



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

SEP 29 2011

Ref: 8ENF-W

CERTIFIED MAIL #7009 3410 0000 2597 6292
RETURN RECEIPT REQUESTED

W. King Grant
CEO, President and Director
Gasco Energy, Inc.
8 Inverness Drive, Suite 100
Englewood, CO 80112

CERTIFIED MAIL #7009 3410 0000 2594 6073
RETURN RECEIPT REQUESTED

Team 1 Vinnola/CT CORP.
Registered Agent for Gasco Energy, Inc.
1675 Broadway
Denver, CO 80202

Re: Gasco Energy, Inc.
Findings of Violation and Administrative
Order for Compliance,
Docket No. **CWA-08-2011-0038**

Dear Mr. Grant and Team 1 Vinnola/CT CORP:

Based on our review of all available information, the United States Environmental Protection Agency ("EPA") has determined that Gasco Energy, Inc. ("Gasco") is in violation of section 301 of the Clean Water Act, as amended ("CWA"), 33 U.S.C. § 1311. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into waters of the United States except as in compliance with, among other things, section 404 of the CWA, 33 U.S.C. § 1344. Waters of the United States include both surface waters and wetlands as defined by 40 C.F.R. § 122.2 and 33 C.F.R. § 328.3.

Specifically, the EPA has determined that Gasco and/or persons acting on its behalf discharged dredged and/or fill material into waters of the United States without authorization under the CWA. These discharges of pollutants into wetlands adjacent to the Green River occurred on property owned, leased, controlled and/or operated by Gasco. The property is located in sections 14 and 23, Township 9 South, Range 19 East, Uintah County, Utah, and lies in the west flood plain of, and includes wetlands adjacent to, the Green River.

Enclosed please find a document entitled "Findings of Violation and Administrative Order for Compliance" ("Order"), which specifies the nature of the violations and describes actions necessary in



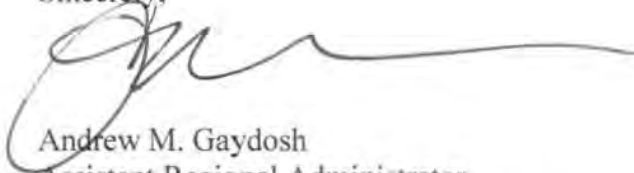
order for Gasco to achieve compliance with the CWA. Pursuant to this Order, within twenty-one (21) days after your receipt of this Order, Gasco must inform the EPA in writing of its intent to fully comply with the Order. The EPA's authority for such action is provided under section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3).

The CWA requires the Administrator of the EPA to take all appropriate enforcement action necessary to secure prompt compliance with the CWA and any order issued thereunder. Section 309 of the CWA, 33 U.S.C. § 1319, authorizes a variety of possible enforcement actions, including filing of a civil or criminal action, administrative penalty action and/or debarment from Federal contracts and/or loans for any noncompliance with the CWA or an order issued pursuant to the CWA. Please be advised that failure to comply with the requirements of the Order is a violation of that Order and may be enforced through the mechanisms referenced above. Please also be advised that the issuance of this Order does not preclude civil or criminal actions in U.S. District Court pursuant to sections 309(b) or (c) of the CWA, 33 U.S.C. §§ 1319(b) or (c), or assessment of civil penalties pursuant to sections 309(d) or (g) of the CWA, 33 U.S.C. §§ 1319(d) or (g), for the violations cited in the Order or for any other violations that Gasco may have committed prior to, or may commit after, the issuance of the enclosed Order.

The EPA has agreed to notify small businesses of their right to comment on regulatory enforcement activities at the time of an EPA enforcement activity, pursuant to the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). SBREFA does not eliminate Gasco's responsibility to comply with the Act or the Order, nor does it create any new rights or defenses under law. We have enclosed a SBREFA information sheet containing further information on compliance assistance resources and tools available to small businesses. Also enclosed is a Securities and Exchange Commission (SEC) Disclosure Notice.

Please review the Order carefully. If you have any questions, the most knowledgeable people on my staff are Sheldon Muller, Senior Enforcement Attorney, at 303-312-6916, and Monica Heimdal, Enforcement Officer, at 303-312-6359.

