



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

JAN 15 2014

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Alwyn Schopp  
Vice President and Treasurer  
Antero Resources Corporation  
1625 17<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202

Re: In the Matter of the Johnson Site  
EPA Docket. No. CWA-03-2014-0053DW

Dear Mr. Schopp:

Please find enclosed an Administrative Order on Compliance (“AO”) Docket. No. CWA-03-2014-0053DW, which the United States Environmental Protection Agency (“EPA”) is issuing to Antero Resources Corporation (“Antero”) for violations of Section 301(a) of the Clean Water Act (“CWA”), 33 U.S.C. § 1311(a), at the Johnson Pad Site, approximately 1.4 miles northwest of the intersection of County Route 50/5 with County Route 5/13 in Salem, Harrison County, West Virginia.

Section 301(a) of the CWA prohibits any person from discharging a pollutant from a point source to a water of the United States without specific authorization. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), authorizes EPA to issue an Administrative Order for Compliance (“AO”) whenever any person is in violation of any condition or limitation which implements, *inter alia*, Section 301(a) of the CWA. Specifically, based on its inspection conducted May 3, 2011, information provided in the February 2013 Stream and Wetland Delineation for the Mattheys Site, and other information available to it, EPA has determined that persons acting on behalf of and/or at the direction of Antero discharged dredged and/or fill material to waters of the United States without a permit issued by the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA, 33 U.S.C. § 1344. The enclosed Order notifies Antero of these violations and describes actions that will return Antero to compliance.

If you have any questions regarding the AO or wish to submit any written material you believe to be relevant to the agency's findings, please contact Carrie Traver, Office of Environmental Programs, at (215) 814-2772. Your counsel may contact Pamela Lazos, Senior Assistant Regional Counsel, at (215) 814-2658.

Sincerely,



John R. Pomponio, Director  
Environmental Assessment and Innovation Division  
U.S. EPA Region III

Enclosure

cc: Mr. Randy Kloberdanz – Antero Resources  
Mr. Jon Coleman – US Army Corps of Engineers, Pittsburgh District  
Mr. Joe Sizemore – WV Dept of Environmental Protection  
Mr. Brad Swiger – WV Dept of Environmental Protection  
Mr. David Belcher – WV Dept of Environmental Protection  
Ms. Jackie Thornton – WV Dept of Environmental Protection  
Mr. Hank Lawrence – Steptoe & Johnson



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

REGIONAL HEARING CLERK  
EPA REGION III, PHILA. PA

2014 JAN 15 PM 2:20

RECEIVED

In The Matter of:

Antero Resources Corporation

Property Located At:  
Johnson Pad Site  
Northwest of the intersection of  
County Route 50/5 and County Route 5/13  
Salem, West Virginia 26426

Respondent

Proceeding Under Section 309(a) of the Clean  
Water Act, 33 U.S.C. § 1319(a)

ORDER FOR COMPLIANCE

Docket. No. CWA-03-2014-0053DW

**I. STATUTORY AUTHORITY**

1. This Administrative Order for Compliance (“AO”) is issued under the authority vested in the United States Environmental Protection Agency (“EPA”) by Sections 308(a) and 309(a) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1318(a), 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region III who in turn has delegated it to the Director of the Environmental Assessment and Innovation Division.

**II. FINDINGS OF FACT and CONCLUSIONS OF LAW**

2. Antero Resources Corporation (“Respondent”) is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
3. 40 C.F.R. § 232.2 defines “discharge of fill material” to include “[p]lacement of fill that is necessary for the construction of any structure or infrastructure in a water of the United States.”
4. 40 C.F.R. § 232.2 defines “fill material” as “material placed in waters of the United States where the material has the effect of: 1) [r]eplacing any portion of a water of the United States with dry land; or 2) [c]hanging the bottom elevation of any portion of a water of the United States.”
5. Fill material is a “pollutant” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

6. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of dredged and/or fill material from a point source to “waters of the United States” except in compliance with a permit issued by the Secretary of the Army under Section 404 of the CWA, 33 U.S.C. § 1344.
7. Respondent is the operator of the Johnson Pad and associated facilities and appurtenances, located approximately 1.4 miles northwest of the intersection of County Route 50/5 with County Route 5/13 at approximate coordinates 39.328, -80.548, in Salem, West Virginia (“the Site”).
8. The Site is located adjacent to a tributary of Indian Run, which flows to Tenmile Creek. Tenmile Creek is listed as Navigable Waters of the United States by the Army Corps of Engineers Pittsburgh District 1.0 mile above its mouth. Tenmile Creek flows to the West Fork River, a tributary to the Monongahela River. The unnamed tributaries on the Site are “waters of the United States” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7); 40 C.F.R. § 232.2.
9. On the basis of information available, Respondent, or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to waters of the United States located at the Site. Construction of the Johnson Pad and appurtenances, including the access road and pipeline, impacted streams and wetlands.
10. On the basis of information available, the dredged and/or fill material was discharged by equipment which constitutes a “point source” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
11. On the basis of information available, at no time during the alleged discharge of dredged and/or fill material to the “waters of the United States” located on the Site did Respondent have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
12. On the basis of information available, Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) by discharging dredged and/or fill material to the “waters of the United States” without authorization.

