

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**WEST VIRGINIA HIGHLANDS
CONSERVANCY, INC., WEST VIRGINIA
RIVERS COALITION, INC., and SIERRA
CLUB,**

Plaintiffs,

v.

Civil Action No. 2:11-cv-00524

**RANDY HUFFMAN, Secretary,
West Virginia Department of Environmental
Protection,**

Defendant.

CONSENT DECREE

A. WHEREAS, Defendant Randy C. Huffman, as Cabinet Secretary of the West Virginia Department of Environmental Protection (“WVDEP”), is required to utilize money from WVDEP’s Special Reclamation Fund to treat pollution discharges at coal mining sites in West Virginia where the bonds have been forfeited and the proceeds of those bonds are less than the actual cost of reclamation;

B. WHEREAS, WVDEP has operational responsibility to treat pollution discharges at numerous bond forfeiture sites in West Virginia where reclamation of mined areas has not been completed;

C. WHEREAS, WVDEP currently lacks West Virginia/National Pollutant Discharge Elimination System (“WV/NPDES”) permits for discharges from all but one of those bond forfeiture sites, and the discharges at many of these sites do not currently meet State water quality standards;

D. WHEREAS, WVDEP has not yet fully assessed and quantified the costs of installing,

operating and maintaining water treatment systems to meet State water quality standards at those bond forfeiture sites;

E. WHEREAS, Plaintiffs West Virginia Highlands Conservancy, Inc., West Virginia Rivers Coalition, Inc., and Sierra Club (collectively “Plaintiffs”) are environmental organizations which Plaintiffs contend have members alleged to be harmed by unpermitted discharges of pollutants that flow from bond forfeiture sites into West Virginia streams and that are not regulated by, or in compliance with, State water quality standards;

F. WHEREAS, Plaintiffs West Virginia Highlands Conservancy, Inc. and West Virginia Rivers Coalition, Inc., previously filed two civil actions against WVDEP regarding unpermitted discharges from eighteen (18) bond forfeiture sites located in the Northern District of West Virginia and three (3) bond forfeiture sites located in the Southern District of West Virginia, resulting in Court Orders directing WVDEP to obtain WV/NPDES permits for discharges from all twenty-one (21) of those sites, *see W. Va. Highlands Conservancy v. Huffman*, 588 F. Supp. 2d 0678 (N.D. W.Va. 2009), *aff’d*, 625 F.3d 159 (4th Cir. 2010), and *W. Va. Highlands Conservancy v. Huffman*, 651 F. Supp. 2d 512 (S.D. W. Va. 2009);

G. WHEREAS, Plaintiffs issued a letter providing notice of intent to sue to WVDEP on January 11, 2010 (“Notice”), notifying WVDEP of their intent to sue under 33 U.S.C. § 1365(b) regarding discharges from an additional one hundred thirty-one (131) bond forfeiture sites;

H. WHEREAS, WVDEP has operational responsibility, and lacks WV/NPDES permits, for the 131 bond forfeiture sites for which Plaintiffs notified WVDEP of their intent to sue, as well as for an additional forty (40) bond forfeiture sites that were not included in Plaintiffs’ Notice, for a total of eighty-nine (89) sites located in the Northern District and eighty-two (82) sites located in the Southern District, as identified in Attachment A to this Decree, as well as for

the twenty-one sites that were the subject of litigation and which are not listed in Attachment A;

I. WHEREAS, all WV/NPDES permits must conform to the State's numeric and narrative water quality standards and must impose water quality-based permit limits for any discharges that have a reasonable potential of causing or contributing to a violation of those standards;

J. WHEREAS, concurrent with the lodging of this Consent Decree, Plaintiffs have filed a Complaint against WVDEP in the United States District Court for the Northern District of West Virginia, as well as a Complaint against WVDEP in the United States District Court for the Southern District of West Virginia ("Complaints");

K. WHEREAS, Plaintiffs' Complaints allege that WVDEP is in violation of the Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. § 1251 *et seq.*, for discharging pollutants from point sources into waters of the United States in violation of Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311, 1342;

L. WHEREAS, WVDEP and Plaintiffs agree and the Court finds that this Consent Decree has been negotiated by the Parties in good faith; that the implementation of this Decree will avoid prolonged litigation among the Parties and will satisfy the Court Orders in the existing Northern and Southern District bond forfeiture cases; that this Decree represents a complete settlement of all allegations made and claims that were or could have been asserted in the Complaints based on the alleged facts; and that this Consent Decree is fair, reasonable, and in the public interest; and,

M. WHEREAS, the Parties, without the necessity of trial or adjudication of any issues of fact or law, consent to entry of this Consent Decree.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Parties and the subject matter of this Consent Decree under Section 505(a) of the Clean Water Act, 33 U.S.C. §1365(a).

2. Venue is appropriate in this District for the discharge sources located in this District pursuant to Section 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1). Those sites are identified by District in Attachment A filed with this Decree.

DEFINITIONS

3. Whenever the terms listed below are used in this Consent Decree, the following definitions shall apply.

4. "Sites" shall mean all bond forfeiture sites in West Virginia for which WVDEP is liable for water treatment, i.e., bond forfeiture sites permitted under the Surface Mining Control and Reclamation Act ("SMCRA") that are discharging water that contains pollutants in quantities that have the reasonable potential to cause or contribute to an exceedance of a State water quality standard. These Sites include, but are not limited to, the twenty-one (21) Sites in Paragraph F above and those listed in Attachment A.