Sincerely,



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Enclosures

1. Findings of Violation and Administrative Order for Compliance
2. SBREFA Information Sheet
3. SEC Disclosure Notice

cc: Tina Artemis, EPA, 8RC, Regional Hearing Clerk, w/enclosures
Michael K. Decker, Gasco Energy, Inc.
Jason Gipson, U.S. Army Corps of Engineers, w/enclosures
Sue Bachini Nall, U.S. Army Corps of Engineers, w/enclosures



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 SEP 29 PM 12: 35

FILED
EPA REGION VIII
DENVER, CO

IN THE MATTER OF)

Gasco Energy, Inc.)
8 Inverness Drive, Suite 100)
Englewood, CO 80112-5625)

Respondent.)
_____)

**FINDINGS OF VIOLATION
AND ADMINISTRATIVE
ORDER FOR COMPLIANCE**

Docket No. CWA-08-2011-0038

I. STATUTORY AUTHORITY

1. This Findings of Violation and Administrative Order for Compliance ("Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by sections 308 and 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1318 and 1319(a). This authority has been properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8. The Order is based on the following findings of violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), which prohibits the discharge of pollutants into waters of the United States except as in compliance with, among other things, section 404 of the CWA, 33 U.S.C. § 1344.

II. FINDINGS OF VIOLATION

2. Respondent Gasco Energy, Inc. ("Gasco") is a corporation organized under the laws of the State of Nevada. Gasco's CEO, president, and one of the company's directors, is W. King Grant. The name and address of Gasco's registered agent is Team 1 Vinnola/CT CORP., 1675 Broadway, Denver, CO 80202. Gasco's principal office is located at 8 Inverness Drive, Suite 100, Englewood, CO 80112.

3. At all relevant times, Respondent owned, leased, controlled and/or operated property located in sections 14 and 23, Township 9 South, Range 19 East, Uintah County, Utah (“Site”). The property lies in the west flood plain of, and includes wetlands adjacent to, the Green River.

4. The Green River is, and was at all relevant times, a navigable, interstate water.

5. Beginning sometime in late 2004 or early 2005, Respondent and/or persons acting on its behalf, constructed an access road to a future well location at the Site that resulted in the discharge of dredged and/or fill material to wetlands adjacent to the Green River. The well location is referred to by Respondent as #24-14.

6. Beginning sometime in late 2007 or early 2008, Respondent and/or persons acting on its behalf, constructed an access road and well pad at the Site that resulted in the discharge of dredged and/or fill material to wetlands adjacent to the Green River. The well location is referred to by Respondent as #12-23.

7. On February 29, 2008, the United States Army Corps of Engineers (“Corps”) conducted an inspection of the Site after receiving a complaint regarding well activities being conducted by Gasco in the Green River flood plain. The Corps conducted subsequent inspections of the Site on June 2, 2008, June 20, 2008, and July 9, 2008. The Corps found, and the EPA through issuance of this Order finds, that Respondent and/or persons acting on its behalf discharged dredged and/or fill material into wetlands adjacent to the Green River in conjunction with Respondent’s construction of two oil and gas wells. The Corps estimated that unauthorized fill was discharged to at least 2.20 acres of wetlands during construction of an access road and well pad for the well location referred to by Respondent as #12-23. In addition, the Corps

estimated that unauthorized fill was discharged to at least 0.08 acre of wetlands during construction of an access road for the well location referred to by Respondent as #24-14.

8. In a letter to Respondent, dated October 28, 2008, the Corps found, and the EPA through issuance of this Order finds, that Respondent's activities, as described in paragraphs 5 and 6 of this Order, required prior authorization from the Corps and that the required authorization had not been sought or granted. Further, the Corps directed Respondent to "cease and desist" any further unauthorized work at the Site.

9. The activities described in paragraphs 5 and 6 of this Order were performed using common earthmoving vehicles and equipment, all of which were operated by Respondent and/or by persons acting on its behalf.

10. Respondent is a "person" within the meaning of section 502(5) of the CWA, 33 U.S.C. § 1362(5).

11. The discharged dredged or fill material referenced above is and was at all relevant times "dredged material" and/or "fill material" within the meaning of 33 C.F.R. § 323.2(c) and 33 C.F.R. § 323.2(e), respectively, and "pollutants" within the meaning of section 502(6) of the CWA, 33 U.S.C. § 1362(6).

