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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304  
Phone: (304) 926-0470  
Fax: (304) 926-0452

Austin Caperton, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

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

TO: Rover Pipeline LLC  
Attn: Michael Futch  
1300 Main Street  
Houston, TX 77002

DATE: May 15, 2018

ORDER NO.: 8795

**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 Rover Pipeline LLC (hereinafter "Rover Pipeline LLC").

**FINDINGS OF FACT**

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

1. Rover Pipeline LLC is conducting land disturbance activity in Doddridge, Tyler, and Wetzel Counties, West Virginia. Rover Pipeline LLC was issued Water Pollution Control Permit No. WV0116815, Registration No. WVR310726, on December 15, 2016.
2. On April 26, 2017, West Virginia Department of Environmental Protection (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. 47CSR2 Section 3.2.b - Rover Pipeline LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the following two (2) streams: Eibscamp Run and the Unnamed Tributary (UNT) of Buckeye Creek.

- b. Section G.4.e.2 – The Permittee failed to properly implement controls. Specifically, silt fence and perimeter controls at the compressor site were improperly installed/maintained.
- c. Section D.1- The Permittee failed to operate and maintain all erosion control devices at the compressor site.
- d. Section G.4.c - The Permittee failed to modify its Storm Water Pollution Prevention Plan (SWPPP) when the SWPPP proved to be ineffective for achieving the general objectives of controlling pollutants in storm water discharges at the compressor site.
- e. Section B - The Permittee failed to comply with the approved SWPPP. Several erosion control devices were not in place on the pipeline right of way as detailed by the SWPPP.
- f. Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Off site and in stream sediment deposits were noted on the compressor site as well as the pipeline right of way.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W17-09-019-TJC was issued to Rover Pipeline LLC.

- 3. On May 24, 2017, 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. 47CSR2 Section 3.2.b- Rover Pipeline LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the following two (2) streams: Eibscamp Run and the UNT of Buckeye Creek.
  - b. Section G.4.e.2 - The Permittee failed to properly implement controls. Specifically, silt fence/controls were improperly installed on the Sherwood Lateral Pipeline, most notably at the pipeline crossing at the UNT of Buckeye Creek.
  - c. Section D.1 - The Permittee failed to operate and maintain all erosion control devices at the compressor site.
  - d. Section G.4.c - The Permittee failed to modify its SWPPP when the SWPPP proved to be ineffective for achieving the general objectives of controlling pollutants in storm water discharges at the compressor site.
  - e. Section B - The Permittee failed to comply with the approved SWPPP. Erosion control devices at the outlets of water bars were not in place on the pipeline right of way as detailed by the SWPPP.
  - f. Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Off site and in stream sediment deposits were noted on the compressor site as well as the pipeline right of way.

As a result of the aforementioned violations, NOV No. W17-09-028-TJC was issued to Rover Pipeline LLC.

4. On June 2 and 6, 2017, 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. 47CSR2 Section 3.2.b- Rover Pipeline LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the following four (4) streams: UNT of Jockeycamp Run, UNT of Morgans Run, UNT of Nutter Fork and ephemeral UNT of Nutter Fork.
  - b. Section G.4.e.2 - The Permittee failed to properly implement controls. Specifically, silt fence was improperly installed on the Sherwood Lateral Pipeline from Rock Run to Elija Smith Road and west of Nutter Fork. Water bars were improperly installed throughout the inspected area. Water bar outlets lacked proper treatment throughout the inspected area. Bridges were improperly installed at Rock Run and the UNT of Morgans Run. No perimeter controls were in place from Access 10-B to 470+00.
  - c. Section D.1 - The Permittee failed to operate and maintain all erosion control devices. Specifically, areas of silt fence were in need of maintenance throughout the inspected area. Water bars were damaged and/or eroded throughout the inspected area.
  - d. Section B - The Permittee failed to comply with the approved SWPPP. Erosion control devices at the outlets of water bars were not in place on the Sherwood Lateral pipeline right of way throughout the inspected area as detailed by the SWPPP. Controls were improperly installed from Rock Run to Elija Smith Road and west of Nutter Fork. No perimeter controls were in place from access 10-B to 470+00.
  - e. Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Off site and in stream sediment deposits were noted at the UNT of Jockeycamp Run, UNT of Morgans Run, UNT of Nutter Fork, ephemeral UNT of Nutter Fork 100+00 and 84+00.

