



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

DEC 05 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Patrick Noyes
President and CEO
Grenadier Energy Partners, LLC
24 Waterway, Suite 875
The Woodlands, Texas 77380

Mr. Kenneth Mason, President
DAC Energy, LLC
P.O. Box 99
Alma, West Virginia 26320

Re: Matter of Grenadier Energy Partners, Inc., Docket No. CWA-03-2014-0020DW

Messrs. Noyes and Mason:

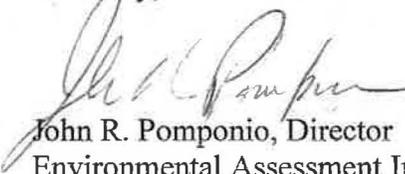
Please find enclosed an Administrative Compliance Order ("Order"), Docket. No. CWA-03-2014-0020DW, which the United States Environmental Protection Agency ("EPA") is issuing to Grenadier Energy Partners, LLC ("Respondent" or "Grenadier") and DAC Energy, LLC ("Respondent" or "DAC") (collectively, "Respondents"), for violations of Section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1311(a), at the Roberts Impoundment in Littleton, 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 Compliance Order to any person who is in violation of Section 301(a) of the CWA. Specifically, based on its inspection conducted on January 8, 2013, and on other information available to it, EPA has determined that persons acting on behalf of and/or at the direction of Respondent 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 Respondents of these violations and describes actions that will return the Site to compliance.

You are entitled to assert a claim of business confidentiality covering any part or all of the information submitted in response to the Order, in a manner described at 40 C.F.R. §2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to you.

If you have any questions regarding the Order, or have information clearly demonstrating any errors in its findings, please contact Stephanie Andreescu, Office of Environmental Programs, at (215) 814-2747. Your attorney may also contact Pamela Lazos, Senior Assistant Regional Counsel, at (215) 814-2658.

Sincerely,



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

Enclosure

cc: Mr. Jon Coleman – US Army Corps of Engineers
Ms. Dana Adipietro – US Army Corps of Engineers
Mr. Michael Zeto – 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. Clifford Brown – WV Department of Natural Resources
Mr. Roger Anderson – WV Department of Natural Resources
Ms. Wilma Reip – WV Department of Environmental Protection
Mr. Mark D. Clark, Esq. – Spillman, Thomas & Battle, PLLC
Ms. Allyn Turner, Esq. – Spillman, Thomas & Battle, PLLC
Ms. Marylou Fry, Senior Legal Counsel, Statoil
Mr. Larry D. Roberts



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

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REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

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In The Matter of)	
)	
Grenadier Energy Partners, LLC)	Proceeding Under Section
)	309(a) of the Clean Water
DAC Energy, LLC)	
)	
Respondents)	Act, 33 U.S.C. § 1319(a)
)	
)	
Property Located At:)	EPA Docket No. CWA-03-2014-0020DW
The Roberts Impoundment)	
39.6457, -80.5294)	
Littleton, West Virginia)	ORDER FOR COMPLIANCE
)	
)	

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 Section 309(a) of the Clean Water Act (“CWA”), 33 U.S.C. § 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.
2. This order is issued in accordance with the authority granted to EPA under the Clean Water Act, 33 U.S.C. § 1251 *et seq.* (CWA), and its stated objective to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.

II. FINDINGS OF FACT and CONCLUSIONS OF LAW

3. Grenadier Energy Partners, LLC (“Respondent” or “Grenadier”) is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5). Upon information and belief, Grenadier sold its assets, including the Roberts Impoundment, to Statoil USA Onshore Properties, Inc. on July 1, 2013.
4. DAC Energy, LLC (“Respondent” or “DAC”) is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

5. 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” and “the building of any structure or impoundment requiring rock, sand, dirt, or other material for its construction.”
6. 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.”
7. Fill material is a “pollutant” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
8. 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.
9. The Roberts Impoundment is located at coordinates 39.6457°N, -80.5294°W, approximately 0.4 miles southwest of the intersection of Anthem Road/County Road 7/16 and Old Route 77/Delta Road 3 in Littleton, West Virginia (the “Site”).
10. The Site consists of an on-line freshwater impoundment on an unnamed tributary to Sugar Run constructed by Grenadier and DAC Energy.
11. The unnamed tributary to Sugar Run flows to Sugar Run then to the West Virginia fork of Fish Creek then to Fish Creek and then to the Ohio River. The unnamed tributary to Sugar Run and Sugar Run 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.
12. Respondents or persons acting on behalf of Respondents operated equipment which discharged dredged and/or fill material to waters of the United States located at the Site. Specifically, Respondents impounded an unnamed tributary to Sugar Run and a contributing tributary.
13. 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).
14. 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 Respondents have a permit from the Secretary of the Army as required by Section 404 of the CWA, 33 U.S.C. § 1344.
15. Respondents 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

