



1000 Vermont Avenue NW
Suite 1100
Washington, DC 20005
T 202 296 8800
F 202 296 8822
environmentalintegrity.org

July 16, 2020

Via Certified Mail, Return Receipt Requested

D. & L. Coal Company, Incorporated
Rt 6 Box 6192
Keyser, WV 26726

D. & L. Coal Company, Incorporated
3924 Beryl Road
Keyser, WV 26726

Timothy B. Schwinabart
D. & L. Coal Company, Incorporated
21557 Maryland Highway
Bloomington, MD 21523
Notice of Process Address for D. & L. Coal Company, Incorporated

Timothy B. Schwinabart
Vice President
D. & L. Coal Company, Incorporated
664 Pine Tree Point Road
Swanton, MD 21561

Doris A. Schwinabart
President
D. & L. Coal Company, Incorporated
370 Sunset Place
Keyser, WV 26726

RE: ***Notice of Intent to Sue D. & L. Coal Company, Incorporated for Violations of the Clean Water Act at the Beryl Tipple Site in Keyser, West Virginia***

Dear Sir and Madam:

The Environmental Integrity Project (“EIP”) and Appalachian Mountain Advocates (“Appalmad”) write on behalf of the Potomac Riverkeeper, Inc. d/b/a Potomac Riverkeeper Network and its members (“PRKN” or “Citizens”) to provide you with notice of their intent to file suit against D. & L. Coal Company, Incorporated (“D&L Coal”) for significant and ongoing violations of the

Clean Water Act (CWA),¹ at its coal tipples² operation located approximately one mile west of Piedmont, in Mineral County, West Virginia (the “Site” or the “Beryl Tipple Site”).

D&L Coal operates a haulroad, coal loadout facility, and coal stockpile on the Site. The coal operation previously supplied coal to the Luke Paper Mill (the “Paper Mill”), in Luke, Maryland, about a half-mile south, which closed in June 2019. Since then, the Site has not been in use. During and after periods of rainfall, coal residue from the coal tipples and the surrounding onsite area collects and flows off-site and into the North Branch Potomac River (the “River”).

As explained more fully below, D&L Coal is violating the terms of its West Virginia National Pollutant Discharge Elimination System (NPDES) Permit and the CWA by failing to take representative samples and measurements of discharges from its permitted outlets, in accordance with applicable West Virginia regulations. By failing to comply with its NPDES permit and the CWA, D&L Coal is allowing unregulated discharges of coal residue to flow from the Beryl Tipples Site into the River. Such discharges have injured, and will continue to injure or threaten to injure, the health, environmental, aesthetic, and economic interests of PRKN and its members. These injuries or risks are traceable to violations at the Beryl Tipples Site, and correction of these ongoing violations through remedies (including cessation, corrective action, payment of penalties, and supplemental environmental projects) will redress these injuries or risks.

CWA sections 505(a)(1) and (b)(1)(A) permit PRKN to commence a civil suit in the United States District Court for the Northern District of West Virginia against D&L Coal for CWA effluent limitation violations, after 60 days upon providing this notice of intent to sue. Citizens are entitled to commence an action “against any person . . . alleged to be in violation” of an “effluent standard or limitation” under the CWA. 33 U.S.C. § 1365(a)(1). Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, a NPDES permit issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342(a). For purposes of CWA section 505, the term “effluent standard or limitation under this chapter” includes, among other things, “a permit or condition of a permit” issued under section 402 that is in effect under this chapter. 33 U.S.C. § 1365(f). A court can impose a civil penalty of up to \$55,800 per day for each CWA or permit violation. 33 U.S.C. § 1319(d).³

In accordance with section 505(b)(1)(A) of the CWA,⁴ this letter serves to notify D&L Coal that PRKN intends to file suit for CWA violations, unless corrected, in the Martinsburg Division of the U.S. District Court for the Northern District of West Virginia at any time beginning 60 days after the postmarked date of this letter. 40 C.F.R. § 135.2(c). Additionally, EIP and Appalmad notify D&L Coal of PRKN’s intention to sue for ongoing violations of the same type that occur after the violations outlined in the notice letter. *See Public Interest Research Group of N.J., Inc. v. Hercules, Inc.* 50 F.3d 1239 (3d Cir. 1995)

¹ 33 U.S.C. § 1251 *et seq.*

² A “tipples” is a structure where mine cars load or unload the mined product, such as coal. Kentucky Mining Institute, *Glossary of Mining Terms*, KENTUCKY COAL EDUCATION, <http://www.coaleducation.org/glossary.htm#T> (last visited May 5, 2020).

³ *See also* Civil Monetary Penalty Inflation Adjustment, 40 C.F.R. § 19.4 (effective January 13, 2020).

⁴ 33 U.S.C. § 1365(b)(1)(A).

I. BACKGROUND

The Site is subject to a West Virginia NPDES Water Pollution Control Permit, No. WV1014137, (the “NPDES Permit,” attached hereto as **Attachment A**) and a West Virginia Chapter 22, Article 3 Surface Coal Mining and Reclamation Act Permit. The NPDES Permit authorizes D&L Coal to maintain, monitor, and operate a coal stockpile, haul road, and coal load-out facility and to discharge treated water and stormwater into the River.

The NPDES Permit covers three outlets, each from a sump on the Site. All three outlets are “precipitation induced,” meaning they only discharge in response to precipitation. Stormwater on the site drains into ditches, which direct the flow into the three sumps. These three sumps, A, B, and C, collect water from drainage areas⁵ of 0.5 acres, 0.9 acres, and 1.1 acres respectively. In the event of a discharge, Sumps A, B, and C would overflow through outlets 001, 002, and 003, respectively, and the discharge then flows into the River.

According to the 2017 Application for Reissuance of the NPDES Permit (the “2017 Permit Application,” attached hereto as **Attachment B**), the ditches and sumps are sufficient to contain the precipitation and flow on the Site, and the permitted outlets do not discharge.⁶ D&L Coal also provides no monitoring data on the Discharge Monitoring Reports (DMRs) it submits each quarter.⁷ The West Virginia Department of Environmental Protection’s (WVDEP) inspection reports also support D&L Coal’s position that the outlets do not discharge, noting that the outlets were not flowing at the time of the inspection.⁸ However, photographic evidence shows outlet 003 discharges water containing coal residue from Sump C to the River in response to precipitation.

The NPDES Permit contains effluent limits to protect water quality in the event of a discharge and includes several monitoring and reporting requirements to ensure that WVDEP has the information necessary to protect water quality in the event of discharge. The NPDES Permit reflects the information provided in the 2017 Permit Application, including the presumption that the outlets are “precipitation-induced outlets” and that none of the three outlets have ever discharged.⁹ Because WVDEP relies on the information it receives from the permittee, compliance with the monitoring and reporting requirements of the NPDES Permit is critical to ensure the River is adequately protected.

⁵ A drainage area is the land area where precipitation falls and runs off into creeks, streams, rivers, lakes, and reservoirs. *Drainage area*, USGS, <https://waterdata.usgs.gov/wa/nwis/current?type=basinda> (last visited Jun. 24, 2020).

⁶ See D&L Coal 2017 Application for Reissuance of Permit WV1014137 (“2017 Permit Application”), Mod 2 Part III – A, Tables 2-IV-A, 2-IV-B, 2-IV-C.