As a result of the aforementioned violations, NOV No. W17-09-030-TJC was issued to Rover Pipeline LLC.

5. On July 12, 2017, 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. 47CSR2 Section 3.2.b- Rover Pipeline LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the following eight (8) streams: England's Run, UNT of Buckeye Creek, UNT of Jockeycamp Run, UNT of Morgan's Run, ephemeral UNT of Morgan's Run, UNT of Rock Run, UNT of Nutter Fork, and Nutter Fork.
  - b. 47CSR2 Section 3.2.a- Rover Pipeline LLC caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in the following two (2) streams: UNT of Buckeye Creek and the UNT of Rock Run.

- c. **Section G.4.e.2 - The Permittee failed to properly implement controls. Specifically, sheet flow Best Management Practices (BMPs) were being utilized in areas of concentrated flow.**
- d. **Section D.1 - The Permittee failed to operate and maintain all erosion control devices. Specifically, areas of silt fence, filter sock, and water bar sumps were in need of maintenance throughout the inspected area.**
- e. **Section B - The Permittee failed to comply with the approved SWPPP. Specifically, multiple water bars throughout the inspected area were not installed as designed in the SWPPP. The storm water that is handled by the water bars was not being diverted off the Limits of Disturbance (LOD), resulting in concentrated flow traveling down-slope and overwhelming sheet flow BMPs at the base of the hill.**
- f. **Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Offsite and/or in stream sediment deposits were noted in the following locations: Camp Mistake Run, England's Run, UNT of Buckeye Creek, UNT of Jockeycamp Run, UNT of Morgan's Run, Ephemeral UNT of Morgan's Run, UNT of Rock Run, UNT of Nutter Fork, and Nutter Fork.**
- g. **Section G.4.e.1.D - The Permittee failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto Morgan's Run Road.**
- h. **Section G.4.e.2.D.i – The Permittee failed to inspect and clean debris from Morgan's Run Road.**

As a result of the aforementioned violations, NOV No. W17-09-038-TJC was issued to Rover Pipeline LLC.

6. **On July 17, 2017, WVDEP issued Order No. 8749 to Rover Pipeline LLC in response to the aforementioned violations. On August 9, 2017, WVDEP personnel conducted an inspection of the site and determined that the violations outlined in Order No. 8749 had been corrected. Therefore, the cease and desist requirement in Order for Compliance Item No. One (1) was lifted.**
7. **From September 5, 2017 to September 7, 2017 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 - The Permittee failed to operate and maintain all erosion control devices throughout the CGT Lateral and Sherwood Lateral pipeline construction area.**
  - b. **Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device in several areas throughout the CGT Lateral and Sherwood Lateral pipeline construction area.**
  - c. **Section G.4.e.2.- The Permittee failed to properly implement controls. Specifically, sheet flow BMPs were being utilized to treat areas of concentrated flow throughout the CGT Lateral and Sherwood Lateral pipeline construction area.**
  - d. **Section B – The Permittee failed to comply with the approved SWPPP. Specifically, several erosion control devices were not in place as detailed by the**

SWPPP. Perimeter controls and controls at water bar outlets were not in place from the CGT Meter station west to 39° 18.7831' X 80° 37.5923' - approximately 300+00 to 275+00.

- e. 47CSR2 Section 3.2.b – Rover Pipeline LLC caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of streams at the following six (6) distinct locations: UNT of Waldo Run (39° 17.7995' X 80° 39.3043'); UNT of Buckeye Creek (39° 16.3554' X 80° 41.7602'); ephemeral UNT of Morgans Run (39° 17.225' X 80° 41.9107'); ephemeral UNT of Nutter Fork (39° 19.8315' X 80° 45.4705'); ephemeral UNT of Wolfpen Run (39° 20.6149' X 80° 46.1286'); and Camp Mistake Run (39° 21.3451' X 80° 47.1149').
- f. 47CSR2 Section 3.2.a – Rover Pipeline LLC caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in the stream at the following location: UNT of Waldo Run (39° 17.7995' X 80° 39.3043).

As a result of the aforementioned violations, NOV No. W17-09-54-TJC was issued to Rover Pipeline LLC.