5. "Parties" shall mean WVDEP and Plaintiffs, collectively.

6. "Plaintiffs" shall mean West Virginia Highlands Conservancy, Inc., West Virginia Rivers Coalition, Inc., and Sierra Club, collectively.

7. "WQBEL" shall mean an effluent limitation based on compliance with West Virginia numeric and narrative water quality standards and calculated using the reasonable potential analysis required by 40 C.F.R. § 122.44(d).

8. "WVDEP" shall mean Randy C. Huffman in his official capacity as Cabinet Secretary of the West Virginia Department of Environmental Protection.

APPLICABILITY

9. This Decree shall apply to and is binding on the Parties and all persons acting on their behalf.

INJUNCTIVE RELIEF

A. Site Inventory and Site Sampling

10. By August 15, 2011, WVDEP shall prepare a complete inventory of Sites. The inventory shall list the name and location of each Site and the flow and pollutant loading from each discharge point at each Site. WVDEP shall use existing sampling data or, where necessary, new sampling to determine the pollutant loading discharged from each Site on an annual basis.

11. By August 15, 2011, WVDEP shall also submit a copy of the Site Inventory and a summary of the sampling data to Plaintiffs.

B. Priority Ranking of Sites

12. By October 15, 2011, WVDEP shall prepare and submit to Plaintiffs a Priority Ranking of the Sites based on the annual pollutant loading discharged from each Site. The pollutant loading from each Site shall be expressed as the tons of acid, iron, manganese and aluminum discharged per year. In developing the Priority Ranking, WVDEP shall explain and justify any factors that it uses to assign priorities on a Site-specific or relative basis, including, but not limited to, the water quality of the receiving stream. WVDEP will receive input from Plaintiffs on the Priority Ranking.

13. Except as provided in Paragraph 19 below, WVDEP shall use the Priority Ranking to determine the order for issuing permits, setting compliance schedules and installing necessary treatment, including equipment, so as to maximize the environmental benefit with available money and resources.

14. Any new bond forfeiture sites that are not currently on the list of Sites contained in Attachment A, i.e., Sites for which the reclamation bond is forfeited after the date of this Consent Decree, shall be added to the Priority Ranking and shall have a lower priority than all other Sites unless otherwise agreed to by the Parties.

C. Treatment Cost Reports

15. By December 1, 2011, WVDEP shall prepare and submit to Plaintiffs and the Special Reclamation Fund Advisory Council (“SRFAC”) a Treatment Cost Report in which it determines the capital cost and annual operation and maintenance cost of treating the water discharged from each Site to meet applicable WQBELs. WVDEP shall use the AMDTreat computer application to estimate these costs and may consult with the West Virginia Water Research Institute for assistance in selecting the type of treatment to be used at each Site. WVDEP will make that process transparent to Plaintiffs and will receive input from Plaintiffs.

16. By July 2, 2012, WVDEP shall reevaluate the capital cost and annual operation and maintenance cost of treating the water discharged from each Site to meet WQBELs and, if necessary, shall revise the Treatment Cost Report and submit it to Plaintiffs and the Special Reclamation Fund Advisory Council.

D. Technical Analysis

17. WVDEP shall pay for the services of an expert or experts agreed upon by the Parties to prepare or assist in preparing the Site Inventory, Priority Ranking, and Treatment Cost Reports required by Parts A, B, and C above.

E. WV/NPDES Permits

18. By September 1, 2011, WVDEP shall issue the final WV/NPDES permits for the eighteen (18) Sites in the Northern District, and shall issue draft WV/NPDES permits for the three (3) sites in the Southern District referred to in Paragraph F above.

19. By July 2, 2012, WVDEP shall issue draft WV/NPDES permits for a test group of twenty (20) Sites to be jointly selected by the Parties from the list of Sites in Attachment A and the Priority Ranking. That test group is intended to provide the Parties with a better understanding of the time frames and deadlines set forth in this Consent Decree and with a method of assessing the cost estimate produced by WVDEP required by Part C above. After the issuance of the test group of twenty (20) draft permits, the Parties shall meet to reassess the timelines and other requirements detailed herein. The Parties agree to ask the Court to modify this Consent Decree if the Parties determine in their best judgment that such modification is necessary. In the event that modification becomes necessary, and the Parties cannot reach an agreement, the Court will resolve any dispute.

20. By December 31, 2012, WVDEP shall issue draft WV/NPDES permits for an additional thirty (30) Sites from the list of Sites in Attachment A to be determined by the Priority Ranking.

21. By December 31, 2013, WVDEP shall issue draft WV/NPDES permits for an additional fifty (50) Sites from the list of Sites in Attachment A to be determined by the Priority Ranking.

22. By December 31, 2014, WVDEP shall issue draft WV/NPDES permits for an additional fifty (50) Sites from the list of Sites in Attachment A to be determined by the Priority Ranking.