### III. ORDER FOR COMPLIANCE

This Order is issued in accordance with the authority granted to EPA under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and its stated objective to restore and maintain the chemical, physical and biological integrity of the Nation’s waters.

Therefore, this 15<sup>th</sup> day of January, 2014, the Respondent is hereby ORDERED, pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), to do the following:

13. Immediately cease and desist all discharges without a permit to waters of the United States at the Site.
14. Within thirty (30) days of the effective date of this order, Respondent shall submit a pre-construction wetland and stream delineation to EPA for review and approval. This will fully identify all areas on the Site that, prior to construction, were streams or wetlands and will show the extent of the regulated waters in and adjacent to the work area. The Respondent shall utilize a methodology for identifying wetlands and streams in disturbed and undisturbed areas consistent with methods generally accepted by EPA and the U.S. Army Corps of Engineers.
15. Within thirty (30) days of EPA's approval, Respondent shall submit a detailed restoration and mitigation plan to EPA for approval. The plan must describe the actions to be taken to remove the material from the regulated waters, to stabilize the Site, and to return the streams and wetlands to pre-disturbance grade and conditions.
16. After review of the restoration and mitigation plan, EPA will: a) approve the plan, in whole or in part; b) approve the plan upon specified conditions; c) modify the plan to cure any deficiencies; d) disapprove the plan, in whole or in part, or e) any combination of the above.
17. If EPA disapproves all or part of the restoration plan, Respondent shall, within fourteen (14) days of receipt of EPA's disapproval, correct the deficiencies and resubmit the plan for approval. EPA retains the right, if the plan is not approved as provided in this Order, to order restoration in accordance with a plan developed by EPA.
18. Upon approval of the restoration plan (either with or without conditions or modifications by EPA), Respondent shall implement the plan as approved or modified by EPA as provided below. All restoration work shall be completed within ninety (90) days of EPA's approval of the plan.
19. Respondent's failure to complete the work in a manner consistent with this Order shall be deemed a violation of this Order.
20. The restoration plan and all other correspondence should be sent to:

Carrie Traver  
Environmental Scientist  
United States Environmental Protection Agency  
Region III (3EA30)  
1650 Arch Street  
Philadelphia, PA 19103-2029

#### IV. GENERAL PROVISION

21. The following certification must accompany each submission by Respondent pursuant to this Order and must be signed by a Representative of Respondent authorized to sign on behalf of Respondent:

*“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”*

22. Respondent’s compliance with the terms of this Order shall not relieve Respondent of its obligation to comply with all applicable provisions of the CWA or any other Federal, State or local law or regulation.
23. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized by the CWA. EPA reserves the right to seek any remedy available under the law that it deems appropriate to address the violations described herein. Compliance with this Order shall not be a defense to any action commenced pursuant to such authorities. Failure to comply and/or respond to this Order, or providing misleading or false information, may subject you to civil and/or criminal sanctions pursuant to, 33 U.S.C. § 1319, and/or a civil judicial action initiated by the U.S. Department of Justice.
24. Issuance of this Order does not affect EPA’s authority to seek additional information or otherwise affect EPA’s ability to enforce or implement the CWA, 33 U.S.C. § 1251, et seq.

#### V. OPPORTUNITY TO CONFER

25. Respondent is invited to confer with the Agency about the findings and conclusions reflected in this Order, including the terms and conditions contained herein. Any such conference can be in person or by electronic means. Respondent may also submit any written material it believes to be relevant to the Agency’s determinations. If such a conference is desired, Respondent should contact Carrie Traver at (215) 814-2772.

**VI. JUDICIAL REVIEW**

26. Respondent may seek federal judicial review of this Compliance Order, issued under Section 309 of the CWA, 33 U.S.C § 1319, pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, states the scope of such review.

**VII. NOTICE OF INTENT TO COMPLY**

27. Within ten (10) days of the effective date of this Order, Respondent shall submit to EPA a Notice of Intent to Comply with the Order. The Notice shall be submitted to:


Carrie Traver  
Environmental Scientist  
United States Environmental Protection Agency  
1650 Arch Street (3EA30)  
Philadelphia, PA 19103-2029

**VIII. EFFECTIVE DATE**

28. This Order will become effective thirty (30) days after receipt unless modified or withdrawn.

Date:

January 15, 2014

  
John R. Pomponio, Director  
Environmental Assessment and Innovation Division  
U.S. EPA Region III

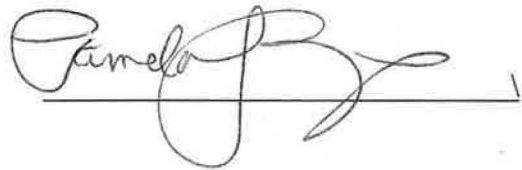
CERTIFICATE OF SERVICE

I hereby certify that I filed an original of the foregoing Administrative Order for Compliance, EPA Docket No. CWA-03-2013-0162DW, with the Regional Hearing Clerk, EPA Region III, with copies sent to the following:

Mr. Alvyn Schopp  
Vice President and Treasurer  
Antero Resources Corporation  
1625 17<sup>th</sup> Street, Suite 300  
Denver, CO 80202

Hank Lawrence, Esq.  
Steptoe & Johnson PLLC  
400 White Oaks Blvd.  
Bridgeport, W. Va. 26330

Date: January 15, 2014

  
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