 122.





Sediment laden water leaving ROW intercepted by ditch flowing towards Stream (S-A60). Arrow depicts where ditch connects to stream S-A60 and flows under road via culvert.



Location where sediment laden water was entering stream S-A60.



Sediment laden water entering Indian Creek on 9/27/18 via Stream (S-A60).



Overview of slope leading towards Stream (S-A60) near station number 9639+00.



Water bar terminus leading to BMP. Erosion occurring due to channel not being stabilized.



Sediment laden water passing through/under BMP.



Lack of fill slope protection causing erosion and sediment laden water to accumulate and overwhelm BMP.



Sediment laden water leaving project and entering stream (S-A60).



Areas near station number 9417+75 where water bar terminus being overwhelmed with sediment laden water.



Areas near station number 9417+75 where water bar terminus being overwhelmed with sediment laden water.



Areas near station number 9417+75 where water bar terminus being overwhelmed with sediment laden water.



Sediment laden water flowing past BMP near Station #9417+75



Sediment laden water being transported off ROW and past LOD into ephemeral streams near Station #9417+75. Red arrow depicts where ephemeral splits and goes upslope towards spring.



Main stem of ephemeral stream heading towards Stream S-A60 transporting sediment laden water into Indian Creek.



Standing on top of ridge looking down at spring seeping out of hillside transporting sediment laden water.



Spring/seep transporting sediment laden water.





Area above spring/seep where off site sediment deposits were observed past LOD.



ROW near station numbers 9779+00 and 9778+00 where water bar outlets were being overwhelmed and sediment laden water was passing through and under and being transported past LOD.



ROW near station numbers 9779+00 and 9778+00 where water bar outlets were being overwhelmed and sediment laden water was passing through and under and being transported past LOD.



ROW near station numbers 9779+00 and 9778+00 where water bar outlets were being overwhelmed and sediment laden water was passing through and under and being transported past LOD.



ROW near station numbers 9779+00 and 9778+00 where water bar outlets were being overwhelmed and sediment laden water was passing through and under and being transported past LOD.



Off-site sediment deposits near station number 9779+00.



Ephemeral stream near Station #9778+00 being impacted by sediment laden water and flowing downhill and entering roadside ditch at Ellison ridge road.



Ephemeral stream discharging into roadside ditch along Ellison Ridge Road.



Photo looking down Ellison ridge road towards culverted stream crossings S-Z5 and S-Z4.



Sediment laden water flowing through culverted stream crossing and under road through culvert and into stream on other side of Ellison ridge road. Mud also present on road.



Area on south side of Ellison ridge road and ROW near station number 9784+00.



Sediment laden water flowing under and through BMP near station number 9784+00.



Sediment laden water infiltrating past LOD and seeping into wetland (W-22) and entering stream (S-Z3) near station number 9784+00.



Facing Hans Creek near Station #9907+00. Super Silt fence located next to chain link had failed and sediment deposits were observed migrating towards Hans Creek.



Close up of sediment that has been deposited past BMP.



Area near station number 9907+00. Super silt fence had been undermined and damaged by logs.





Area near station number 9907+00. Super silt fence had been undermined and damaged by logs



Near Station # 9911+00 where BMP was being overwhelmed and off-site sediment deposits were observed.



Off-site sediment deposits near station #9911+00.



BMP near Station #9911+00 being overwhelmed and sediment flowing under and through control. Arrow depicts where sediment laden water was leaving BMP.



Area of ROW near Station #9897+00 looking towards Hans Creek drainage.



Waterbar terminus near being overwhelmed near Station #9899+00.



Off-site sediment deposits near Station number 9899+00.



Off site sediment deposits located past LOD and being transported towards Streams S-H58 and TTWV-S-E58 near Station number 9899+00.



Arrow depicts where BMP was being undermined near Station number 9899+00.



Stream S-H58/TTWV-S-E58 with sediment deposits heading towards Hans creek between Station number 9892+00 through 9899+00.



Stream S-H58/TTWV-S-E58 further downhill walking towards Hans Creek near Station number 9897+00.



BMP at Station number 9908+00 being overwhelmed where off-site sediment deposits were present past the LOD.



Pond (P-D1) impacted by visible settleable solids.