23. By December 31, 2015, WVDEP shall issue draft WV/NPDES permits for the remaining Sites (if any) from the list in Attachment A and that were in existence on the date that this Decree was executed. WVDEP shall exercise its best judgment on the timing of the issuance of draft permits for the Sites for which the bond was forfeited after the execution of this Decree. WVDEP shall strive to issue those permits in as expeditious a manner as possible.

24. The Parties agree that WVDEP will issue all draft permits in accordance with the deadlines listed above. However, in the event that extraordinary circumstances arise that prevent WVDEP from doing so—if, for example, there is a loss of critical permitting staff at WVDEP—the Parties agree to meet with the goal of establishing new deadlines and to ask the Court to modify this Consent Decree accordingly. In the event that modification becomes necessary, and the Parties cannot reach an agreement, the Court will resolve any dispute.

25. If the U.S. Environmental Protection Agency (“EPA”) does not issue a timely specific objection to a draft WV/NPDES permit for a Site, WVDEP shall issue the final WV/NPDES permit within ninety (90) days after the close of the public comment period.

26. If EPA does issue a timely specific objection to a draft WV/NPDES permit for a Site, WVDEP shall use its best efforts to resolve the objection and issue the final WV/NPDES within a reasonable time. Depending on the content of EPA’s objection, the Parties recognize that the above deadlines may need to be adjusted.

27. For any proposed compliance schedule to meet WQBELs for a Site, WVDEP will analyze and provide supporting documentation at the time it issues the draft WV/NPDES permit to establish that:

- a. Compliance with applicable WQBELs as of the effective date of the permit is not currently being achieved and cannot immediately occur;
- b. The compliance schedule will lead to compliance with effluent limits sufficient to meet WQBELs by the end of the compliance schedule; and
- c. The compliance schedule is designed to achieve compliance as soon as possible.

28. No compliance schedule shall exceed two (2) years unless special circumstances exist. Such special circumstances shall include, but not be limited to, a need to acquire additional real property either through purchase or condemnation. In the event those special circumstances arise, the Parties will agree on a longer compliance schedule. If the Parties are unable to reach an agreement, the Court will resolve any dispute.

29. Compliance schedules shall include a list of milestones describing how compliance with WQBELs will be achieved. These milestones shall include the dates on which the following events will occur:

- a. Submit a Plan of Action that outlines the measures to be taken to achieve final WQBELs;
- b. Begin construction of any necessary treatment upgrades to meet final WQBELs;
- c. Complete construction of any necessary treatment upgrades to meet final WQBELs.
- d. Achieve compliance with final WQBELs.

F. Coordination with Special Reclamation Fund Advisory Council (SRFAC)

30. As soon as practicable and consistent with the requirements of West Virginia Code § 22-1-17, WVDEP shall use the information and analyses developed under this Decree to make recommendations to the SRFAC and the West Virginia Legislature about needed adjustments to the Special Reclamation Fund to fund necessary investments in water treatment at the Sites.

GENERAL PROVISIONS

31. Plaintiffs agree that they will not appeal the initial issuance of the WV/NPDES permits for the Sites and will not offer comments regarding the terms and conditions of the permits to WVDEP, the U.S. Environmental Protection, or any other entity, nor will Plaintiffs otherwise challenge the initial issuance of the permits. In the event that a member of Plaintiffs' organizations submits comments or files an appeal contrary to this Decree, WVDEP shall provide Plaintiffs with written notice of, and a thirty (30) day opportunity to cure, any alleged breach of this Decree committed by anyone purporting to act on behalf of Plaintiffs. In the event of such notice, Plaintiffs will either cooperate with WVDEP to submit a formal comment letter to the appropriate entity clarifying Plaintiffs' position on the proposed WV/NPDES permit or will seek to have any permit appeal filed by anyone purporting to act on Plaintiffs' behalf dismissed. In no event shall WVDEP seek, or Plaintiffs be liable to WVDEP for, money damages for such a breach of this Decree.

32. This Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with regard to the issuance of the WV/NPDES permits for the Sites. This Decree is intended to satisfy the Court Orders to WVDEP to issue WV/NPDES permits for the Southern and Northern District bond forfeiture cases referenced in Part F above. This Decree also resolves all allegations made and claims that were or could have been asserted in the Complaints based on the alleged facts, as well as all claims alleged in the January 11, 2010 Notice of Intent to Sue for Violations of the Clean Water Act at 131 Bond Forfeiture Sites and bars any subsequently filed action regarding the initial issuance of the WV/NPDES permits for the Sites.

33. Whenever written notice or other documents are required to be submitted by the Parties, the written notification shall be submitted by overnight mail, facsimile, hand delivery, or e-mail, and shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing.

a. For WVDEP:

Jennifer L. Hughes
Senior Counsel
Office of Legal Services
WV Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304
(304) 926-0460
Jennifer.L.Hughes@wv.gov

b. For Plaintiffs:

Derek O. Teaney
Appalachian Center for the Economy
and the Environment
P.O. Box 507
Lewisburg, WV 24901
(304) 645-9006
dteaney@appalachian-center.org

James M. Hecker
Public Justice
1825 K Street, N.W. Suite 200
Washington, D.C. 20006
(202) 797-8600
jhecker@publicjustice.net