8. From October 30, 2017 to November 1, 2017, 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 – The Permittee failed to operate and maintain all erosion control devices throughout the CGT Lateral and Sherwood Lateral pipeline construction area.
  - b. Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device in several areas throughout the CGT Lateral and Sherwood Lateral pipeline construction area.
  - c. Section B – The Permittee failed to comply with the approved SWPPP. Specifically, perimeter controls were not in place in the 41+50 area adjacent to the sump on A-1, the 101+00 area due to recent grading changes, and the 253+30 area on the CGT Lateral. Perimeter controls were not in place in the area of Rock Run (O'Brien Road), the small area near the base of the hill south of the stream, and an area adjacent to the UNT of Jockeycamp Run.
  - d. 47CSR2 Section 3.2.b – Rover Pipeline LLC caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of streams at the following five (5) distinct locations: UNT of Buckeye Creek (39° 17.1571' X 80° 40.1965'), UNT of Jockeycamp Run (39° 18.2956' X 80° 43.4822'), Piggan Run (39° 19.4472' X 80° 44.9662'), UNT of Nutter Fork (39° 19.8276' X 80° 45.4514'), and UNT of Wolfpen Run (39° 20.6669' X 80° 46.0956').
  - e. 47CSR2 Section 3.2.a – Rover Pipeline LLC caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in the stream at the following location: UNT of Wolfpen Run (39° 20.6669' X 80° 46.0956').

As a result of the aforementioned violations, NOV No. W17-09-063-TJC was issued to Rover Pipeline LLC.

9. From November 13, 2017 to November 15, 2017 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 – The Permittee failed to operate and maintain multiple erosion control devices throughout the Sherwood Lateral pipeline construction area in Tyler and Wetzel Counties. Specifically, perimeter controls, controls at waterbar termini, and bridges in need of maintenance were found in several areas.
  - b. Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device in several areas throughout the Sherwood Lateral pipeline construction area in Tyler and Wetzel Counties.
  - c. Section B – The Permittee failed to comply with the approved SWPPP. Specifically, perimeter controls were not in place in the UNT of Buffalo Run watershed near the HDD Pad, the Pine Run watershed near 1560+00, and the Right Buffalo Run watershed near 1387+50. There were several waterbar outlets throughout the site with improperly installed BMPs that caused a bypass of sediment-laden water.
  - d. 47CSR2 Section 3.2.b – Rover Pipeline LLC caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of streams at the following twenty-two (22) distinct locations: Paden Fork (39° 35.6689' X 80° 54.62881'), Slider Run (39° 35.0827' X 80° 55.6158'), UNT of Badger Run (39° 33.8518' X (80° 57.0316'), Grimms Run (39° 25.3422' X 80° 53.8466'), UNT of Purgatory Run (39° 24.2281' X 80° 51.5901), UNT of Jefferson Run (39° 22.8071' X 80° 49.2175'), UNT of Jefferson Run (39° 22.275' X 80° 48.394'), UNT of Willow Fork (39° 34.2931' X 80° 56.5437'), UNT of Willow Fork (39° 34.0631' X 80° 56.7890'), UNT of Pine Run (39° 33.2551' X 80° 57.5809'), Saltlick Run (39° 31.8102' X 80° 58.5515'), UNT of Saltlick Run (39° 31.9076' X 80° 58.4076'), UNT of Right Buffalo Run (39° 30.9090' X 80° 58.6500'), UNT of Right Buffalo Run (39° 31.0166' X 80° 58.6443'), UNT of Buffalo Run (39° 30.4100' X 80° 58.7534'), UNT of Middle Island Creek (39° 29.711' X 80° 57.959'), UNT of Middle Island Creek (39° 29.566' X 80° 57.756'), Purgatory Run (39° 24.8849' X 80° 53.2639'), UNT of Conway Run (39° 24.949' X 80° 52.757'), Conway Run (39° 24.972' X 80° 52.964'), UNT of Jefferson Run (39° 22.632' X 80° 48.805') and UNT of Jefferson Run (39° 22.4060' X 80° 48.4560').
  - e. 47CSR2 Section 3.2.a – Rover Pipeline LLC caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in streams at the following nine (9) distinct locations: Paden Fork (39° 35.6689' X 80° 54.62881'), Slider Run (39° 35.0827' X 80° 55.6158'), UNT of Badger Run (39° 33.8518' X (80° 57.0316'), Grimms Run (39° 25.3422' X 80° 53.8466'), UNT of Purgatory Run (39° 24.2281' X 80° 51.5901), UNT of Jefferson Run (39° 22.8071' X 80° 49.2175'), UNT of Jefferson Run (39° 22.275' X 80° 48.394'), UNT of Foster Run (39° 25.658' X 80° 53.842'), and UNT of Foster Run (39° 25.946' X 80° 54.002').