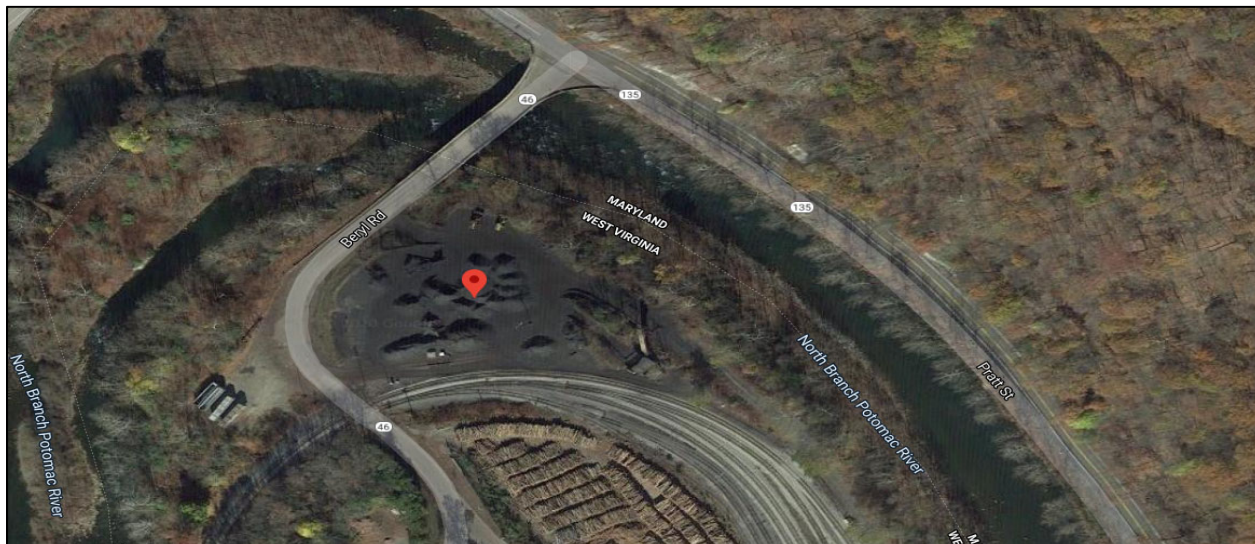
⁷ See, e.g., D&L Coal Discharge Monitoring Reports submitted April 15, 2020 for January–March 2020 (“Jan.–Mar. 2020 DMRs,” attached hereto as **Attachment C**, as downloaded from WVDEP’s document management system on Jun. 23, 2020).

⁸ See WVDEP, Hydrologic Protection Unit Inspection (EPA) Reports, 2018–present (“2018–Present Inspection Reports,” attached hereto as **Attachment D**).

⁹ D&L Coal Co. Permit WV1014137, Rationale Page.

A. Site Location

The Beryl Tipple Site is located approximately one mile west of Piedmont, in Mineral County, West Virginia¹⁰ in the unincorporated community of Beryl.¹¹ The site is 2.5 acres¹² between Beryl Road to the west, a set of railroad tracks to the south, and the River to the north and east. To the south of the Beryl Tipple Site, south of the railroads, is the Beryl Woodyard, which is owned and operated by Luke Paper Company.¹³ Luke Paper Company is an affiliate company to Verso Corporation, the owner and operator of the Paper Mill.¹⁴ D&L Coal is the permitholder and operator of the Beryl Tipple Site, for purposes of the CWA.¹⁵ The location of the coal tipple area in relation to the River, Beryl Road, and Beryl Woodyard is shown on the map below.



Location of Beryl Tipple Site (pin), identified by Brent Walls, Upper Potomac Riverkeeper, on February 6, 2020 39° 28' 45.2"N, 79° 03' 58.7"W, GOOGLE MAPS, <http://maps.google.com> (enter coordinates into search and change to satellite view).

¹⁰ D&L Coal Co. Permit WV1014137 at 1.

¹¹ USGS, *Feature Detail Report for: Beryl*, https://geonames.usgs.gov/apex/f?p=138:3:0::NO:3:P3_FID,P3_TITLE:1553873,Beryl (last visited Jun. 24, 2020) (listing Beryl as a "Populated Place," which is not a census designated or incorporated place, with a variant name of West Virginia Junction).

¹² 2017 Permit Application, Mod 2 Part III – A, Tables 2-IV-A, 2-IV-B, 2-IV-C.

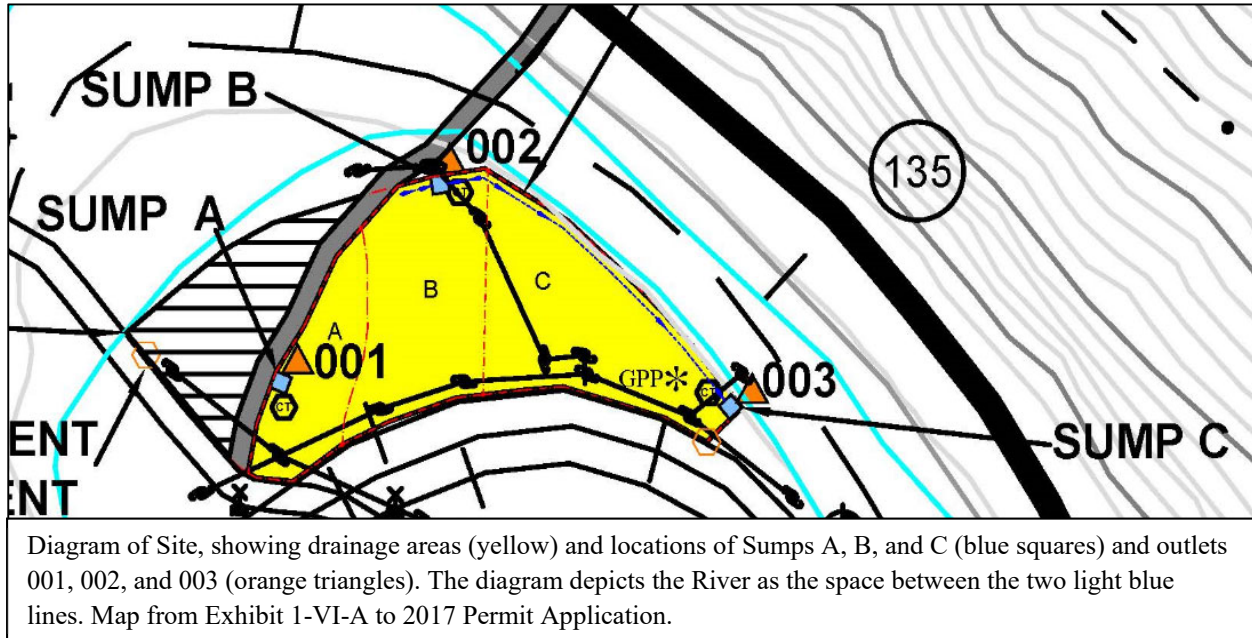
¹³ See Application for Renewal of WVDEP Multi-Sector General Water Pollution Control Permit for Stormwater Associated with Industrial Activity, for Beryl Woodyard Facility off State Route #135, WVG610936 (submitted Mar. 26, 2020) (listing Luke Paper Company as owner and operator of the Beryl Woodyard facility).

¹⁴ Luke Paper Company was a subsidiary of NewPage Corporation (2010 NewPage Corporation 10-K, Exhibit 21.1, Subsidiaries of the Registrant), which was an indirect, wholly owned subsidiary of NewPage Holdings Inc., which itself was an indirect, wholly owned subsidiary of Verso Corporation prior to a December 2016 internal reorganization. Verso Corporation 10-K, Summary of Business and Significant Accounting Policies (Mar. 1, 2019), 47. NewPage Corporation purchased the Luke Paper Mill from MeadWestvaco around 2005. Verso Luke LLC Part 70 Operating Permit No. 24-001-0011, January 1, 2019, at 4. When Verso completed its internal reorganization, several Verso subsidiaries, including NewPage Holdings Inc. and NewPage Corporation, were either merged into other subsidiaries of Verso, converted into limited liability corporations, and/or renamed. Verso Corporation 10-K at 47.

¹⁵ 2017 Permit Application, Mod 1 Part I: Applicant Owner (Operator) Information (providing D. & L. Coal Company, Inc. as Applicant Name for Beryl Tipple facility); D&L Coal Co. Permit WV1014137 at 1 (granting the NPDES Permit to D. & L. Coal Company, Incorporated to operate coal stockpile, haul road, and coal load-out facility at the Beryl Tipple Site).

B. D&L Coal's NPDES Permit Application

In or around November of 2017,¹⁶ D&L Coal applied for the fifth reissuance of its NPDES Permit to continue operations of a haulroad and loadout facility, and to add a coal stockpile to its covered operations.¹⁷ In the 2017 Permit Application, D&L Coal was required to provide information for each of the three outlets (001, 002, and 003), which, in the event of a discharge, would discharge from corresponding sumps on the site (sumps A, B, and C respectively).¹⁸ The diagram of the Site below, a close-up from the Renewal Progress Map submitted as Exhibit 1-VI-A to the 2017 Permit Application, shows the locations of each of the sumps and corresponding outlets.