34. WVDEP agrees to pay Plaintiffs' reasonable attorneys' fees and costs in negotiating, carrying out, and enforcing the Consent Decree. The hourly rates of Plaintiffs' attorneys and paralegals shall be no less than those set forth in the January 10, 2011 Order in *WVHC v. Huffman*, Civil No. 2:07-00410 (S.D. W. Va.). Plaintiffs agree to a cap on their fees

associated with the implementation of this Consent Decree of fifty (50) hours per year. In the event that litigation ensues, that cap shall not limit the amount of fees potentially recoverable by Plaintiffs. If the Parties do not agree on the amount of reasonable fees and costs within thirty (30) days after Plaintiffs submit their request, Plaintiffs agree to present this issue to the Court for decision. Payment shall be made by check payable to the Appalachian Center for the Economy and the Environment, Inc. The Appalachian Center for the Economy and the Environment, Inc., shall be wholly responsible for the proper distribution of any portions of the delivered sum to any and all other attorneys, experts or other entities who may be entitled thereto.

35. The Parties consent to enforcement of this Decree in the U.S. District Court for the Southern District of West Virginia and the U.S. District Court for the Northern District of West Virginia, respectively.

36. The appropriate Court shall retain jurisdiction over the Sites within its District and over this Decree for the purpose of enabling the parties to this Decree to apply to the Court for any further order that may be necessary to interpret or enforce the terms of this Decree.

37. This Decree shall terminate thirty (30) days after the issuance of permits for all Sites identified in Attachment A that were in existence on the date of the execution of this Decree.

38. The terms of this Decree shall not be changed, revised, or modified except by a written instrument signed by the parties to this Decree, by new statutory or regulatory provisions applicable to the Sites, or by further orders of the Court, and shall not take effect until approved by the Court.

39. The Parties reserve all legal and equitable rights and defenses available to them to enforce or defend the provisions of this Decree. Before a Party invokes the Court's jurisdiction

to interpret, enforce, or modify this Decree, the Party shall send a written notice to the other party outlining the nature and requesting informal negotiations among the principals and counsel to resolve the matter. If the parties are unable to resolve the matter within fourteen (14) business days from the date of the notice (or within an additional period of time agreed to by the Parties), any party may request the Court to resolve the matter.

40. The undersigned representative(s) for each Party certifies that he or she is fully authorized by the Party or Parties whom he or she represents to enter into the terms and conditions of this Decree and to bind them legally to it.

So ORDERED this _____ day of _____, 2011.

United States District Judge
Southern District of West Virginia

The undersigned parties enter into this Consent Decree in the matter of *West Virginia Highlands Conservancy, Inc., et al. v. Huffman*.

For Plaintiffs WEST VIRGINIA HIGHLANDS CONSERVANCY, INC., WEST VIRGINIA RIVERS COALITION, and SIERRA CLUB,

Date: August 1, 2011

/s/ Joseph M. Lovett
JOSEPH M. LOVETT (WVSB # 6926)
Appalachian Ctr. For the Econ. & the Eenvt.
P.O. Box 507
Lewisburg, WV 24901
Phone: (304) 645-9006
jlovett@appalachian-center.org

JAMES M. HECKER (D.C. Bar # 291740)
Public Justice
1825 K Street, NW Suite 200
Washington, D.C. 20006
Phone: (202) 797-8600
jhecker@publicjustice.net

For Defendant RANDY HUFFMAN, Secretary, West Virginia Department of Environmental Protection,

Date: August 1, 2011

/s/ Jennifer L. Hughes
JENNIFER L. HUGHES (WVSB # 9676)
Office of Legal Services
WV Dept. of Environmental Protection
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0460
Fax: (304) 926-0461
Jennifer.L.Hughes@wv.gov