ROW near station #9687 where multiple BMP's are failing.



ROW near station #9687 where BMP is failing.



Off site sediment deposits past BMP near station number 9687.





Above mentioned BMP being undercut from run-off.



Gully erosion occurring near Station #9687 and flowing towards Pond (P-D2). BMP pictured was failing and off-site sediment deposits were present past the LOD.



Lack of fill slope protection and channel stabilization enhancing erosion and causing BMP to be overwhelmed at station 9687.



Stream S-D29 leading to Pond P-D1 facing down slope.



Looking upslope at Stream S-D29 and spring box.



Opposite side of slope where BMP is being overwhelmed.



BMP above pond receiving concentrated flow.



Un-stabilized channel flowing towards above mentioned BMP at station #9687.



Lack of fill slope protection on opposite side of pond facing upslope near Station #9687.



Overview of BMP's north of pond and near station # 9687.



Pond (P-D2) near station number 9680.



Edge of Pond (P-D2) near station number 9680.



Sediment laden water infiltrating pond P-D2.



BMP outlet being overwhelmed near station number 9717+52.



Off-site sediment deposits at Station #9717+52.



Waterbar outlet at station #9724+51 failing and off-site sediment deposits observed.





Photo 1: Sump after maintenance performed at Painter's Run Station 10270.

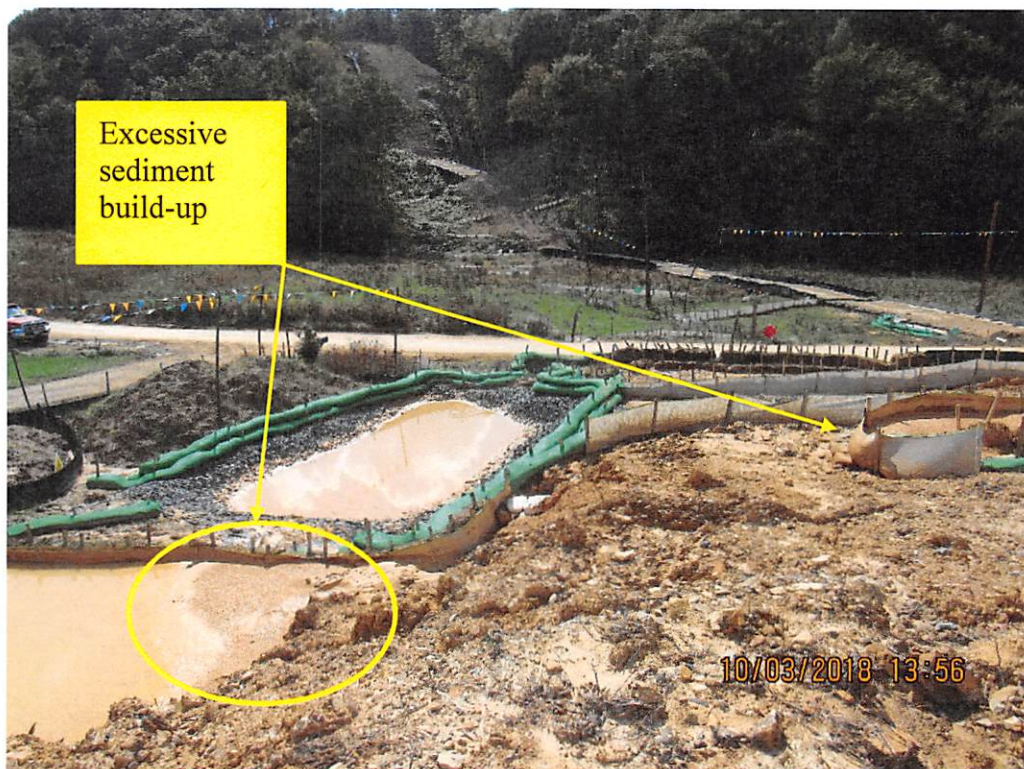


Photo 2: Excessive sediment in sumps after maintenance performed at Painter's Run station 10270.



Photo 3: Front of control on right in Photo 2 after maintenance performed at Painter's Run station 10270.



Photo 1: AR 210- sediment laden water leaving site.