An applicant must submit “one complete set” of tables providing data collected from the effluent from each permitted outlet.¹⁹ In a permit application, a complete set comprises Tables 2-IV-A, 2-IV-B, and 2-IV-C, which the NPDES Permit refers to as “Tables 2-IV-A, B, and C.” Tables 2-IV-A, B, and C each provides a separate set of pollutants for which an applicant must submit the maximum daily value, long-term average value, and the number of analyses.²⁰ When the applicant has “two or more outlets with substantially identical effluents,” WVDEP may allow an applicant to test and submit information for only one outlet and report that the data also apply to two or more

¹⁶ The Applicant Certification for the 2017 Permit Application was signed October 31, 2017 and WVDEP sent notice of application for reissuance to D&L Coal for publication November 29, 2017.

¹⁷ 2017 Permit Application, Mod 1 Part II: Facility Information, Section C.

¹⁸ *Id.*, Mod 2, Part I – A: Table 2-I-A, B; Mod 2, Part IV – A: Outlet Effluent General.

¹⁹ *Id.*, Mod 2, Part IV – A: Outlet Effluent General.

²⁰ *Id.*, Mod 2, Part IV – A, Table 2-IV-A, Table 2-IV-B, Table 2-IV-C. Table 2-IV-B also has columns to indicate whether a pollutant is “present” or “absent.” Here, where D&L Coal has reported that there have been no reportable discharges, D&L Coal presumably selected “present” for pollutants that would be present in the event of a discharge.

other outlets.²¹ Data submitted in Tables 2-IV-A, B, and C enable WVDEP to determine whether water quality-based effluent limitations are necessary.

In the 2017 Permit Application, D&L Coal submitted Tables 2-IV-A, B, and C for outlet 001 as representative of all three permitted outlets, but the tables as submitted did not provide any effluent sampling values.²² Instead, D&L Coal either left each cell blank or input “NA” in place of a value. The notes for each table state: “All outlets from the same source – there have been no reportable discharges from this facility over the life of the site.” The incomplete Tables 2-IV-A, B, and C that D&L Coal submitted in the 2017 Permit Application are in Mod 2 Part IV – A: Outlet Effluent General, pages 12–15, of **Attachment B**.

C. Relevant Terms of NPDES Permit WV1014137

WVDEP wrote the NPDES Permit based on the information set forth in the 2017 Permit Application, including the representations that the outlets had never discharged. Nevertheless, the NPDES Permit contains effluent limitations and monitoring and reporting requirements for the three authorized outlets, which apply in the event of a discharge. Each outlet has the same monitoring and reporting requirements and effluent limitations.²³ The authorized outlets are precipitation induced, expected to flow only in response to precipitation.²⁴

1. D&L Coal must submit effluent data to WVDEP upon first discharge from any of the authorized outlets.

The NPDES Permit includes a “Special Condition” requiring D&L Coal to provide WVDEP effluent data from sampling at the authorized outlets in the event of a discharge, by submitting completed Tables 2-IV-A, B, and C.²⁵ As described above, in the 2017 Permit Application, D&L Coal submitted these required tables but provided no effluent information, instead stating for each table “there have been no reportable discharges from this facility over the life of the site.”²⁶ Reflecting the information D&L Coal submitted in the 2017 Permit Application and the absence of data on D&L Coal’s DMRs, the NPDES Permit Rationale Page indicates that none of the outlets have ever discharged since their construction in the late 1990s and, consequently, “no water quality data is available for TABLES 2-IV-A, B, or C.”²⁷

To ensure that WVDEP receives these data when they are available, section D.7 of the NPDES Permit (Special Condition 7) requires the permittee to perform Table 2-IV-A, B, and C analyses, and any additional potential pollutant analyses, upon first discharge from any of the outlets.²⁸ D&L

²¹ *Id.*

²² *Id.*

²³ D&L Coal Co. Permit WV1014137, 2-4. The minimum and maximum daily limits for pH are 6.0 and 9.0 standard units, respectively. The following parameters have average monthly limits: total suspended solids (35.0 mg/l), total iron (0.95 mg/l), total manganese (2.0 mg/l), and total aluminum (0.08 mg/l). The following parameters have maximum daily limits: total suspended solids (70.0 mg/l), settleable solids (0.50 ml/l), total iron (1.64 mg/l), total manganese (4.0 mg/l), and total aluminum (0.14 mg/l). In addition, the NPDES Permit required monitoring and reporting for flow, specific conductance, total sulfates, dissolved aluminum, and total dissolved solids.

²⁴ *Id.*, Rationale Page.

²⁵ *Id.* at 11.

²⁶ 2017 Permit Application, Mod 2, Part IV – A, Table 2-IV-A, Table 2-IV-B, Table 2-IV-C.

²⁷ D&L Coal Co. Permit WV1014137, Rationale Page.

²⁸ *Id.* at 11.

Coal must submit such analyses to the regional office Permit Supervisor within 30 days of sampling.²⁹ This information would allow WVDEP to develop additional water quality-based effluent limitations, as necessary, to incorporate into D&L Coal's NPDES Permit.

2. D&L Coal must take representative samples and measurements.

Section C of the NPDES Permit references a series of West Virginia NPDES regulations for coal mining and facilities that are incorporated by reference into the NPDES Permit.³⁰ Among these regulations is West Virginia Code of State Rules § 47-30-5.11 for Monitoring and Records.³¹ Subsection b. of this regulation requires that “[s]amples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.”³² For this NPDES Permit, the monitored activity is a precipitation induced outlet that only flows in response to precipitation. Therefore, to ensure samples and measurements are representative of the monitored activity, samples must be taken during periods of precipitation.

3. D&L Coal must submit precipitation data for each permitted outlet.

Section A.5 of the NPDES Permit requires D&L Coal to report on each DMR “the sampling date and amount of rainfall measured for the 24-hour period of the sample being collected.”³³ The rainfall gauge must be located within three miles of the discharge point.³⁴ This requirement is necessary to ensure that D&L Coal is monitoring its outlets during periods of rainfall, when the outlets are expected to discharge. Without precipitation information for the period in which a sample is recorded, WVDEP cannot know that D&L Coal monitored the outlets at a representative time.

D. Discharge Monitoring Reports and WVDEP Site Inspections

The DMRs and WVDEP inspection reports for the Site consistently show no discharge from any of the outlets, and the NPDES Permit Application states that there have been “no reportable discharges from this facility over the life of the site.”³⁵ The NPDES Permit Rationale Page states that DMRs “indicate that none of the outlets (001, 002, and 003) have ever discharged since they were constructed in the late 1990’s.”³⁶

The DMRs for this facility do not record any measurements of pollutants, flow, or precipitation. The most recent submission of DMRs was April 15, 2020, which included DMRs for January, February, and March 2020.³⁷ The facility again failed to report measurements for any parameters,

²⁹ *Id.*

³⁰ *Id.* at 9.

³¹ *Id.*

³² W. Va. Code R. 47-30-5.11.b.

³³ D&L Coal Co. Permit WV1014137, at 5.

³⁴ *Id.*

³⁵ 2017 Permit Application, Mod 2, Part IV – A, Table 2-IV-A, Table 2-IV-B, Table 2-IV-C; *see, e.g.*, Jan.–Mar. 2020 DMRs (**Attachment C**); 2018–Present Inspection Reports (**Attachment D**).

³⁶ D&L Coal Co. Permit WV1014137, Rationale Page.

³⁷ Jan.–Mar. 2020 DMRs.

indicating that D&L Coal continues to maintain there is no flow from the outlets for the three months.

The current inspector for the Site, Jessica Baczuk, stated in comments in the most recent inspection report, on April 17, 2020, that the outlets were not flowing during the inspection and that the site “appears in ok condition.”³⁸ Each outlet was marked as having “No Flow” and no treatment. No sampling was conducted as part of the inspection, but the report marked each of the following areas as having been evaluated: permit, facility site review, effluent/receiving waters, records/reports, self-monitoring program, compliance schedules, operations maintenance, and stormwater. Inspection comments in prior reports similarly reported that the outlets were inspected and were not flowing.³⁹

E. The Upper Potomac Riverkeeper’s Investigation

While gathering information and data related to litigation at the Paper Mill, Brent Walls, the Upper Potomac Riverkeeper (the “Riverkeeper”), noticed coal residue along a path leading to the West Virginia banks of the River. On February 6, 2020, the Riverkeeper observed the path leading from the top of the ledge where Sump C and permitted outlet 003 sit at the Site, downhill to an area at the banks of the River where coal-laden stormwater appeared to have pooled and collected during a rain event. The path appeared to be formed by coal-laden stormwater collecting at the Site, flowing through a drainage ditch to Sump C, discharging through outlet 003 and flowing downhill toward the River. The below diagram shows the southeast portion of the Site and the approximate path of the discharge from Sump C, through outlet 003, to the River.⁴⁰