	OFFICE	COMPANY	PERMIT	COUNTY	LATDEG	LONDEG	WATER STATUS	WATER QUARTER SCHEDULED
1	ND	A S & K, INC.	S-1011-89	Monongalia	39.6708	80.0547	TBC	31-Dec-25
2	ND	AMANDA NICOLE FUELS, INC.	S-1018-88	Preston	39.3694	79.7708	UC	31-Dec-09
3	ND	BJORKMAN MINING CO.	S-37-81	Preston	39.4661	79.7133	P	30-Jun-03
4	ND	BOLINGREEN MINING COMPANY	S-1024-88	Preston	39.5276	79.6582	ACT	31-Mar-03
5	ND	BUFFALO COAL COMPANY, INC.	S-122-80	Tucker	39.2189	79.4869	ACT	31-Dec-07
6	ND	BUFFALO COAL COMPANY, INC.	S-2001-86	Grant	39.185	79.2858	TBC	31-Mar-11
7	ND	BUFFALO COAL COMPANY, INC.	S-2006-86	Grant	39.3061	79.2728	TBC	31-Mar-10
8	ND	BUFFALO COAL COMPANY, INC.	S-2011-92	Preston	39.2181	79.5139	NA	
9	ND	BUFFALO COAL COMPANY, INC.	S-52-80	Grant	39.1433	79.2919	TBC	31-Mar-10
10	ND	BUFFALO COAL COMPANY, INC.	S-2003-03	Grant	39.1444	79.2792	TBC	30-Sep-09
11	ND	BUFFALO COAL COMPANY, INC.	S-53-80	Grant	39.1061	79.3144	TBC	30-Jun-11
12	ND	BUFFALO COAL COMPANY, INC.	S-2003-88	Tucker	39.2078	79.3028	UC	30-Jun-10
13	ND	BUFFALO COAL COMPANY, INC.	O-96-83	Grant	39.2131	79.3178	NA	31-Dec-07
14	ND	BUFFALO COAL COMPANY, INC.	O-97-83	Tucker	39.205	79.3292	NA	31-Dec-07
15	ND	CHESTNUT RIDGE COAL CORP.	S-28-83	Mineral	39.3758	79.1778	ACT	30-Jun-08
16	ND	CHEYENNE SALES CO., INC.	S-2009-96	Upshur	39.0642	80.1675	TBC	30-Sep-10
17	ND	CHEYENNE SALES COMPANY, INC.	O-11-83	Upshur	39.0628	80.1322	TBC	30-Sep-10
18	ND	CRANE COAL CO., INC.	S-27-83	Preston	39.5928	79.6375	P	31-Mar-05
19	ND	DAUGHERTY COAL COMPANY, INC.	S-1009-86	Preston	39.5444	79.7305	ACT	30-Jun-07
20	ND	DAUGHERTY COAL COMPANY, INC.	17-81	Preston	39.5766	79.7466	NA	
21	ND	DAUGHERTY COAL COMPANY, INC.	65-77	Preston	39.5706	79.7466	ACT	31-Mar-06
22	ND	DAUGHERTY COAL COMPANY, INC.	124-79	Preston	39.5733	79.7485	NA	
23	ND	DAUGHERTY COAL COMPANY, INC.	192-77	Preston	39.553	79.7397	ACT	30-Jun-07
24	ND	DAUGHERTY COAL COMPANY, INC.	246-74	Preston	39.5544	79.7422	NA	
25	ND	DAUGHERTY COAL COMPANY, INC.	S-73-83	Preston	39.5783	79.7472	NA	
26	ND	DECONDOR COAL CO.	U-147-82	Preston	39.4919	79.7683	TBC	31-Dec-10
27	ND	DLM COAL CO.	1-78	Upshur	38.8058	80.2	ACT	
28	ND	DLM COAL CO.	138-74	Upshur	38.8111	80.1792	ACT	
29	ND	DLM COAL CO.	2-80	Upshur	38.7942	80.2233	ACT	
30	ND	DLM COAL CO.	71-75	Upshur	38.8131	80.1932	ACT	
31	ND	DLM COAL CO.	135-78	Upshur	38.8231	80.1981	ACT	
32	ND	DLM COAL CO.	12-78	Upshur	38.8144	80.2019	ACT	

33	ND	DLM COAL CO.	164-77	Upshur	38.7811	80.1989	ACT	
34	ND	DLM COAL CO.	23-76	Upshur	38.8106	80.1989	ACT	
35	ND	DLM COAL CO.	58-77	Upshur	38.8183	80.2003	ACT	
36	ND	EDWARD E. THOMPSON	S-1041-89	Monongalia	39.7034	79.8646	ACT	31-Dec-04
37	ND	F & M COAL CO.	S-1073-86	Preston	39.3194	79.7292	NA	
38	ND	F & M COAL CO.	46-79	Preston	39.4694	79.6306	P	30-Jun-05
39	ND	F & M COAL CO.	S-1026-87	Preston	39.5406	79.7083	P	30-Jun-05
40	ND	FARKAS COAL CO.	34-81	Monongalia	39.7179	79.8754	ACT	31-Dec-05
41	ND	FREEPORT MINING CORPORATION	S-1005-95	Preston	39.6429	79.7369	UC	31-Mar-10
42	ND	FRUSH ENTERPRISES, INC.	S-1008-89	Harrison	39.25	80.2225	UC	30-Jun-08
43	ND	GLADE RUN MINING CO.	3-72	Grant	39.2997	79.1856	P	31-Mar-08
44	ND	GLADY FORK MINING, INC.	D-35-82	Upshur	38.9454	80.2621	ACT	31-Dec-06
45	ND	GLORY COAL CO., INC.	UO-744	Harrison	39.3762	80.43	P	31-Dec-06
46	ND	GOLDEN PRODUCTS CO.	S-1009-88	Monongalia	39.6119	80.0131	P	31-Dec-05
47	ND	HIDDEN VALLEY COAL CO.	S-60-84	Preston	39.6431	79.5286	ACT	31-Dec-02
48	ND	INTER-STATE LUMBER COMPANY, INC.	S-112-80	Preston	39.6042	79.7972	P	31-Mar-05
49	ND	INTER-STATE LUMBER COMPANY, INC.	176-77	Preston	39.5236	79.5958	ACT	31-Mar-03
50	ND	INTER-STATE LUMBER COMPANY, INC.	S-39-82	Preston	39.3977	79.7934	TBC	30-Jun-13
51	ND	INTER-STATE LUMBER COMPANY, INC.	S-96-82	Preston	39.4117	79.7875	P	30-Jun-06
52	ND	INTER-STATE LUMBER COMPANY, INC.	S-52-83	Preston	39.3975	79.7948	ACT	30-Sep-04
53	ND	J. E. B., INC.	S-61-82	Preston	39.4611	79.725	ACT	31-Dec-04
54	ND	J.A.L. COAL CO., INC.	S-23-82	Monongalia	39.5621	80.0801	P	31-Mar-08
55	ND	JONES COAL INC	S-1030-86	Preston	39.6875	79.5875	P	31-Dec-04
56	ND	JONES COAL INC	S-9-83	Preston	39.6775	79.5948	TBC	31-Dec-11
57	ND	KEISTER COAL COMPANY, INC.	184-77	Barbour	39.0431	80.0286	ACT	31-Mar-07
58	ND	LAKEVIEW COAL COMPANY	S-55-84	Monongalia	39.6733	79.8306	P	31-Dec-05
59	ND	LAROSA FUEL CO., INC.	S-1051-86	Marion	39.5419	80.0736	TBC	31-Dec-12
60	ND	LOBO CAPITOL, INC.	UO-204	Preston	39.5856	79.6405		
61	ND	MANGUS COAL, INC.	S-1036-91	Preston	39.3711	79.8531	TBC	31-Dec-10
62	ND	MAURICE JENNINGS	53-78	Preston	39.3765	79.8607	TBC	31-Dec-10
63	ND	MAURICE JENNINGS	S-61-83	Preston	39.3739	79.8557	TBC	31-Dec-10
64	ND	MOHIGAN MINING CO.	U-109-83	Monongalia	39.5756	80.0572	P	31-Mar-07
65	ND	MORGANTOWN ENERGY EXPORT COMPANY	U-8-83	Monongalia	39.6994	80.0222	P	30-Sep-06
66	ND	NATIONAL CONSTRUCTION COMPANY, INC.	S-2004-86	Barbour	39.0439	80.02	P	30-Jun-07