As a result of the aforementioned violations, NOV No. W17-48-064-TJC was issued to Rover Pipeline LLC.

10. On December 18, 2017, WVDEP personnel conducted an inspection of the facility in response to a report of a hydrostatic test rupture (HSEM Reference No. 48-68177 (A)).

During the inspection, violations of the following sections of WV Legislative Rules and the permit were observed and documented:

- a. 47CSR2 Section 3.2.b – Rover Pipeline LLC caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of streams at the following two (2) distinct locations: UT of Jefferson Run (S1ES-TY-123) and UT of Jefferson Run (S1ES-TY-124).
- b. Section G.4. e.2.- The Permittee failed to properly implement controls near the stream crossings at UT of Jefferson Run (S1ES-TY-123) and UT of Jefferson Run (S1ES-TY-124).
- c. Section G.4.e.2.A.ii.j - The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Several inadequate and/or unmaintained controls contributed to sediment in receiving streams.
- d. Section G.4.e.2.D.i – The Permittee failed to inspect and clean debris from the road at Jefferson Run.
- e. Section D.1 – The Permittee failed to operate and maintain erosion control devices. Specifically, super silt fence was in need of repair in several areas.
- f. Section G.4.e.2.A.ii.k – The Permittee used straw bales, which are not an acceptable Best Management Practice (BMP).

As a result of the aforementioned violations, NOV No. W17-48-016-RDD was issued to Rover Pipeline LLC.

11. On February 15, 20, 21, and 22, 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 B - Rover Pipeline LLC failed to comply with the approved Storm Water Pollution Prevention Plan (SWPPP). Several erosion control devices were not in place as detailed in the SWPPP. Perimeter controls were found to be removed prior to achieving stabilization throughout the inspected area.
- b. Section G.4.e.2.A.ii.j - Rover Pipeline LLC failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Off-site sediment deposits were frequently noted during the inspection.
- c. Section G.4.d.1.B – Rover Pipeline LLC failed to keep a clean and orderly project. Trash and construction debris, including discarded Best Management Practices (BMPs) that were prematurely removed, were noted in quantity on the site, some of which were partially buried.
- d. Section D.1 - Rover Pipeline LLC failed to operate and maintain all erosion control devices. Perimeter controls, waterbars, sumps, associated controls at the termini of waterbars, bridges, and stabilization practices lacked maintenance throughout the inspected area.
- e. Section G.4.e.2 - Rover Pipeline LLC failed to properly implement controls. Improperly installed perimeter controls and inadequate ditch checks in concentrated flows were noted in areas throughout the project. Sheet flow BMPs were being utilized in concentrated flow areas of the project.