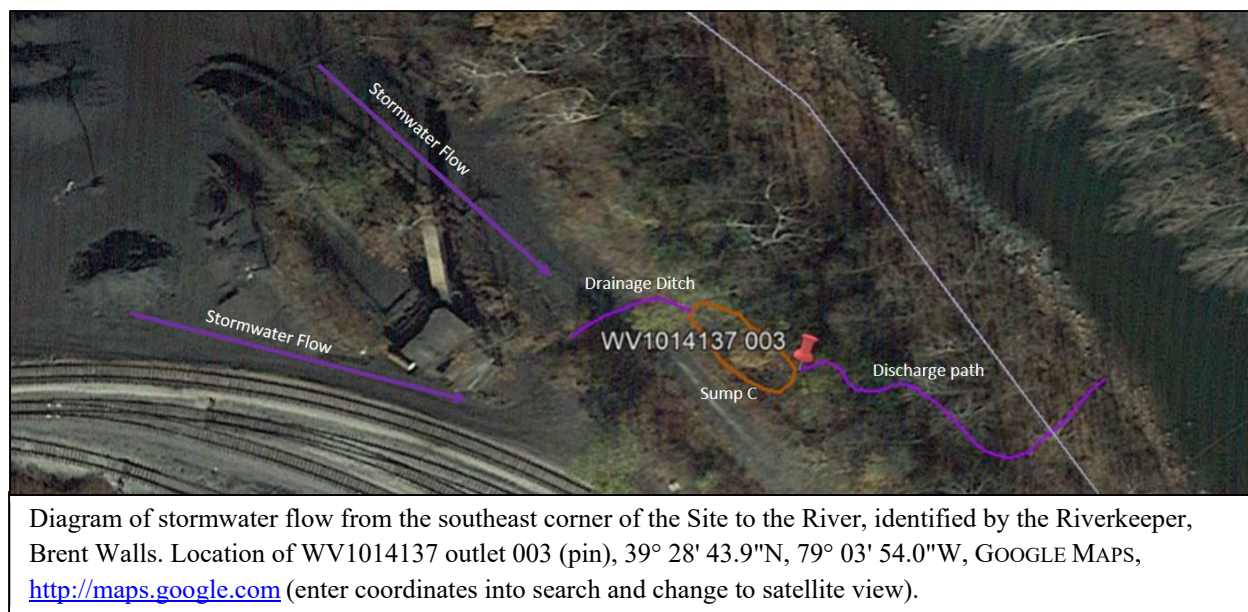


Diagram of stormwater flow from the southeast corner of the Site to the River, identified by the Riverkeeper, Brent Walls. Location of WV1014137 outlet 003 (pin), 39° 28' 43.9"N, 79° 03' 54.0"W, GOOGLE MAPS, <http://maps.google.com> (enter coordinates into search and change to satellite view).

³⁸ WVDEP, Hydrologic Protection Unit Inspection (EPA) Report for D&L Coal, Apr. 17, 2020.

³⁹ See, e.g., 2018–Present Inspection Reports.

⁴⁰ The other sumps and outlets are not shown in the diagram because they are not located on the portion of the Site relevant to this action.

Coal piles and coal residue are prevalent at the Site, with some piles as large as 15-20 feet high. The photo below shows the coal piles and coal residue covering the Site.



Photo taken by drone from above the Site on May 12, 2020, showing the Site from the West.

On March 25, 2020, a day with moderate rainfall (approximately 0.55 inches),⁴¹ the Riverkeeper returned to the area and observed that outlet 003 was discharging water from Sump C. The Riverkeeper observed wastewater flowing downhill from outlet 003, along the path he had noticed previously had contained coal residue. The wastewater was pooling at the banks of the River. Although the wastewater may have collected coal residue nearly anywhere at the site, discharge visibly flowed from the location of the Site where Sump C and outlet 003 are located.

On June 18, 2020, from the River, the Riverkeeper observed and photographed discharge from outlet 003 after a period of rainfall on June 17, 2020 (approximately 0.28 inches), and during a period of heavier rainfall on June 18, 2020 (approximately 0.96 inches).⁴² This discharge, shown in the photo on the next page, flowed from outlet 003 into the River.

⁴¹ According to Weather Underground, precipitation on March 25, 2020 was 0.55 inches in Keyser, West Virginia, at the Stoney Run weather station. Weather History for KVVKEYSE1, Stoney Run Station, WEATHER UNDERGROUND (last visited on Jun 23, 2020) <https://www.wunderground.com/dashboard/pws/KVVKEYSE1/graph/2020-03-25/2020-03-25/daily>.

⁴² Weather History for KVVKEYSE1 June 17, 2020, Stoney Run Station, WEATHER UNDERGROUND (last visited on Jun 23, 2020) <https://www.wunderground.com/dashboard/pws/KVVKEYSE1/graph/2020-06-17/2020-06-17/daily>; Weather History for KVVKEYSE1 June 18, 2020, Stoney Run Station, WEATHER UNDERGROUND (last visited on Jun 23, 2020) <https://www.wunderground.com/dashboard/pws/KVVKEYSE1/graph/2020-06-18/2020-06-18/daily>.



Photo taken by Brent Walls while standing in the River on June 18, 2020, showing flow from the ledge where Sump C and outlet 003 are located. At the top of the photo, the bottom of a sign-post marking outlet 003 is visible.

Images from above the Site, taken on the same day by drone, show wastewater flowing through a drainage ditch into Sump C, which was full of wastewater.





Photos taken by drone on June 18, 2020, showing drainage ditch leading to Sump C.

Additionally, photos taken on the same day by drone above the River show that the coal-laden stormwater is reaching the River.

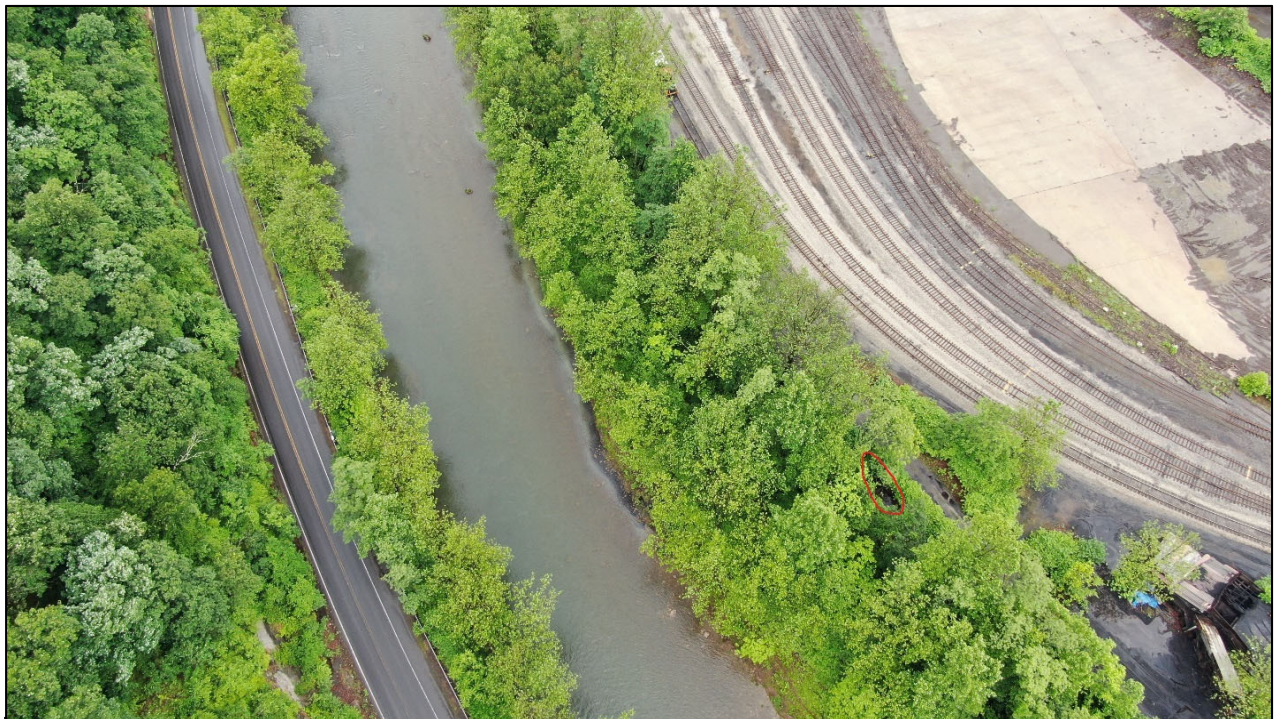


Photo taken by drone on June 18, 2020, showing coal residue on the West Virginia side of the River (right side), with the Site visible in the bottom right corner. The location of Sump C is circled in red.