67	ND	PIERCE COAL & CONSTRUCTION, INC.	71-80	Upshur	38.947	80.1034	P	31-Mar-07
68	ND	PIERCE COAL & CONSTRUCTION, INC.	252-76	Upshur	38.9096	80.1287	NA	
69	ND	PRESTON ENERGY, INC.	O-43-85	Preston	39.4253	79.7642	ACT	30-Sep-03
70	ND	PRESTON ENERGY, INC.	O-86-82	Preston	39.444	79.7532	ACT	31-Dec-04
71	ND	PRIMROSE COAL, INC.	7-81	Preston	39.6161	79.5761	TBC	30-Jun-13
72	ND	ROBLEE COAL CO., INC.	U-2001-00	Upshur	39.0686	80.2786	TBC	31-Dec-12
73	ND	ROCKVILLE MINING CO.	S-91-85	Preston	39.5609	79.6375	TBC	30-Jun-12
74	ND	S. KELLY INDUSTRIES	51-78	Monongalia	39.5139	79.9472	ACT	30-Jun-08
75	ND	SOLITAIRE COAL CORPORATION, INC.	S-87-85	Webster	38.5444	80.4386	TBC	31-Mar-12
76	ND	SOUTHERN EAGLE MINING CORPORATION	U-32-84	Randolph	38.8945	79.7378	P	31-Dec-05
77	ND	STEWARTOWN COAL CORP.	67-78	Monongalia	39.7194	79.8986	ACT	31-Mar-07
78	ND	T & J COAL, INC.	P-177-85	Preston	39.3772	79.7286	UC	30-Jun-10
79	ND	T & T FUELS, INC.	U-125-83	Preston	39.5501	79.6565	ACT	
80	ND	THE MASTELLER COAL COMPANY	S-10-85	Mineral	39.4345	79.0617	TBC	31-Mar-11
81	ND	THE MASTELLER COAL COMPANY	S-125-82	Mineral	39.4519	79.0872	TBC	31-Mar-11
82	ND	VALLEY MINING CO., INC.	S-17-82	Monongalia	39.5869	79.8958	ACT	30-Sep-03
83	ND	VALLEY MINING CO., INC.	S-64-83	Monongalia	39.6478	79.8472	ACT	31-Dec-05
84	ND	VICKIE ENERGY, INC.	U-53-85	Pocahontas	38.1464	80.3603	P	
85	ND	VMS, LTD.	S-1045-87	Monongalia	39.4821	79.9132	ACT	30-Jun-08
86	ND	WERNER MINING CO., INC.	S-2003-86	Barbour	39.0381	80.0203	P	30-Sep-06
87	ND	WETER CO.	S-71-79	Preston	39.608	79.7923	P	
88	ND	Z & F DEVELOPMENT CO.	S-21-84	Monongalia	39.555	80.0281	ACT	31-Mar-05
89	ND	ZINN COAL CO.	60-79	Preston	39.6914	79.4828	P	31-Dec-04

