The company will also pay a civil penalty of $2.3 million for violations of Section 404 of the Clean Water Act (CWA), which prohibits the filling or damming of wetlands, rivers, streams, and other waters of the United States without a permit from the U.S. Army Corps of Engineers (Corps). The settlement resolves alleged violations of state law asserted by the West Virginia Department of Environmental Protection (WVDEP). The state of West Virginia is a co-plaintiff in the settlement and will receive half of the $2.3 million civil penalty.

“American communities expect EPA and our state partners to make sure energy development is done responsibly,” said Cynthia Giles, assistant administrator of EPA's Office of Enforcement and Compliance Assurance. “This case will help to protect clean water in West Virginia, and support a level playing field for energy developers that play by the rules.”

The federal government and the WVDEP allege that the company impacted streams and discharged sand, dirt, rocks and other fill material into streams and wetlands without a federal permit in order to construct well pads, road crossings, freshwater pits, and other facilities related to natural gas extraction. Today’s settlement resolves the alleged violations that occurred at eight sites located in the West Virginia counties of Harrison, Marion and Upshur. The federal government and WVDEP allege that the violations impacted more than 5,300 linear feet of stream, and 3.38 acres of wetlands.

The settlement requires the company to fully restore the wetlands and streams wherever feasible, monitor the restored sites to assure the success of the restoration, and implement a comprehensive compliance program to ensure future compliance with the CWA and applicable state law.

EPA discovered some of the violations through information provided by the state and through routine joint inspections conducted with the Corps, who actively supported EPA in this case. In addition, the company voluntarily disclosed potential violations at five of the sites following an internal audit. Beginning in 2011, EPA issued administrative compliance orders for violations at all eight sites. Since that time, the company has been working with EPA to correct the violations and restore those sites in full compliance with EPA’s orders.

In July 2013, the United States concluded a settlement with XTO to resolve an alleged violation of the Clean Water Act related to the discharge of wastewater from XTO’s Penn Township, Lycoming County, Pa., facility used for the storage of wastewater generated by hydraulic fracturing operations.

Ensuring energy extraction activities comply with environmental laws is one of EPA's National Enforcement Initiatives. Filling wetlands illegally and damming streams can result in serious environmental consequences. Streams, rivers, and wetlands benefit the environment by reducing flood risks, filtering pollutants, recharging groundwater and drinking water supplies, and providing food and habitat for aquatic species. Improving compliance with the Corps’ permit requirements and Clean Water Act regulations developed by EPA helps to prevent violations and environmental harm.

XTO engages in the exploration and production of natural gas in the Appalachian Basin. The company has Marcellus Shale holdings in Pennsylvania, New York, Ohio and West Virginia.

For more information about the permitting process under Section 404 of the Clean Water Act, visit http://water.epa.gov/lawsregs/guidance/cwa/dredgdis/.

The consent decree, lodged today in the Northern District of West Virginia, is subject to a 30-day public comment period and court approval.