Photo taken by drone on June 18, 2020, showing coal-laden stormwater entering the West Virginia side of the River.

F. Receiving Water Body

The North Branch of the Potomac River is the receiving water body of D&L Coal’s discharges. The River is within the jurisdiction of the State of Maryland. The segment of the River impacted by the discharge is a designated Use Class I-P stream pursuant to Code of Maryland Regulations 26.08.02.08R, which provides for protection for, among other uses, water contact recreation, fishing, aquatic life, wildlife and public water supply.⁴³

According to the NPDES Permit Rationale Page, the River is considered a trout stream under West Virginia regulations.⁴⁴ A category B2 trout water provides for “[p]ropagation and maintenance of fish and other aquatic life.”⁴⁵ Additionally, under West Virginia regulations, the North Branch of the Potomac River is listed as “waters known to be used for water contact recreation.”⁴⁶

⁴³ Md. Code Regs. 26.08.02.02(B)(1), (2); *Maryland’s Designated Uses for Surface Waters*, MDE, https://mde.maryland.gov/programs/Water/TMDL/WaterQualityStandards/Pages/wqs_designated_uses.aspx (last visited May 20, 2020).

⁴⁴ D&L Coal Co. Permit WV1014137, Rationale Page. Trout waters are defined as “waters which sustain year-round trout populations.” W. Va. Code R. 47-2-2.19. Although the North Branch Potomac River is not specifically listed in the Category B-2 – Trout Waters list in Appendix A to West Virginia Code of Regulations 47-2, the Appendix notes that it “is not intended to exclude any waters which meet the definition in Section 2.19.” W. Va. Code R. 47-2 App. A.

⁴⁵ *Water Quality Standards, Designated Use*, WVDEP, <https://dep.wv.gov/WWE/Programs/wqs/Pages/default.aspx> (last visited May 20, 2020).

⁴⁶ W. Va. Code R. 47-2 App. D.

As a “trout stream” under West Virginia law, the River is subject to the West Virginia water quality standards applicable to use Category B2, for the propagation of fish and other aquatic life, but not human health criteria. However, as noted above, Maryland has designated the North Branch Potomac a Use Class I-P water. For Class I-P waters, Maryland regulations require that toxic substance criteria be applied for the protection of fresh water aquatic organisms and to protect public water supplies and the wholesomeness of fish for human consumption.⁴⁷ Therefore, although the NPDES Permit does not contemplate application of the West Virginia human health standards, these standards are the appropriate criteria based on the designated use of the River in Maryland.

Total Maximum Daily Loads (TMDLs) have been established for a small portion of the River, but the Site is located within a portion of the watershed for which no approved TMDLs have been established.⁴⁸ The River is not included in the 2014 303(d) list as being impaired for any parameters. It is within the Chesapeake Bay Watershed and therefore subject to the pollution reduction requirements of the Bay TMDL, which include allocations for sediments, nitrogen, and phosphorus.⁴⁹

II. CLEAN WATER ACT VIOLATIONS

Section 505(a)(1) of the CWA, 33 U.S.C. § 1365(a)(1), states that “any citizen may commence a civil action on his own behalf against any person . . . who is alleged to be in violation of (A) an effluent standard or limitation under this [Act].” According to CWA section 505(a), 33 U.S.C. § 1365(a), district courts have jurisdiction “to enforce such an effluent standard or limitation” and to apply any appropriate civil penalties under section 309(d) of the CWA, 33 U.S.C. § 1319(d). A court can impose a civil penalty of up to \$55,800 per day for each CWA or permit violation. 33 U.S.C. § 1319(d).⁵⁰

For purposes of section 505, the term “effluent standard or limitation under this chapter” includes, among other things, “a permit or condition of a permit” issued under section 402 that is in effect under this chapter. 33 U.S.C. § 1365(f). Therefore, a violation of the NPDES Permit constitutes a violation of an effluent standard or limitation.

D&L Coal has violated, and is continuing to violate, several provisions of the NPDES Permit. Specifically, D&L Coal fails to provide supplemental data to WVDEP upon discharge from an outlet, fails to properly monitor and sample the outlets, and fails to provide the required precipitation information on its DMRs. Without these data, WVDEP does not have sufficient information from which to determine whether additional water quality-based effluent limitations are necessary. By violating the terms of its permit, D&L Coal violated, and is violating, the CWA.

⁴⁷ Md. Code Regs. 26.08.02.03-3.

⁴⁸ D&L Coal Co. Permit WV1014137, Rationale Page.

⁴⁹ *Id.*; U.S. EPA ET AL., CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD FOR NITROGEN, PHOSPHORUS AND SEDIMENT, EXECUTIVE SUMMARY ES-7 (Dec. 29, 2010), https://www.epa.gov/sites/production/files/2014-12/documents/cbay_final_tmdl_exec_sum_section_1_through_3_final_0.pdf (providing nitrogen, phosphorus, and sediment allocations in millions of pounds per year for each major river basin in the Chesapeake Bay watershed, including the Potomac River).

⁵⁰ See also Civil Monetary Penalty Inflation Adjustment, 40 C.F.R. § 19.4.

A. D&L Coal Fails to Collect Representative Samples.

D&L Coal does not monitor its outlets at times representative of the monitored activity, in this case precipitation induced discharges. The NPDES Permit incorporates a series of West Virginia regulations, including West Virginia Code of State Rules § 47-30-5.11 for Monitoring and Records. Subsection b. of this section requires that “[s]amples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.”⁵¹ Here, the “monitored activity” is a precipitation induced discharge, known to only flow in response to precipitation. For measurements to be representative of the monitored activity, the permittee must measure the flow from these outlets at times when they would be expected to flow—during or after periods of rainfall.

In the most recent submission of DMRs, on April 15, 2020, which included DMRs for January, February, and March 2020, D&L Coal provided no precipitation information and did not report any flow or other parameter information.⁵² Instead, on the eDMR Worksheet, D&L Coal input N/A for each cell where parameter values should be reported.⁵³ D&L Coal also left blank the table for reporting rainfall amounts and sampling date.⁵⁴ Presumably, D&L Coal maintained that there was no flow during this period. The Riverkeeper observed flow from outlet 003 on March 25, 2020 after precipitation of about 0.55 inches, yet no flow was reported on the DMRs. Because photographs indicate that outlet 003 does in fact discharge coal-laden water from Sump C to the River during, or in response to, precipitation, D&L Coal is not reporting its discharges during representative times. This constitutes a permit violation because it violates a regulation incorporated by reference into the NPDES Permit.

Upon information and belief, this violation has occurred every month where there was light-moderate rainfall for at least the past five years and continues to date. For example, precipitation data from nearby United States Geological Survey (USGS) stations show many instances in the last several years of rainfall at or above the level of rainfall on the day the Riverkeeper first observed discharge in March 2020 (0.55 inches). Precipitation data from the USGS Station near Swanton, Maryland, approximately 10 miles west of the Site, show levels equal to or exceeding 0.55 inches 64 times from June 28, 2018 through June 30, 2020.⁵⁵ Precipitation data from the Grantsville, Maryland station, about 16 miles north of the Site, show levels equal to or above 0.55 inches 167 times from January 1, 2015 through June 30, 2020.⁵⁶ Additionally, discharges may be occurring in response to precipitation even less than 0.55 inches.

⁵¹ W. Va. Code R. 47-30-5.11.b.

⁵² Jan.–Mar. 2020 DMRs.

⁵³ *Id.* The table of parameters, quantities, and limits on the printed eDMR Worksheet was only provided for 001, most likely because D&L Coal considered its 001 submission representative of the other two outlets. D&L Coal provided no precipitation, flow, or other parameter data for any of the three outlets. *Id.*

⁵⁴ *Id.*

⁵⁵ National Water Information System, *03075825 North Glade Rune Near Swanton, MD*, USGS (July 14, 2020), https://waterdata.usgs.gov/nwis/dv?cb_00045=on&format=html&site_no=03075825&referred_module=sw&period=&begin_date=2015-01-01&end_date=2020-06-30. Daily precipitation data at this station was only available beginning June 28, 2020.