12. The Green River and its adjacent wetlands filled and disturbed by Respondent's unauthorized activities provided various functions and values including aquatic and wildlife habitat, water quality enhancement, flood attenuation, and aesthetics.

13. The Green River is part of the Upper Colorado River Endangered Fish Recovery Program, established in 1988 to protect the Colorado Pikeminnow, Humpback Chub, Razorback

Sucker, and Bonytail, all of which are classified by the United States Fish and Wildlife Service as endangered species.

14. The vehicles and equipment described in paragraphs 5 and 6 of this Order are and were at all relevant times each a “point source” within the meaning of section 502(14) of the CWA, 33 U.S.C.

§ 1362(14).

15. The Green River and its adjacent wetlands referenced above are and were at all relevant times “waters of the United States” within the meaning of 33 C.F.R. § 328.3(a) and therefore “navigable waters” within the meaning of section 502(7) of the CWA, 33 U.S.C. § 1362(7).

16. The placement of dredged or fill material into wetlands adjacent to the Green River constitutes the “discharge of pollutants” within the meaning of section 502(12) of the CWA, 33 U.S.C.

§ 1362(12).

17. Section 301(a) of the CWA, 33 U.S.C. § 1311, prohibits the discharge of pollutants by any person into waters of the United States except as in compliance with, among other things, section 404 of the CWA, 33 U.S.C. § 1344.

18. Section 404 of the CWA, 33 U.S.C. § 1344, sets forth a permitting system authorizing the Secretary of the Army, acting through the Chief of Engineers of the Corps, to issue permits for the discharge of dredged or fill material into navigable waters which are defined as waters of the United States.

19. 33 C.F.R. § 323.3(a) specifies that, unless exempted pursuant to 33 C.F.R. § 323.4, a permit issued by the Corps is required for the discharge of dredged or fill material into waters of the United States.

20. Respondent is not and never has been authorized by a permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, to conduct any of the activities described in paragraphs 5 and 6 of this Order.

21. The activities conducted by Respondent and/or by persons acting on its behalf as described in paragraphs 5 and 6 of this Order violate section 301 of the CWA, 33 U.S.C. § 1311. Each discharge of pollutants from a point source by Respondent into waters of the United States without the required permits issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344, constitutes a violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a). Each day the discharges remain in place without the required permits constitutes an additional day of violation of section 301(a).

22. Activities to be carried out under this Order are remedial, not punitive, and are necessary to achieve the CWA's objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," as specified in section 101(a) of the CWA, 33 U.S.C. § 1251(a). The removal of dredged and/or fill material and restoration of wetlands described in paragraph 29 of this Order are appropriate to alleviate actual and potential harm to water quality, aquatic habitat and wildlife habitat caused by Respondent's unpermitted activities.

23. This Order was issued after consultation and coordination with the Colorado West Regulatory Branch of the Corps' Sacramento District.

III. ORDER FOR COMPLIANCE

24. Based upon the foregoing FINDINGS OF VIOLATION, and pursuant to the authority vested in the Administrator of the EPA pursuant to sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED:

25. Respondent shall immediately terminate all unauthorized discharges of dredged or fill material, now and in the future, into waters of the United States, unless specifically authorized by the Corps under a valid permit issued pursuant to section 404 of the CWA, 33 U.S.C. § 1344. This prohibition includes all mechanical land clearing, dredging, filling, grading, leveling, installation of utilities, construction and any other activities that result in a discharge of dredged or fill material into waters of the United States.

26. Within twenty-one (21) calendar days of receipt of this Order, Respondent shall inform the EPA in writing of its intent to fully comply with the Order. If Respondent has concerns or questions about the requirements of the Order, the EPA requests that Respondent schedule a meeting and/or conference call with the EPA within fourteen (14) calendar days of receipt of this Order to discuss these concerns or questions. The scheduling of such a meeting and/or conference call shall not alter Respondent's responsibility to meet any of the deadlines specified in this Order unless otherwise clearly stated in a written communication to Respondent by the EPA.

