

404/Clean Water Act Enforcement: United States/West Virginia and Glennville, West Virginia, Oil and Gas Company Enter into Consent Decree



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The United States Department of Justice and the State of West Virginia entered into a September 28th Consent Decree (“CD”) with Waco Oil and Gas Company, Inc. (“Waco”) addressing alleged violations of both the Clean Water Act and West Virginia Water Pollution Control Act.

The alleged violations are stated to be associated with the unauthorized discharged of dredged or fill material into waters of the United States in Braxton County, West Virginia.

A simultaneously filed Complaint alleged that beginning in approximately 2017 Waco discharged dredged or fill material into tributaries of Bear Run and adjacent wetlands. A discharge of dredged and fill is also stated to have occurred into tributaries of Cunningham Fork without the required federal or state permits.

The CD alleges that Waco violated Section 301(a) of the Clean Water Act and Section 8 of the West Virginia Water Pollution Control Act.

The real property previously referenced in the Complaint was identified as an approximate 392-acre plot of land (“Site”). The southern portion of the Site is stated to have included a flatbed adjacent to Route 19 set up against the steep slope climbing approximately 950 feet to a northern area that, after the unauthorized discharges alleged in the Complaint, Waco made into a second flat pad.

The Complaint had described alleged aquatic features at the Site that included relatively permanent tributaries identified as Bear Run and Cunningham Fork, unnamed relatively permanent tributaries to Bear Run and Cunningham Fork, as well as two wetlands abutting, and with a continuous surface connection to, a relatively permanent tributary to Bear run.

The CD asserts a civil penalty of \$825,000. Further, it requires that Waco perform certain restoration and mitigation projects pursuant to a milestone schedule.

A copy of the CD can be downloaded [here](#).