⁵⁶ National Water Information System, *03078000 Casselman River at Grantsville, MD*, USGS (July 14, 2020), https://nwis.waterdata.usgs.gov/nwis/dv?cb_00045=on&format=html&site_no=03078000&referred_module=sw&period=&begin_date=2015-01-01&end_date=2020-06-30.

B. D&L Coal Fails to Submit Outlet Effluent Data in the Form of Tables 2-IV-A, B, and C Upon First Discharge.

D&L Coal fails to conduct and submit Table 2-IV-A, B, and C analyses providing effluent data from the permitted outlets, as required by the NPDES Permit. Section D.7 (Special Condition 7) of the NPDES Permit states that the “permittee must perform Table 2-IV-A, B, C analyses upon first discharge of the outlet(s) contained in this permit.”⁵⁷ D&L Coal did not include this effluent data in the 2017 Permit Application because it maintained that the outlets have never discharged. The NPDES Permit Rationale Page notes that there is no water quality data available for these analyses because the outlets have never discharged.⁵⁸ Therefore, in the event of a discharge, WVDEP lacks critical data on the pollutants contained in the discharge and the flow of the discharge.

Because at least one permitted outlet is discharging during periods of rainfall, D&L Coal must produce these pollutant analyses to WVDEP by submitting the completed Tables 2-IV-A, B, and C for outlet 003. The incomplete Tables 2-IV-A, B, and C, as submitted in the 2017 Permit Application, are in Mod 2 Part IV – A, pages 12–15, of **Attachment B**. In the absence of these data, WVDEP does not have sufficient information to impose appropriate water quality-based effluent limitations. D&L Coal’s failure to submit the required tables constitutes a continuing violation of the NPDES Permit, at least from March 25, 2020, the date the Riverkeeper first observed the discharge and, upon information and belief, has been ongoing for at least the last five years, given proof provided herein that rainfall induces discharge.

C. D&L Coal Fails to Submit Rainfall Data with its DMRs.

D&L Coal is violating the requirement to submit measurements of precipitation on its DMRs. Section A.5 of the NPDES Permit requires the permittee to report the rainfall as measured on a rainfall gauge within three miles of each discharge point. Both the sampling date and the amount of rainfall measured for the 24-hour period of the sample being collected “shall be reported on the [DMR] for each DMR reported.”⁵⁹

As is apparent on **Attachment C**, D&L Coal consistently leaves the rainfall tables blank on its eDMR submissions, providing no precipitation information whatsoever.⁶⁰ Without such information, WVDEP and the public cannot know whether D&L Coal is monitoring the outlets during a period of precipitation, rather than during dry periods when the outlets would not be expected to flow. This violation has been ongoing for at least the last five years and continues to date.

III. PERSONS RESPONSIBLE FOR VIOLATIONS

D&L Coal is a West Virginia, for-profit corporation with a principal office at 21557 Maryland Highway, Bloomington, Maryland 21523 and mailing address at 3924 Beryl Road, Keyser, West

⁵⁷ D&L Coal Co. Permit WV1014137, at 11.

⁵⁸ *Id.*, Rationale Page.

⁵⁹ D&L Coal Co. Permit WV1014137, at 5.

⁶⁰ Jan.–Mar. 2020 DMRs.

Virginia 26726, according to the West Virginia Secretary of State Business Entity Details.⁶¹ The NPDES Permit lists an address of Rt 6 Box 6192, Keyser, WV 26726 for D&L Coal.⁶² D&L Coal operates the haul road, coal loadout facility, and coal stockpile on the Site and is the holder of the NPDES Permit.

As a corporation, D&L Coal is a “person” pursuant to section 302 of the CWA.⁶³ Additionally, CWA regulations provide that an operator, if different from the owner, is responsible for obtaining (and achieving compliance with) a permit.⁶⁴ Because D&L Coal is a “person” and is the operator of the Site and holder of the NPDES Permit, it is responsible for the violations of the NPDES Permit and, consequently, the CWA.

CWA Section 505(b)(1)(A) requires notice of the violation to be given “to any alleged violator of the standard, limitation, or order”⁶⁵ In this case, D&L Coal is the violator of the effluent standard or limitation. EPA has issued regulations that provide further guidance as to how to serve notice upon an alleged violator of an effluent standard or limitation that is a corporation.⁶⁶ Service of notice shall be accomplished by certified mail addressed to “the owner or managing agent of the building, plant, installation, vessel, facility, or activity alleged to be in violation.”⁶⁷ Because D&L Coal operates the “facility” or “activity alleged to be in violation,” this notice is being sent to both the President and Vice President of D&L Coal, as managing agents of the Site and activity. Additionally, D&L Coal’s Vice President, Timothy B. Schwinabart, is listed as the contact person on the 2017 Permit Application and signed the applicant certification. To the best of our knowledge, as the signer for D&L Coal’s most recent permit application and as the Vice President of D&L Coal, he is a “managing agent” of the facility for purposes of 40 C.F.R. § 135.2(a)(1) and Section 505(b)(1)(A).

IV. PERSONS GIVING NOTICE

Potomac Riverkeeper, Inc. d/b/a Potomac Riverkeeper Network is a 501(c)(3) nonprofit organization established in 2000 devoted to the protection of water quality in the Potomac River and its tributaries. PRKN’s mission is to protect the public’s right to clean water in our rivers and streams and to stop pollution to promote safe drinking water, protect healthy river habitats, and enhance public use and enjoyment. PRKN utilizes the CWA and other environmental laws to address pollution that damages water quality in the Potomac River and local rivers and streams.

PRKN’s offices are located at 3070 M Street NW, Washington, DC 20007, and the main phone number is (202) 888-2037. PRKN is represented by the Environmental Integrity Project (“EIP”) and Appalachian Mountain Advocates (“Appalmad”). EIP is a non-profit non-governmental

⁶¹ West Virginia Secretary of State, *Business Entity Details*, <https://apps.wv.gov/SOS/BusinessEntitySearch/Details.aspx?Id=zGEYOT7zCMM3uav2YZrVYQ==&Search=YaoTPLptHo%208Zs31A3NvCw==&Page=0> (last visited Jun. 23, 2020).

⁶² D&L Coal Co. Permit WV1014137 at 1.

⁶³ “The term ‘person’ means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.” 42 U.S.C. § 1362(5).

⁶⁴ 40 C.F.R. § 122.21(b) (“When a facility or activity is owned by one person but is operated by another person, it is the operator’s duty to obtain a permit.”)

⁶⁵ 33 U.S.C. 1365(b)(1)(A).

⁶⁶ 40 C.F.R. § 135.2(a)(1).

⁶⁷ *Id.*

organization located at 1000 Vermont Avenue NW, Suite 1100, Washington, DC 20005 and whose main phone number is (202) 296-8800. Appalmad is also a non-profit non-governmental organization, with an address of P.O. Box 507, Lewisburg, WV 24901 and whose main phone number is (304) 645-9006.

PRKN has over 1,700 members throughout Maryland, Virginia, West Virginia, and the District of Columbia. Many members of the PRKN are avid kayakers, anglers, bird-watchers, business owners, and other users of the Potomac and Shenandoah Rivers and their tributaries. These members have been injured and continue to be injured by D&L Coal's violations of the NPDES Permit. D&L Coal's failure to monitor appropriately results in inaccurate DMRs, which currently suggest to the public that no discharge occurs. Failure to report rainfall data, including sampling date and rainfall amount, prevents WVDEP or the public from verifying that D&L Coal is monitoring its outlets at representative times. Additionally, the absence of effluent analyses prevents the public from knowing what the discharge contains. Without this information, neither WVDEP nor the public can determine if D&L Coal is violating the effluent limitations of the NPDES Permit or if additional water quality-based effluent limitations are warranted based on the discharge. If D&L Coal's unmonitored discharges continue, the unknown and unregulated pollutants will continue to injure the River, the Chesapeake Bay watershed, and PRKN's members, who use and recreate in the River and its watershed.

V. CONCLUSION

D&L Coal has consistently represented that the outlets do not discharge, but in fact, outlet 003 consistently discharges in response to precipitation. D&L Coal has not conducted the sampling analyses required to be submitted to WVDEP, or submitted accurate data on its DMRs. Information on the concentrations of pollutants in the effluent is critical to ensure that D&L Coal is not contributing to exceedances of water quality standards. D&L Coal's failures to monitor at representative times, submit outlet effluent data, and submit rainfall data with its DMRs effectively make its discharge of coal-laden stormwater unregulated by the NPDES Permit. Based on these permit violations, D&L Coal is violating the CWA. As the operator of the Site and permitholder, D&L Coal must correctly monitor its outlets, submit effluent data to WVDEP when the outlets discharge, and provide complete information on its DMRs, including date of sampling and rainfall data.