- f. Section G.4.e.2.A.ii.k - Rover Pipeline LLC used straw bales on site, which are not an acceptable BMP. Straw bales were utilized as a stand-alone BMP in the UNT Rock Run (O'Brien Road) drainage.
- g. Section G.4.e.1.D - Rover Pipeline LLC failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads. The construction entrances to the CGT meter station and Morgans Run CGT Lateral (A-1) were in need of stabilization.
- h. Section G.4.e.2.D.i - Rover Pipeline LLC failed to inspect and clean all adjacent public and private roads of debris originating from the construction site. Track-out was noted on the public road originating from the CGT meter station construction access road.
- i. Section G.4.e.2.A.i - Rover Pipeline LLC to provide interim stabilization where construction activities had temporarily ceased for more than twenty-one (21) days in the areas of the Big Flint Run Crossing, adjacent to the Rock Run crossing, and adjacent to the UNT Rock Run (O'Brien Road) crossing.
- j. G.4.e.2.A.ii.f - Rover Pipeline LLC failed to protect fill slopes. Waterbars that had failed due to a lack of maintenance were noted throughout the inspected area. In areas where the waterbars had failed, the fill slopes were eroding due to concentrated flow being directed over the fill slope.
- k. Section F.2.a - Rover Pipeline LLC failed to immediately report non-compliance that may have endangered health or the environment using the designated spill alert telephone number. Earthen slips that caused impacts to streams were noted at the UNT of Buckeye (39° 17.17161' X 80° 40.07244'), the UNT of Waldo Run (39° 17.80282' X 80° 39.28829') and the UNT of Nutter Fork (39° 19.82762' X 80° 45.45141'). Rover Pipeline LLC failed to report these slips.
- l. Section C.3.-Rover Pipeline LLC failed to take all reasonable steps to minimize or prevent any discharge in violation of the permit. Rover Pipeline LLC repeatedly violated permit conditions for maintenance and implementation of controls, which in turn caused sediment-laden water to leave the site and cause conditions not allowable in waters of the State. Controls were removed, even though it was evident that the controls should remain due to a lack of stabilization.
- m. 47CSR2 Section 3.2.a - Rover Pipeline LLC caused conditions not allowable in waters of the State by creating distinctly visible settleable solids in streams at the following six (6) distinct locations: the UNT of Buckeye Run (39° 17.17161' X 80° 40.07244'); the UNT of Morgans Run (39° 17.14242' X 80° 41.488897'), Nutter Fork (39° 20.03114' X 80° 45.65182'), Waldo Run (39° 17.93157' X 80° 39.07498'), the UNT of Waldo Run (39° 17.80282' X 80° 39.28829') and the UNT of Nutter Fork (39° 20.08691' X 80° 45.60547').
- n. 47CSR2 Section 3.2.b - Rover Pipeline LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of streams at the following seventeen (17) distinct locations: the UNT of Waldo Run (39° 17.65687' X 80° 39.47635'), the UNT of Buckeye Run (39° 17.07266' X 80° 40.51050'), the UNT of Buckeye Run (39° 17.06270' X 80° 40.53883'), the UNT of Buckeye Creek (39° 16.36637' X 80° 41.73456'), Morgans Run (39° 17.17132' X 80° 41.45164'), the UNT of Jockeycamp Run (39° 18.118' X 80° 43.15'), the UNT of Jockeycamp Run (39° 18.31712' X 80° 43.40729'), the UNT of Rock Run (39° 19.07200 X 80° 44.33900'), the UNT of Rock Run (39° 19.074' X 80° 44.43'), the UNT of Rock Run (39° 19.10530' X 80° 44.45786'),

Piggin Run (39° 19.44728' X 80° 44.96629'), the UNT of Camp Mistake ( 39° 21.338' X 80° 47.119'), the UNT of Nutter Fork (39° 19.88077' X 80° 45.47028'), the UNT of Wolfepen Run (39° 20.654 X 80° 46.109'), Waldo Run (39° 17.93157' X 80° 39.07498'), the UNT of Waldo Run (39° 17.80282' X 80° 39.28829') and the UNT of Nutter Fork (39° 20.08691' X 80° 45.60547').

As a result of the aforementioned violations, NOV No. W18-09-013-TJC was issued to Rover Pipeline LLC.

12. On February 21, 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 B – The Permittee failed to comply with the approved SWPPP. Several erosion control devices were not in place as detailed by the SWPPP.
- b. Section G.4.e.2 – The Permittee failed to properly implement controls at mile marker 828.
- c. Section G.4.e.2.D – The Permittee failed to inspect all erosion controls once every seven (7) days for actively disturbed areas.
- d. Section D.1 – The Permittee failed to operate and maintain all erosion control devices. Specifically, water bars, perimeter controls, and sumps at the terminus of water bars were not properly operated and maintained.
- e. Section G.4.e.2.A.i.b – The Permittee failed to provide interim stabilization on areas where construction activities had temporarily ceased for more than twenty-one (21) days. The project had been winterized in late October and December, and there had not been reseeding or mulching since that time.
- f. Section G.4.e.2.A.ii.k – The Permittee used straw bales, which are not an acceptable BMP.
- g. Section G.4.e.2.A.ii.j – The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment-laden water left the site via multiple unmaintained erosion and sediment control devices and slip areas on Conway Run, Purgatory Run, Jefferson Run, and Wick Run Road.
- h. Section F.2.a – The Permittee failed to immediately report any noncompliance which may have endangered the environment. Specifically, the Permittee failed to report either of the slips on the UT of Purgatory Run.
- i. 47CSR2 Sections 3.2.a and 3.2.b – The Permittee caused conditions not allowable in waters of the State by creating distinctly visible settleable solids and sediment deposits in streams at the three (3) following distinct locations: UT of Jefferson Run (39.391588, -80.8311717); UT of Purgatory Run (39.40901, -80.87061); and UT of Purgatory Run (39.40957, -80.87251).