27. Upon EPA approval of the Restoration Plan required by paragraph 29 of this Order, Respondent shall remove all dredged or fill material that was discharged as a result of the

violations identified in this Order and restore the impacted wetlands at the Site to their pre-impact condition and grade, unless otherwise approved by the EPA in the Restoration Plan.

28. All dredged or fill material removal and restoration activities shall be conducted in accordance with an EPA-approved Restoration Plan prepared by a consultant experienced in wetland restoration. The consultant also shall directly supervise all work performed pursuant to the EPA-approved Restoration Plan. A statement of the consultant's qualifications, including professional resume and business references, shall be submitted to the EPA within twenty-eight (28) calendar days of receipt of this Order.

29. Within sixty (60) calendar days of receipt of this Order, Respondent shall submit to the EPA for review, comment and approval a Restoration Plan, prepared by the consultant referenced in paragraph 28 of this Order, providing for the: (1) removal of all dredged and/or fill material that was discharged into wetlands at the Site; and (2) restoration, to their pre-impact configuration and grade, of the wetlands that were impacted as a result of Respondent's unauthorized discharges of dredged and/or fill material at the Site.

30. The Restoration Plan shall be prepared in accordance with "U.S. Environmental Protection Agency - Region VIII Section 404 Enforcement: General Guidelines for Removal and Restoration Plans," attached hereto as Exhibit A, and with the guidelines referenced in section 404(b)(1) of the CWA, 33 U.S.C. § 1344(b)(1), and set forth in 40 C.F.R. Part 230. In addition, the Restoration Plan shall include:

- a. A detailed work plan and schedule for completion of all of the work and activities identified by the Restoration Plan, including the application for any required permits, providing for completion of all aspects of the

restoration work no later than six (6) months after the EPA approves the Restoration Plan;

- b. Locations of the existing natural features and man-made improvements, including all surface disturbance, fills, channel excavations, road crossings, culverts, structures and any other work, including a corresponding map (scale 1":100') of these locations;
- c. Grading, planting and monitoring plans, measurable criteria for success of restoration or mitigation and provisions for proper disposal of any excess soils or other materials generated during construction and/or restoration;
- d. Detailed professional drawings of all of the work to be accomplished by the Restoration Plan, including plan and profile drawings with control elevations; and
- e. A description of all costs to prepare and implement the Restoration Plan, including the costs of all consultations, permits, construction, monitoring, land acquisition, etc.

31. The EPA will review the Restoration Plan and approve it, approve it with modifications or reject it with comments. If the EPA rejects the Restoration Plan, Respondent shall, within thirty (30) calendar days of receipt of the EPA's rejection letter, submit a revised plan that corrects the deficiencies identified by the EPA.

32. Upon receiving the EPA's written approval of the Restoration Plan, Respondent shall obtain all necessary permits to implement the EPA-approved plan and then commence all restoration activities in accordance with the approved plan, including the time frames specified therein, and all granted permits. Respondent shall demonstrate that all necessary permits have

been granted by providing complete copies of all such permits, and any amendments thereto, to the EPA within seven (7) calendar days of issuance of each permit.

33. This Order is not a permit or an authorization to place or discharge dredged or fill material in waters of the United States. Respondent shall consult with the Corps at the address and telephone number below to determine if any work to be performed pursuant to this Order requires a permit from the Corps under section 404 of the CWA. If any such permit is required, Respondent shall obtain such permit(s) and provide a copy or copies to the EPA pursuant to paragraphs 32 and 34 of this Order prior to initiating any work that is to be performed pursuant to this Order.

U.S. Army Corps of Engineers
Colorado West Regulatory Branch
400 Rood Avenue, Room 142
Grand Junction, CO 81501-2563
Telephone: 970-243-1199
Facsimile: 970-241-2358

34. Respondent shall submit two (2) hard copies of the Restoration Plan, one (1) electronic copy of the Restoration Plan, all notifications and related correspondence to:

Monica Heimdal, 8ENF-W
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Telephone: 303-312-6359
Facsimile: 303-312-7518
heimdal.monica@epa.gov

A hard copy and electronic copy of the Restoration Plan, all notifications and related correspondence also shall be provided to:

Sheldon Muller, 8ENF-L
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
Telephone: 303-312-6916

Facsimile: 303-312-6953
muller.sheldon@epa.gov

A hard copy and electronic copy of the Restoration Plan also shall be provided to the Corps at the address noted in paragraph 33 of this Order.