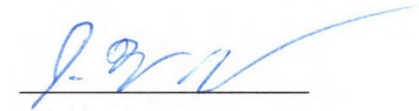
If the parties are unable to reach an enforceable settlement agreement within the 60-day notice period, PRKN, through its counsel, is prepared to file suit in the Martinsburg Division of the United States District Court for the Northern District of West Virginia pursuant to Section 505(a)(1) and (b)(1)(A) of the CWA. This lawsuit will seek injunctive relief, appropriate monetary penalties up to a maximum statutory penalty amount of \$55,800 per day for each permit violation,⁶⁸ fees and costs of litigation,⁶⁹ including the use of experts, and such other relief as the court deems appropriate.

⁶⁸ 33 U.S.C. § 1319(d) provides for a civil penalty of up to \$25,000 per day for each violation. EPA's most recent annual update to the statutory civil penalties, as adjusted for inflation, are effective January 13, 2020. 40 C.F.R. § 19.4. The updated civil penalty for CWA Section 1319(d) is \$55,800 per day for violations that occurred after November 2, 2015, where penalties are assessed on or after January 13, 2020. *Id.*

⁶⁹ 33 U.S.C. § 1365(d) provides that a court "may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party"

If you have any questions regarding the allegations in this notice or believe any of the foregoing information may be in error, please contact Michael Becher, Senior Staff Attorney at Appalachian Mountain Advocates, or Natalia M. Cabrera, Staff Attorney at Environmental Integrity Project, as per below. In the absence of any questions, we also would welcome an opportunity to discuss a resolution of this matter prior to the initiation of litigation if you are prepared to remedy the violations discussed above.

Sincerely,



J. Michael Becher
Senior Staff Attorney
Appalachian Mountain Advocates
P.O. Box 507
Lewisburg, WV 24901
(304) 382-4798
mbecher@appalmad.org



Natalia M. Cabrera
Staff Attorney
Environmental Integrity Project
1000 Vermont Ave NW, Ste 1100
Washington, DC 20005
(202) 469-3151
ncabrera@environmentalintegrity.org

Counsel for Citizen Group:
Potomac Riverkeeper Network, 3070 M. Street NW, Washington, DC 20007

cc:

Phillip Musegaas
Potomac Riverkeeper Network

Via Electronic Mail

Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
Office of the Administrator, Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Via Certified Mail, Return Receipt Requested

Cosmo Servidio
Regional Administrator

Via Certified Mail, Return Receipt Requested

U.S. Environmental Protection Agency, Region 3
1650 Arch Street (3PM52)
Philadelphia, PA 19103-2029

Austin Caperton
Cabinet Secretary
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

Via Certified Mail, Return Receipt Requested

Katheryn Emery-Fultineer
Acting Director
Division of Water and Waste Management
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

Via Certified Mail, Return Receipt Requested

Benjamin H. Grumbles
Secretary of the Environment
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Via Certified Mail, Return Receipt Requested

Lee Currey
Director
Water and Science Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Via Certified Mail, Return Receipt Requested

ATTACHMENT A



west virginia department of environmental protection

Division of Mining & Reclamation
47 School Street, Suite 301
Philippi, WV 26416
Phone: 304 457-3219
Fax: 304 457-3440

Jim Justice, Governor
Austin Caperton, Cabinet Secretary
dep.wv.gov

JAN 10 2018

Interoffice Memorandum

To: Harold D. Ward, Director of Mining and Reclamation
From: Heather Browning – NPDES Permit Reviewer
Date: January 8, 2018
Re: NPDES Application

Company Name: D. & L. Coal Company, Incorporated
Article 3 Permit(s) No.: I059300
NPDES Permit No.: WV1014137
Application Type: Article 11, Reissuance #5
Application Document: ☒ **ePermit** ☐ **Paper**

Purpose of application: maintain, monitor, and operate a Coal Stockpile, Haul road, and Coal Load-Out Facility. This operation discharges Treated Water and Storm Water into North Branch Potomac River. The operation is located approximately 1 mile West of Piedmont in Mineral District of Mineral County in West Virginia.
Please note there are Special Conditions in this permit and include 6- Reopener Clause and 7- Table 2-IV-A, B, and C Analysis.

Based on my review the application complies with the requirements of Title 47 Series 2; Title 47 Series 10; Title 47 Series 26; Title 47 Series 30; Title 47 Series 55; Title 38 Series 2F; Title 60 Series 5; and Chapter 22 Article 11 (Water Pollution Control Act) of the Code of West Virginia, as applicable.

☒ Recommend Approval
☐ Recommend Denial
Basis for Denial: _____

☐ Response to Comments Attached

Heather Browning
Permit Reviewer

Clarence Wright
Permit Supervisor

Promoting a healthy environment.



west virginia department of environmental protection

Division of Mining and Reclamation
601 57th Street, SE
Charleston, WV 25304-2345
Phone: (304) 926-0490
Fax: (304) 926-0456

Jim Justice, Governor
Austin Caperton, Cabinet Secretary
dep.wv.gov

JAN 10 2018

D. & L. COAL COMPANY, INCORPORATED
RT 6 BOX 6192
KEYSER, WV 26726

Gentlemen:

Enclosed is your WVNPDES Permit No. WV1014137 for your Coal Loading Facility located near
Piedmont in Mineral County, West Virginia.

We suggest that this permit or a copy of it be kept in the office nearest the discharge point.

If you have any questions, please contact me at (304) 457-3219 or by mail at:

Department of Environmental Protection
47 School Street, Suite 301
Philippi, WV 26416-1150
Attention: Heather Browning

Sincerely,

Heather Browning
Permit Writer

cc: Environmental Protection Agency
Environmental Inspector
DEP Regional Office File
Headquarters NPDES File



west virginia department of environmental protection

Division of Mining and Reclamation
601 57th Street, SE
Charleston, WV 25304-2345
Phone: 304-926-0490
Fax: 304-926-0496

Jim Justice, Governor
Austin Caperton, Cabinet Secretary
www.dep.wv.gov

**WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT**

NPDES PERMIT NO.: WV1014137

ISSUE DATE: JAN 10 2018

ASSOCIATED PERMITS: I059300

EXPIRE DATE: January 8, 2023

SUBJECT: Coal Stockpile; Haulroad; Loadout Facility

SUPERSEDES/ WV1014137 / 2/7/2013
EFFECTIVE DATE:

HEALTH CERTIFICATE:

LOCATION:	Piedmont	Mineral	Group B	N. Potomac River
	(City)	(County)	(Hydrologic)	(Drainage Basin)

TO WHOM IT MAY CONCERN:

This is to certify that: D. & L. COAL COMPANY, INCORPORATED
RT 6 BOX 6192
KEYSER, WV 26726

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:

maintain, monitor, and operate a Coal Stockpile, Haul road, and Coal Load-Out Facility. This operation discharges Treated Water and Storm Water into North Branch Potomac River. The operation is located approximately 1 mile West of Piedmont in Mineral District of Mineral County in West Virginia.

Please note there are Special Conditions in this permit and include 6- Reopener Clause and 7-Table 2-IV-A, B, and C Analysis.

This permit is subject to the following terms and conditions:

--The effluent limitations, monitoring requirements and other conditions set forth in Section A, B, C and D.

By : Harold D. Ward
Harold D. Ward
Director

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY: Outlets should be limited and monitored by the permittee as specified below:

[illegible]

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY: Outlets should be limited and monitored by the permittee as specified below:

[illegible]

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY: Outlets should be limited and monitored by the permittee as specified below:

[illegible]

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

* Instantaneous maximum limitation not to be exceeded at any time.