	OFFICE	COMPANY	PERMIT	COUNTY	LATDEG	LONDEG	WATER STATUS	WATER QUARTER SCHEDULED
1	SD	ALPHAINE CORP.	S-6032-86	Clay	38.3856	81.0936	C	30-Jun-05
2	SD	B & S CONTRACTING, INC.	R-668	Nicholas	38.3656	80.82	P	31-Dec-03
3	SD	B & S CONTRACTING, INC.	O-3086-87	Nicholas	38.3744	80.809	P	31-Dec-05
4	SD	B & S CONTRACTING, INC.	U-3055-87	Nicholas	38.3939	80.8417	P	31-Dec-03
5	SD	BARRENSHE COAL CO.	UO-694	McDowell	37.3444	81.6575	P	30-Sep-03
6	SD	BARRETT FUEL CORP.	R-737	Raleigh	37.8711	81.3208	P	
7	SD	BELLE CONTRACTING, INC.	S-6020-87	Putnam	38.5047	81.7967	P	30-Jun-08
8	SD	BENHAM GROUP, LTD.	120-79	Boone	38.1322	81.7181	ACT	30-Jun-08
9	SD	BLACK DIAMOND MINING CO.	13-79	Nicholas	38.3217	80.8389	P	31-Mar-04
10	SD	BRADY CLINE COAL CO.	EM-97	Nicholas	38.4161	80.8172	ACT	30-Jun-02
11	SD	BRENKEE COAL CO.	UO-435	McDowell	37.3274	81.5341	NA	
12	SD	C. C. CONLEY & SONS, INC.	S-3046-91	Nicholas	38.3381	80.9258	P	31-Dec-05
13	SD	CHAFIN COAL CO.	O-69-82	Logan	37.7282	81.9316	P	30-Jun-07
14	SD	CHICOPEE COAL COMPANY, INC.	S-3006-99	Nicholas	38.2786	81.1053	TBC	30-Sep-10
15	SD	CHICOPEE COAL COMPANY, INC.	S-3002-98	Nicholas	38.2778	81.1169	TBC	30-Sep-10
16	SD	CHICOPEE COAL COMPANY, INC.	O-6013-88	Clay	38.3244	81.14	UC	30-Jun-09
17	SD	CLASSIC RES., INC.	S-55-81	Fayette	37.9167	80.8138	TBC	31-Dec-12
18	SD	COAL X, INC.	UO-396	Logan	37.6664	81.8983	ACT	31-Dec-06
19	SD	COWACO, INC.	R-3022-87	Clay	38.4525	80.8894	P	30-Sep-05
20	SD	CRADDOCK & SON COAL CO.	S-68-83	Nicholas	38.2669	80.9331	P	31-Dec-05
21	SD	DUSTY COALS, INC.	S-119-85	Nicholas	38.3125	80.6286	P	30-Jun-03
22	SD	E. J. & L. CO., INC.	S-3041-87	Raleigh	37.8547	81.1225	P	31-Mar-05
23	SD	EASTERN ENERGY INVEST.	U-6012-88	Boone	38.1981	81.7428	P	31-Mar-04
24	SD	EASTERN ENERGY INVEST.	S-6029-86	Kanawha	38.3814	81.4386	ACT	31-Dec-05
25	SD	FALCON LAND COMPANY, INC.	P-656	Nicholas	38.1744	80.5961	ACT	31-Mar-08
26	SD	GAULEY COAL SALES CO.	O-43-84	Nicholas	38.3737	80.82	ACT	31-Dec-05
27	SD	GOLD STAR MINING CORP.	S-121-85	Boone	38.1706	81.8772	NA	
28	SD	GREEN MOUNTAIN ENERGY	U-4013-91	Wyoming	37.6258	81.3764	P	31-Mar-08
29	SD	GREENDALE COALS, INC.	S-75-83	Clay	38.2986	81.1583	TBC	31-Dec-12
30	SD	HARVEY ENERGY CORP.	S-35-81	Fayette	37.8333	80.9253	P	30-Jun-05
31	SD	HARVEY ENERGY CORP.	S-3030-89	Fayette	37.9164	81.2319	P	
32	SD	HAWKS NEST MINING CO.	O-1-81	Kanawha	38.2228	81.4992	ACT	30-Sep-03