35. In addition to the notification requirements set forth in paragraph 34 of this Order, after issuance of any Corps authorization for the restoration work, Respondent shall submit all notifications and correspondence to the Corps in accordance with the terms and conditions in the Corps permit.

36. All plans (including, but not limited to, the Restoration Plan), deliverables, reports, specifications, schedules and attachments required by this Order are, upon approval by the EPA, incorporated into this Order. Any non-compliance with such EPA-approved plans, deliverables, reports, specifications, schedules or attachments shall be deemed a failure to comply with this Order and subject to EPA enforcement.

37. If Respondent leases, subleases or transfers control and/or ownership of any property, in whole or in part, where work is to be performed pursuant to the Restoration Plan before it has fulfilled its obligations under this Order, Respondent shall provide a copy of this Order and the EPA-approved Restoration Plan to the lessee, sublessee or transferee not less than thirty (30) calendar days prior to the lease, sublease or transfer. A lease, sublease or transfer of such property interest shall not relieve Respondent of any responsibility in the Order unless the EPA, Respondent and the lessee, sublessee or transferee agree in writing to allow the lessee, sublessee or transferee to assume such responsibility. Additionally, at least thirty (30) calendar days prior to such lease, sublease or transfer, Respondent shall notify the EPA regarding the details of the lease, sublease, or transfer at the addresses specified in paragraph 34 of this Order.

38. Respondent shall allow, or use its best efforts to allow, access by any authorized representatives of the EPA, the Corps, the Colorado Department of Public Health and Environment, the Colorado Division of Wildlife, the Natural Resources Conservation Service, the U.S. Fish and Wildlife Service or any of the agencies' contractors, upon proper presentation of credentials, to sites and records relevant to this Order for any of the following purposes:

- a. To inspect and monitor progress of the activities required by this Order;
- b. To inspect and monitor compliance with this Order; and
- c. To verify and evaluate data and other information submitted to the EPA.

39. This Order shall in no way limit or otherwise affect the EPA's authority, or the authority of any other governmental agency, to enter the Site, conduct inspections, have access to records, issue notices and orders for enforcement, compliance or abatement purposes or monitor compliance pursuant to any statute, regulation, permit or court order.

40. This Order shall be effective upon receipt by Respondent.


41. Please be advised that section 309(d) of the CWA, 33 U.S.C. § 1319(d), authorizes civil penalties of up to \$32,500 per day for each violation of section 301 of the CWA, 33 U.S.C. § 1311, that occurred after March 15, 2004, through January 12, 2009, and \$37,500 per day for each violation thereafter and for each violation of an order issued by the Administrator of the EPA under section 309(a) of the CWA, 33 U.S.C. § 1319(a), including this Order. Additionally, section 309(g) of the CWA, 33 U.S.C. § 1319(g), authorizes the EPA to impose administrative penalties for violations of the CWA. Further, section 309(c) of the CWA, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations of the CWA.

42. Issuance of this Order shall not be deemed to be an election by the United States to forego any civil or criminal action to seek penalties, fines or other appropriate relief under the CWA for violations giving rise to the Order;

43. Compliance with the terms and conditions of the Order shall not be construed to relieve Respondent of its obligation to comply with any applicable Federal, state or local law or regulation.

44. Failure by Respondent to complete the tasks described herein in the manner and time frame specified pursuant to this Order may subject Respondent to a civil action under section 309 of the CWA, 33 U.S.C. § 1319, for violation of this Order.

DATED this 29th day of September, 2011.



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Appendix A

U. S. ENVIRONMENTAL PROTECTION AGENCY - REGION VIII

SECTION 404 ENFORCEMENT:

GENERAL GUIDELINES FOR REMOVAL AND RESTORATION PLANS

The following guidelines serve as general specifications for preparing removal and restoration plans to remediate the unpermitted filling of wetlands. As environmental conditions vary at every site, precise specifications will depend upon the environmental conditions peculiar to the site in question. The size of the wetland area to be restored, its biological and physical characteristics, and the level of disturbance the wetland has experienced will further define the scope and complexity of the restoration plan. In most cases, the types of information listed below represent the minimum required to formulate an acceptable removal and restoration plan. When these guidelines are incorporated into an EPA Administrative Order, the recipient of the Order should obtain the approval of EPA's technical representative on the case before departing from the general specifications outlined below.