As a result of the aforementioned violations, NOV No. W18-48-019-RDD was issued to Rover Pipeline LLC.

13. On February 27, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, the following violations of the permit were observed and documented:

- a. Section G.4.e.2.D – The Permittee failed to inspect all erosion controls once every seven (7) days for actively disturbed areas.
- b. Section D.1 – The Permittee failed to properly operate and maintain all systems of treatment and controls. Specifically, sumps at the terminus of water bars were overwhelmed with sediment and were in need of maintenance.
- c. Section G.4.e.2.A.ii.j – The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment-laden water was leaving the site on the Dutch Run, Porter Hill, Smith Ridge and Middle Island Creek HD sites.

As a result of the aforementioned violations, NOV No. W18-48-020-RDD was issued to Rover Pipeline LLC.

14. On March 7, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, the following violations of WV Legislative Rules and the permit were observed and documented:

- a. Section B – The Permittee failed to comply with the approved SWPPP. Several erosion control devices were not in place as detailed by the SWPPP. Perimeter controls were removed prior to achieving stabilization in the UNT of Nutter Fork and Tar 9 areas. Perimeter controls were not present on the slip repair area on the UNT of Nutter Fork and Morgans Run.
- b. Section G.4.e.2.A.ii.j – The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Specifically, sediment-laden water was leaving the site from the UNT of Nutter Fork drainage area due to a lack of perimeter controls, poor maintenance, and a lack of controls on a slip that was previously observed by WVDEP personnel on February 21, 2018.
- c. Section D.1 – The Permittee failed to operate and maintain all erosion control devices. Specifically, perimeter controls adjacent to the UNT of Nutter Fork were in need of maintenance.
- d. G.4.e.2.A.ii.f - Rover Pipeline LLC failed to protect fill slopes. Concentrated flow was directed over fill slopes in the UNT of Nutter Fork watershed.
- e. 47CSR2 Section 3.2.b - Rover Pipeline LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of the UNT of Nutter Fork (39° 19.88077'X 80° 45.47028').

As a result of the aforementioned violations, NOV No. W18-09-025-TJC was issued to Rover Pipeline LLC.

15. On March 8, 2018, WVDEP personnel met with representatives of Rover Pipeline LLC to discuss the terms and conditions of the Order.

16. On April 18 and 24, 2018, WVDEP personnel conducted inspections of the facility. During the inspections, the following violations of WV Legislative Rules and the permit were observed and documented:

- a. Section D.1 – The Permittee failed to operate and maintain all erosion control devices. Specifically, perimeter controls near the UT of Purgatory Run were in need of repair. Perimeter controls and water bars were also in need of maintenance in the area adjacent to the UNT of Buckeye Run.
- b. G.4.e.2.A.ii.f - Rover Pipeline LLC failed to protect fill slopes. Specifically, concentrated flow was directed over fill slopes in the UNT of Buckeye Run watershed.
- c. Section G.4.e.2.A.ii.j – The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Specifically, sediment-laden water was leaving the site from Station Marker 826 into Purgatory Run and from the Jefferson Run area into Jefferson Run. Sediment-laden water was also leaving the site from the UNT of Buckeye Run drainage area due to a lack of proper BMP maintenance.
- d. 47CSR2 Section 3.2.b - Rover Pipeline LLC caused conditions not allowable in waters of the State by creating sediment deposits on the bottom of Jefferson Run, the UT of Purgatory Run, and the UNT of Buckeye Run.

As a result of the aforementioned violations, NOV Nos. W17-48-024-RDD and W18-09-041-TJC were issued to Rover Pipeline LLC.

17. On April 19, 2018, WVDEP personnel met with representatives of Rover Pipeline LLC to discuss the terms and conditions of the revised Order.