33	SD	HUNT COAL, INC.	U-5071-86	Logan	37.7194	81.8764	ACT	30-Jun-08
34	SD	J & N PROCESSING COMPANY, LLC	O-58-83	Raleigh	37.7617	81.3847	P	31-Dec-04
35	SD	JINKS MINING COMPANY	U-3031-93	Nicholas	38.34	80.7	P	30-Jun-02
36	SD	JOCARR RESOURCES, INC.	U-3059-86	Nicholas	38.3192	80.9247	TBC	30-Sep-12
37	SD	JOHN GALT	D-76-82	Logan	37.7864	81.9305	P	31-Mar-04
38	SD	KEYSTONE COAL, INC.	U-186-83	Mingo	37.6216	82.1297	TBC	30-Jun-25
39	SD	KEYSTONE COAL, INC.	S-84-83	Mingo	37.6031	82.1372	TBC	31-Mar-25
40	SD	KODIAK LAND CO., INC.	S-3052-87	Fayette	38.1821	80.9767	P	31-Dec-03
41	SD	LANDMARK CORPORATION	S-34-82	Boone	38.1954	81.8379	TBC	31-Dec-11
42	SD	LANDMARK CORPORATION	S-5069-88	Boone	38.1375	81.8369	TBC	30-Sep-25
43	SD	LEVEL LAND MINING CORPORATION	S-3031-90	Fayette	38.1578	80.9789	P	31-Mar-08
44	SD	LILLYBROOK COAL CO.	S-86-85	Raleigh	37.5361	81.2069	ACT	30-Sep-03
45	SD	LODESTAR ENERGY, INC.	S-3083-86	Nicholas	38.3975	80.8247	TBC	30-Sep-12
46	SD	LODESTAR ENERGY, INC.	S-3006-89	Nicholas	38.4089	80.8225	TBC	30-Sep-12
47	SD	LODESTAR ENERGY, INC.	S-19-85	Nicholas	38.3847	80.6922	P	31-Mar-08
48	SD	LODESTAR ENERGY, INC.	R-5-84	Wyoming	37.6161	81.3839	P	30-Jun-11
49	SD	LOW ASH COAL CO.	UO-389	Wyoming	37.5044	81.6917	P	30-Jun-05
50	SD	M & T MINING CO.	S-3026-89	Nicholas	38.3267	80.8643	P	31-Dec-05
51	SD	MOUNTAINEER FUELS, INC.	U-3083-87	Nicholas	38.3172	80.7002	P	31-Mar-04
52	SD	PEACHTREE RIDGE MINING, INC.	U-18-83	Raleigh	37.8172	81.4522	NA	
53	SD	PINNACLE CREEK MINING CORP.	R-721	Wyoming	37.4445	81.3438	P	
54	SD	PRINCESS CINDY MINING, INC.	30-79	Fayette	38.0161	81.1667	P	31-Mar-06
55	SD	PRINCESS SUSAN COAL CO.	S-6033-86	Kanawha	38.3039	81.3561	UC	30-Jun-08
56	SD	PRINCESS SUSAN COAL CO.	S-76-82	Kanawha	38.2261	81.4619	C	31-Dec-07
57	SD	PRINCESS SUSAN COAL CO.	S-6-85	Kanawha	38.2403	81.4247	UC	30-Sep-08
58	SD	PUPS CREEK COALS, INC.	S-3006-94	Raleigh	37.7531	81.2889	TBC	30-Sep-08
59	SD	RALEIGH COMMERCIAL DEVELOPMENT	149-79	Fayette	37.896	80.85	P	31-Mar-08
60	SD	ROYAL COAL CO.	R-676	Fayette	37.9647	81.055	TBC	30-Jun-25
61	SD	ROYAL SCOT MINERALS, INC.	D-32-81	Greenbrier	38.0428	80.62	ACT	31-Mar-03
62	SD	ROYAL SCOT MINERALS, INC.	S-90-82	Greenbrier	38.0319	80.5331	P	30-Sep-08
63	SD	ROYAL SCOT MINERALS, INC.	R-3078-86	Greenbrier	38.0175	80.5842	ACT	31-Mar-03
64	SD	ROYAL SCOT MINERALS, INC.	U-40-85	Greenbrier	38.0322	80.6603	P	
65	SD	ROYAL SCOT MINERALS, INC.	U-3046-88	Greenbrier	38.0336	80.6661	TBC	31-Mar-12
66	SD	ROYAL SCOT MINERALS, INC.	56-81	Greenbrier	38.0592	80.5797		

67	SD	ROYAL SCOT MINERALS, INC.	S-99-83	Greenbrier	38.0267	80.6328	P	31-Dec-06
68	SD	ROYAL SCOT MINERALS, INC.	S-65-76	Greenbrier	38.0333	80.565	TBC	31-Mar-25
69	SD	SALYERS LEASING CORP.	U-5066-87	Mingo	37.6667	81.875	P	31-Dec-03
70	SD	SAN SUE COAL CO.	19-75	Nicholas	38.3275	80.8519	P	31-Mar-04
71	SD	SMITH & STOVER	EM-29	Raleigh	37.6447	81.1567	TBC	30-Jun-12
72	SD	STAR INDUSTRIES, INC.	R-3-81	Raleigh	37.8206	81.2056	ACT	31-Dec-04
73	SD	SUMMERSVILLE FIVE BLOCK	S-3051-88	Nicholas	38.3842	80.9289	TBC	31-Dec-11
74	SD	TEMPLEMAN CONST. CO., INC.	151-75	Kanawha	38.2913	81.5117	P	31-Mar-07
75	SD	TRIPLE A COALS, INC.	S-3028-87	Nicholas	38.3465	80.7266	P	31-Mar-05
76	SD	TRIPLE A COALS, INC.	U-3046-87	Nicholas	38.3595	80.7161	P	31-Mar-02
77	SD	W & E LOGGING & COAL	S-20-82	Nicholas	38.365	80.6731	P	31-Dec-05
78	SD	WINCHESTER COALS, INC.	O-52-83	Logan	38.005	82.0592	C	31-Mar-05
79	SD	X W CORP.	S-6013-87	Clay	38.3839	81.1058	P	31-Mar-07
80	SD	ZY COAL CO	S-6028-88	Clay				
81	SD	ZY COAL CO.	91-79	Clay	38.4559	81.0597	P	31-Mar-05
82	SD	ZY COAL CO.	S-30-80	Clay	38.4403	81.0491	C	

WATER STATUS CODES

ACT Active Treatment
P Passive Treatment
UC Under Construction
C Completed Construction
TBC To Be Contracted
NA Treated on Another Permit

FEDERAL JUDICIAL DISTRICT

ND Northern District
SD Southern District