Photo 2: AR 210-sediment laden water leaving site entering county road- up gradient view.



Photo 3: AR 210 sediment laden water crossing county road- down gradient view.



Photo 4: Painter's Run Road station 10270 at access road crossing.



Photo 5: Painter's Run Road station 10270 upgradient of access road crossing.



Photo 6: Painter's Run Road station 10270 down gradient of access road crossing.



Overwhelmed sump near Sams Run.



Overwhelmed sump near Sams Run.



Damaged waterbar directly N of Sams Run.



Slip at Station 489 entered the ditchline from a sideslope allowing sediment to leave the project ROW.



Slip at station 493 had entered the ditchline from a sideslope allowing sediment to leave the project ROW.



Sump at Station 286 in need of maintenance.





Sump at Station 290 in need of maintenance.



Downstream view of Knawl's Creek at location of convergence of UNT.



Convergence of UNT of Knawl's Creek into Knawl's Creek below release point



Slightly downstream of convergence point into Knawl's Creek below release point.



Access Road WV-HA – 31.1 off CR 50/4 showing the lack of an adequately stable construction entrance and the associated track out onto the public road.



Access Road WV-HA - 29.04 off CR 50/5 showing the lack of an adequately stable construction entrance and the associated track out onto the public road.



Access Road WV-HA - 29.5 off CR 50/5 showing the lack of an adequately stable construction entrance and the associated track out onto the public road.



Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

1)	Potential for Harm Factor	Factor Range	FOF#													
			13d	13e, 19d, 20b	14c	15a	19b	22a	22b	23a	25a	25b				
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1				
b)	Toxicity of Pollutant	0 to 3	1	1	1	1	1	1	1	1	1	1				
c)	Sensitivity of the Environment	0 to 3	1	1	1	1	1	1	1	1	1	1				
d)	Length of Time	1 to 3	1	3	1	1	1	2	2	3	1	3				
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	1	1	1				
<b>Average Potential for Harm Factor</b>			1	1.4	1	1	1	1	1.2	1	1	1.4	No	No	No	
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				



		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
2b	Minor	Major	\$2,000	1	\$2,000
3a	Moderate	Major	\$4,200	1	\$4,200
3c, 5e, 6c, 7c, 8c, 9f, 11f, 12f	Minor	Major	\$2,000	18	\$36,000
4a, 4c, 5a, 6a, 7a, 8b, 9a, 10a, 11a, 12a, 12d 13c,	Moderate	Major	\$4,400	15	\$66,000
4b	Minor	Major	\$2,000	1	\$2,000
5b	Minor	Major	\$2,000	1	\$2,000
5d, 9e, 10c, 11e, 16c, 17c, 18c, 19e, 20d, 24c	Minor	Major	\$2,000	19	\$38,000
9b	Moderate	Major	\$4,200	1	\$4,200
9c	Minor	Major	\$2,000	1	\$2,000
11b, 12b, 13a, 14a, 16a, 18b, 19c, 20c, 21a, 23b	Moderate	Major	\$4,400	10	\$44,000
11c	Moderate	Major	\$4,200	1	\$4,200
12c	Moderate	Major	\$4,200	1	\$4,200
13b	Moderate	Major	\$4,400	1	\$4,400
13d	Minor	Major	\$2,000	1	\$2,000
13e, 19d, 20b	Moderate	Major	\$4,400	3	\$13,200
14c	Minor	Major	\$2,000	1	\$2,000
15a	Minor	Major	\$2,000	1	\$2,000
19b	Minor	Major	\$2,000	1	\$2,000
22a	Moderate	Major	\$4,200	1	\$4,200
22b	Moderate	Major	\$4,200	1	\$4,200
23a	Moderate	Major	\$4,400	1	\$4,400
25a	Minor	Major	\$2,000	1	\$2,000
25b	Moderate	Major	\$4,400	1	\$4,400
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
<b>Total Base Penalty</b>					<b>\$253,600</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		\$25,360
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)	\$12,042		\$12,042
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)	\$330		\$330
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$25,360)
6.2.b.3 - Cooperation with the Secretary			\$0
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>\$12,372</b>
<b>Penalty =</b>			<b>\$265,972</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> Economic benefit not warranted.	