Therefore, this 5th day of DECEMBER, 2013, the Respondents are hereby ORDERED, pursuant to Section and 309(a) of the CWA, 33 U.S.C. 1319(a) to take the following actions in order to comply with the section or requirement of the CWA cited above:

16. Respondents have submitted a wetland and stream delineation of pre-disturbance conditions in response to EPA's Section 308 Information Requirement, dated June 18, 2013. If EPA disapproves all or part of the delineation report, Respondent shall, within thirty (30) days of receipt of EPA's disapproval, correct the deficiencies and resubmit the delineation for approval. The delineation and associated report shall identify any and all areas at the Site which, prior to construction, were streams and/or wetlands, and will show the extent of the waters. 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.
17. Respondents shall submit a detailed restoration plan for EPA's review and approval within thirty (30) days of EPA's approval of the delineation. The plan must describe the actions that will be taken to remove the material from the regulated waters, stabilize the site, and return the Site to pre-disturbance grade and conditions.
18. After review of the report or plan submitted pursuant to Paragraphs 16 and 17, EPA will: a) approve the report or plan, in whole or in part; b) approve the report or plan upon specified conditions; c) modify the report or plan to cure any deficiencies; d) disapprove the report or plan, in whole or in part; or e) any combination of the above. If EPA disapproves all or part of the report or plan, Respondents shall, within thirty (30) days of receipt of EPA's disapproval, correct the deficiencies and resubmit the plan for approval. EPA retains the right, if the report or plan is not approved as provided in this Order, to order compliance in accordance with a report or plan developed by EPA.
19. Upon approval of the plans described in Paragraphs 16 and 17 above (either with or without conditions or modifications by EPA), Respondents shall implement the plan as approved or modified by EPA. All restoration work shall be completed within ninety (90) days of EPA's approval of the plan.
20. Respondents shall not discharge any dredged or fill material into any waters of the United States except in compliance with a Section 404 permit.
21. The restoration plan and all other correspondence should be sent to:

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

IV. GENERAL PROVISIONS

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

"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."

23. Respondents' compliance with the terms of this Order shall not relieve Respondents of their obligation to comply with all applicable provisions of the CWA or any other Federal, State or local law or regulation.
24. 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.

V. OPPORTUNITY TO CONFER

25. Respondents are invited to confer with the Agency about the findings and conclusions reflected in this Order and about the terms and conditions contained herein. Any such conference can be in person or by electronic means. Respondents may also submit any written material it believes to be relevant to the Agency's determinations. If such a conference is desired, Respondents should contact Stephanie Andreescu at (215) 814-2747.

VI. JUDICIAL REVIEW

26. Respondents may seek federal judicial review of this Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

VII. NOTICE OF INTENT TO COMPLY

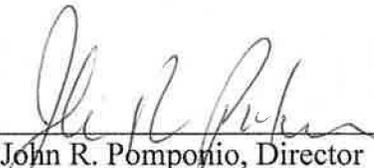
27. Within ten (10) days of the effective date of this Order, Respondents shall submit to EPA a Notice of Intent to Comply with the Order. The Notice shall be submitted to:

Stephanie Andreescu
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: 12/5/2013



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

CERTIFICATE OF SERVICE

I certify that I caused to be sent the original Administrative Order for Compliance to the following by certified mail, return receipt requested, after filing the original with the Regional Hearing Clerk:

Mr. Patrick Noyes
President and CEO
Grenadier Energy Partners, LLC
24 Waterway, Suite 875
The Woodlands, Texas 77380

Mr. Kenneth Mason, President
DAC Energy, LLC
P.O. Box 99
Alma, West Virginia 26320

Date: 12/5/2013

for Stephanie Andraesou
Pamela J. Lazos
Sr. Assistant Regional Counsel