I. Existing Physical Conditions

- A. A surveyed site plan depicting property boundaries, streets, buildings, waterbodies (with ordinary high water line indicated), wetlands, FEMA 100-year floodplain (if applicable), areas of unpermitted fill, elevation contours, and other ground surface features at a scale no greater than 1 inch = 40 feet. This plan shall include a cross-section view of the site which shows soil depths, fill depths, and average depth to groundwater across the site.
- B. A narrative description of existing physical conditions, including the area of the site; area of unpermitted fill; existing wetlands (including the types of vegetation); the soil types present (including the types of unpermitted fill present); the hydrologic regime of the site; and other relevant information.

II. Proposed Physical Conditions

- A. Using the site plan described in I.A. as a base, show the exact areas where remedial activities will occur (e.g., removal of fill, replacing dredged material into ditches, etc.). Indicate proposed finished grades, expected ordinary high water elevations, the location of proposed plantings/seedings, and the location of all sediment and erosion control structures (e.g., hay bales, silt screens, etc.). This plan shall include a cross-section view of the site which shows proposed soil depths and average depth to groundwater across the site.
- B. Provide a narrative description of the remedial work to occur, including the methods and equipment to be employed; how the equipment will gain access to the site to perform the work; the location of the ultimate disposal site for any removed fill; how the work will progress across the site; a listing of the plant species to be seeded/planted at the site; the sources of the plant material (note: as a rule, transplanting of plant stock will not be permitted); the planting method(s) and scheme (i.e., physical layout of how plant material will be installed); any methods to be used to minimize adverse impacts while remedial work is underway; the expected hydrologic regime of the site in its restored condition; and other relevant information.
- C. Delineate the area(s) on the site to be restored by installation of flagging, sedimentation and erosion control structures, or other appropriate method; this delineation shall represent the limit of construction activities such that no work shall occur beyond these boundaries.

III. Actual Restored Physical Conditions

- A. Using the site plan described in I.A. as a base, show the actual physical conditions at the site at the completion of grading activities (i.e., an "as-built" plan), including actual finished grades and all pertinent ground surface features. This plan shall include a cross-section view of the site which shows actual soil depths and average depth to groundwater across the site. This as-built plan shall be prepared and submitted prior to planting/seedling activities.

IV. Monitoring/Measures of Success

- A. Normally, monitoring shall be performed midway through and near the end of the first and second growing seasons, then annually near the end of each successive growing season for the duration of the required monitoring period. Monitoring shall be performed for a period of three to five years, depending upon the scope and complexity of the remedial efforts required.
- B. A monitoring plan shall incorporate a simple statistical approach to assessing relative success or failure of restoration efforts (e.g., transects with sampling stations for measuring parameters such as percent areal cover in each vegetative stratum). A permanent photographic record shall be included as part of the monitoring plan.
- C. Depending upon the scope and complexity of the remedial efforts, general criteria to measure success shall be determined by EPA. These criteria shall be directly related to reestablishing the structural components of the aquatic ecosystem being restored. A general provision shall be included to allow for corrective action to be taken, at the direction of EPA, should monitoring show that criteria for success are not being met.
- D. A report shall be prepared and submitted after each monitoring event which describes the environmental conditions at the site and assesses relative success or failure of restoration efforts. This report shall include photographic evidence as well. This report shall identify any problems discovered and recommend appropriate corrective action to ensure the success of restoration.

V. Inspections

- A. The plan shall provide for inspections by EPA personnel after installation of all sedimentation and erosion control structures, after completion of grading activities, after completion of initial planting/seeding activities, and after monitoring indicates that the criteria for success have been attained.

VI. Schedule

- A. A comprehensive schedule integrating all removal, restoration, inspection, and monitoring activities as well as report/product submissions shall be included.

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel in the SEC's Division of Corporation Finance. The phone number is (202) 942-2900.