### **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. Rover Pipeline LLC shall immediately take all measures to initiate compliance with all terms and conditions of its permit and pertinent laws and rules.
2. Because of Rover Pipeline LLC's Legislative Rule and permit violations, Rover Pipeline LLC shall be assessed a civil administrative penalty of four hundred thirty thousand thirty dollars (\$430,030) 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. Rover Pipeline LLC 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, Rover Pipeline LLC 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, Rover Pipeline LLC 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 Rover Pipeline LLC 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, Rover Pipeline LLC 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 Rover Pipeline LLC becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Rover Pipeline LLC 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 Rover Pipeline LLC 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 Rover Pipeline LLC (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 Rover Pipeline LLC 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 Rover Pipeline LLC 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 Rover Pipeline LLC, its successors and assigns.

7. This Order shall terminate upon Rover Pipeline LLC's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Michael Futch  
Rover Pipeline LLC

06/01/2018

Date

Public Notice begin:

Date

Public Notice end:

Date

\_\_\_\_\_  
Scott G. Mandirola, Director  
Division of Water and Waste Management

\_\_\_\_\_  
Date

## Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Rover Pipeline, LLC Receiving Stream: \_\_\_\_\_

Treatment System Design Maximum Flow: \_\_\_\_\_ MGD

Treatment System Actual Average Flow: \_\_\_\_\_ MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#															
			2a,3a,4a,5a,7e,8d,9d,10a,11a,12i	2b	2c	2d	2e	3b	3c	3d	3e	4b,5c,7c,10b,11e,12b	4c,5d,7a,8a,9a,10e,11d,12d,13b	4d,5e,7d,8c,9c,11a,12a	5b,7f,8e,9e,11m			
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	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	1	1	1	1	1	1
c)	Sensitivity of the Environment	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
d)	Length of Time	1 to 3	1	1	1	1	1	2	2	2	2	3	3	3	3	3	3	1
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Average Potential for Harm Factor			1	1	1	1	1	1.2	1.2	1.2	1.2	1.4	1.4	1.4	1.4	1.4	1.4	1
2)	Extent of Deviation Factor	Factor Range																
	Degree of Non-Compliance	1 to 3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3

**Potential for Harm Factors:**

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

**Examples/Guidance:**

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly, >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.



		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
2a,3a,4a,5a,7e,8d,9d, 10a, 11n, 12i	Minor	Major	\$2,000	71	\$142,000
2b	Minor	Major	\$2,000	1	\$2,000
2c	Minor	Major	\$2,000	1	\$2,000
2d	Minor	Major	\$2,000	1	\$2,000
2e	Minor	Major	\$2,000	1	\$2,000
3b	Moderate	Major	\$4,200	1	\$4,200
3c	Moderate	Major	\$4,200	1	\$4,200
3d	Moderate	Major	\$4,200	1	\$4,200
3e	Moderate	Major	\$4,200	1	\$4,200
4b, 5c, 7c, 10b, 11e, 12b	Moderate	Major	\$4,400	6	\$26,400
4c, 5d, 7a, 8a, 9a, 10e, 11d, 12d, 13b	Moderate	Major	\$4,400	9	\$39,600
4d, 5e, 7d, 8c, 9c, 11a, 12a	Moderate	Major	\$4,400	7	\$30,800
5b,7f, 8e,9e, 11m	Minor	Major	\$2,000	19	\$38,000
5g	Minor	Major	\$2,000	1	\$2,000
5h	Minor	Major	\$2,000	1	\$2,000
10d	Moderate	Major	\$4,200	1	\$4,200
10f	Minor	Major	\$2,000	1	\$2,000
11c	Minor	Major	\$2,000	1	\$2,000
11f, 12f	Moderate	Major	\$4,200	2	\$8,400
11g	Moderate	Major	\$4,200	1	\$4,200
11h	Moderate	Major	\$4,200	1	\$4,200
11i	Minor	Major	\$2,000	1	\$2,000
11j	Minor	Major	\$2,000	1	\$2,000
11k, 12h	Minor	Major	\$1,700	2	\$3,400
12c, 13a	Minor	Major	\$2,000	2	\$4,000
12e	Minor	Major	\$2,000	1	\$2,000
<b>Total Base Penalty</b>					<b>\$344,000</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		\$34,400
6.2.b.4 - Compliance/noncompliance history -	25		\$86,000
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)			\$0
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)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease			\$0
6.2.b.3 - Cooperation with the Secretary		10	(\$34,400)
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>\$86,030</b>
<b>Penalty =</b>			<b>\$430,030</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: Economic benefit considered, but not applied</b>	