



REGION 3

PHILADELPHIA, PA 19103

January 14, 2025

VIA UPS & EMAIL

David Rapp
3542 Auto Road
Renick, West Virginia 24966
c/o brapp@whitefordlaw.com

**Re: In the Matter of David Rapp
Unilateral Administrative Order for Compliance, Docket No. CWA-03-2025-0023DW**

Dear Mr. Rapp:

Enclosed please find a true and correct copy of the ***Unilateral Administrative Order for Compliance ("UAO")***, which was filed with the U.S. Environmental Protection Agency, Region 3 (the "EPA") Regional Hearing Clerk on the date that has been electronically stamped on the UAO.

The EPA is issuing this UAO to you under the authority of Section 309(a) of the CWA, 33 U.S.C. § 1319(a), for violations at the property located at approximately 37.943459° N, -80.319624° W; on Pumpkin Center Road near the intersection with Pineland Drive in Greenbrier County, West Virginia (the "Site"). The UAO requires you to complete the following:

- (1) Cease and desist all discharges to waters of the United States at the Site, including filling, clearing, and grading, except in compliance with a CWA Section 404 or 402 permit, or in accordance with the plans submitted and approved pursuant to the UAO.
- (2) Within 90 calendar days of the Effective Date of the UAO, submit via email a detailed "Restoration Plan" developed by a qualified professional trained in wetland and stream restoration work, for the EPA's review and approval. The Restoration Plan shall:
 - (a) Include a written description of the actions to be taken to remove the fill material, including asphalt, and restore the waters of the United States depicted in Exhibit A (Site Map) of the UAO.
 - (b) Include a description of the proposal to return the impacted tributaries and wetlands to approximately original grade, extent, and condition.

- (c) Account for permanent stabilization of the Site in a manner consistent with its use as intended.
 - (d) Include a planting plan to revegetate the wetlands and riparian buffers once the fill material is removed that utilizes species native to West Virginia and includes a seed mix and woody vegetation.
 - (e) Incorporate measurable, quantitative performance criteria for the: (i) growth and presence of planted woody vegetation and saplings; and (ii) stabilization of any stream bed within the restoration areas consistent with pre-disturbance conditions, utilizing appropriate reference standard(s) and comparable locations located in the immediate local area.
 - (f) Include provisions for post-restoration monitoring with an adaptive management plan designed to document the progress toward attainment of the performance criteria for a period of time consistent with the monitoring period provided in the UAO.
 - (g) Include a written description demonstrating that the stream crossings described in the UAO were constructed and maintained in accordance with best management practices to assure: (i) that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired; (ii) that the reach of the waters of the United States is not reduced; and (iii) that any adverse effect on the aquatic environment will otherwise be minimized, including that any material discharged during the construction and maintenance of these crossings consists of suitable material free from toxic pollutants in toxic amounts.
 - (h) Include a schedule for implementation of the Restoration Plan.
 - (i) Comply with all applicable erosion and sediment control measures while performing the tasks identified in subparagraphs 2(a) to 2(f).
- (3) Implement the restoration work identified in the Restoration Plan, as approved or modified by the EPA. All restoration work shall be completed consistent with the implementation schedule included in the Restoration Plan to be approved by the EPA.
- (4) Monitor the restoration areas at the Site for a period of five years to ensure the objective of restoring impacted aquatic resources, conduct monitoring events at the Site twice per year, once in the spring and once in the fall, and submit to the EPA a monitoring report.

You are invited to confer with the EPA about the findings and conclusions reflected in the UAO. Your request for a conference must be confirmed in writing via email within 10 calendar days of receipt of the UAO. Any conference between you and the EPA must occur no later than 20 calendar days after receipt of the UAO. If the requested conference is held, the UAO shall become effective 10 calendar days after the conference is held. If you do not request a meeting within 10 calendar days of receipt of

the UAO, you waive your right to a conference, and the UAO shall become effective 10 calendar days from its receipt.

Any request for a conference, or other inquiries concerning the UAO, should be made in writing to Katelyn Almeter at almeter.katelyn@epa.gov and Robert George at george.robert@epa.gov. Your attorney may contact Promy Tabassum at tabassum.promy@epa.gov.

Sincerely,

Regional Hearing Clerk
U.S. EPA, Region 3

Enclosures:

1. Unilateral Administrative Order for Compliance, Docket No. CWA-03-2025-0023DW

cc: Katelyn Almeter (almeter.katelyn@epa.gov)
Robert George (george.robert@epa.gov)
Promy Tabassum, Esq. (tabassum.promy@epa.gov)
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