3. COMPLIANCE POINT: Samples taken for compliance with the above monitoring requirements shall be taken at the following locations: Outlet sites
4. ALTERNATE EFFLUENT LIMITATIONS: If alternate effluent limits are chosen, the following monitoring scheme applies:
 - (a) Table I Alternate Storm Limitations applies to any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period.
 - (b) Analyze the required parameters, which are determined by effluent type (listed in A.1.) and rainfall event, listed in Table I Alternate Storm Limitations.
 - (c) The permittee shall have the burden of proof that the discharge or increase in discharge was caused by the applicable rainfall event. This shall be verified by the use of a rainfall gauge located within three miles of the discharge point and last emptied no more than twenty-four hours prior to the time the sample was taken. Automated rain gauges may also be utilized. The sampling date and amount of rainfall measured by the gauge shall be reported on the Discharge Monitoring Report(DMR).
5. The rainfall gauge shall be located within three miles of the discharge point and last emptied not more than 24 hours prior to the time the sample was taken. Automated rain gauges may also be utilized. The sampling date and amount of rainfall measured for the 24-hour period of the sample being collected shall be reported on the Discharge Monitoring Report(DMR) for each DMR reported.
6. SUBMISSION OF DISCHARGE MONITORING REPORTS (DMRs):
 - (a) Permittee shall submit each quarter, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating the values of the constituents listed in Part A, to be in the discharge measured at the specific compliance points. All analyses must be determined by methods required in 40 CFR Part 136.
 - (b) The required quarterly reports shall be postmarked no later than twenty (20) days following the end of the reporting period and shall be sent to:
**West Virginia Department of Environmental Protection
Division of Mining & Reclamation / HPU / NPDES Section
601 57th Street SE
Charleston, West Virginia 25304**
 - (c) Enter reported average and maximum values under Quantity and Concentration in the units specified for each parameter, as appropriate.
 - (d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled N.E. (i.e. number exceeding).
 - (e) Specify frequency of analysis of each parameter as number of analyses/specified period (e.g. 3/month is equivalent to 3 analyses performed every calendar month). If continuous enter Cont. The frequency listed on format is the minimum required. Notwithstanding the frequency of sampling/analyses, there must be at least 10 calendars days between two of the sampling/analyses.
 - (f) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic means unless otherwise specified in the permit. "No discharge" or "no flow" cannot count as a sample collected for calculating the arithmetic average when reporting the monthly average limit or averaging of measurement for reporting purposes.

7. Any "not detected (ND)" results by the permittee must be "ND" at the method detection limit (MDL) for the test method used for that parameter and must be reported as less than the MDL used. The permittee may not report the result as zero, "ND", or report the result as less than a minimum level (ML), reporting limit (RL), or practical quantitation limit (PQL).

When averaging values of analytical results for DMR reporting purposes for monthly averages, the permittee should use actual analytical results when these results are greater than or equal to the MDL and should use zero (0) when these results are less than the MDL. If all analytical results are non-detect at the MDL (<MDL), then the permittee should use the actual MDL in the calculation for averaging and report the results as less than the average calculation.

8. In incidences where a specific test method is not defined, the permittee shall utilize an EPA approved method with a method detection limit (MDL) sensitive enough to confirm compliance with the permit effluent limit for that parameter. If a MDL is not sensitive enough to confirm compliance, the most sensitive approved method must be used. If a more sensitive EPA approved method becomes available, that method shall be used. Should the current and/or new method not be sensitive enough to confirm compliance with the permitted effluent limit, analytical results reported as "not detected" at the MDL of the most sensitive method available will be deemed compliant for purposes of permit compliance. Results shall be reported on the Discharge Monitoring Reports as a numeric value less than the MDL.

TABLE 1
ALTERNATE STORM LIMITATIONS

EFFLUENT TYPES	DRY WEATHER	DCP*	1 YEAR - 24 HOUR	2 YEAR - 24 HOUR	10 YEAR - 24 HOUR
<u>ACID OR FERRUGINOUS CATEGORIES</u>					
a. Discharges from underground workings of underground mines not commingled	TSS pH Iron Flow Manganese WQBEL***	(NO ALTERNATE LIMITATIONS)			
b. Discharges from underground workings of underground mines commingled	TSS pH Iron Flow Manganese WQBEL***				Flow pH WQBEL***
c. Controlled surface mine drainage(except steep slope and mountaintop removal)	TSS pH Iron Flow Manganese WQBEL***				Flow pH WQBEL***
d. Non-controlled surface mine drainage(except steep slope and mountaintop removal)	TSS Iron Flow pH Manganese WQBEL***	SS** pH Iron Flow Manganese WQBEL***	SS** pH Flow WQBEL***		Flow pH WQBEL***
e. Discharges from coal refuse disposal areas	TSS pH Iron Flow Manganese WQBEL***		Flow SS** pH WQBEL***		Flow pH WQBEL***
f. Discharges from steep slope and mountaintop removal areas	TSS Iron Flow pH Manganese WQBEL***	Flow SS** pH WQBEL***			Flow pH WQBEL***
g. Discharges from preparation plants and preparation plant associated areas (excluding coal refuse piles)	TSS Iron Flow pH Manganese WQBEL***	Flow SS** pH WQBEL***			Flow pH WQBEL***
h. Discharges from reclamation areas		Flow SS** pH WQBEL***			Flow pH WQBEL***
<u>ALKALINE CATEGORY</u>					
i. Discharges from underground workings of underground mines not commingled	TSS pH Iron Flow WQBEL***	(NO ALTERNATE LIMITATIONS)			
j. Alkaline Mine Discharges	TSS Iron Flow pH WQBEL***	Flow SS** pH WQBEL***			Flow pH WQBEL***
k. Reclamation areas		Flow SS** pH WQBEL***			Flow pH WQBEL***
<u>WATER QUALITY BASED LIMITS</u>					
l. Water quality based effluent limits	TSS Flow pH WQBEL***	SS** pH WQBEL***	Flow		WQBEL***
m. Bathroom & Sewage	(NO ALTERNATE LIMITATIONS)				

DCP* -- Discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period

SS** -- Settleable Solids

WQBEL*** -- All Parameters with calculated Water Quality Based Effluent Limits

County: Mineral

1-Year 02.41

2-Year 02.87

10-Year 04.55

B. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the following interim requirements with the discharge limitations specified in this permit in accordance with the following schedule:

Interim RequirementCompletion Date

Effective date of this permit

2. Reports of compliance or non-compliance with, and progress reports on the interim and final requirements contained in the above compliance schedule shall be submitted no later than fourteen (14) days following each schedule date.

N/A

C. TERMS AND CONDITIONS INCORPORATED BY REFERENCE TO THE WV NPDES REGULATIONS FOR COAL MINING AND FACILITIES, TITLE 47, SERIES 30.

- 5.1 Duty to Comply, Penalties (subject to 3.4)
- 5.2 Duty to Reapply
- 5.3 Duty to Halt or Reduce Activity
- 5.4 Duty to Mitigate
- 5.5 Proper Operation and Maintenance
- 5.6 Permit Actions
- 5.7 Transfer
- 5.8 Property Rights
- 5.9 Duty to Provide Information
- 5.10 Inspection and Entry
- 5.11 Monitoring and Records
- 5.12 Signatory Requirements
- 5.13 Reporting Requirements
- 5.14 Bypass
- 5.15 Upset
- 5.16 Reopener Clause
- 5.17 Removed Substances
- 5.18 New Sources (if applicable)
- 5.19 Definitions

D. OTHER REQUIREMENTS**1. REPORTING SPILLS AND ACCIDENTAL DISCHARGES**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to Series 3, Section 1 of the Environmental Quality Boards regulations.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Series 3, Section 1 of the regulations as they pertain to the reporting of spills and accidental discharges.

2. HAULAGEWAYS AND ACCESS ROADS

Haulageways and access roads shall be constructed and maintained in accordance with best management practices including, but not limited to, the performance standards contained in Title 38, Series 2, Section 4 of the West Virginia Surface Mining Reclamation Regulations.

3. RECEIVING STREAMS

The receiving streams shall be monitored by grab samples as required at the stream sampling points listed below, and the samples shall be analyzed for the parameters listed below. The flow of the stream shall also be estimated at the time of monitoring. Monitoring shall be done approximately at the same time as the discharge points are monitored as required under Section A of this permit. A quarterly report of the stream monitoring and flow shall be sent to the NPDES section in Charleston, on the enclosed forms along with the reports required under Section A. Based upon the stream monitoring flow data, water quality standards or other information, the Department may at any time modify the effluent limits in Section A of this permit for any of the discharge points if necessary, to insure compliance with water quality standards.

STREAM STATION

LATITUDE

LONGITUDE

ELEV.

4. SURFACE MINES

If the coal mining operation has been granted Phase II revegetation release and all discharge points have been eliminated during the period this permit is in effect, the discharge limitations and monitoring requirements in Section A and Section D.3 stream monitoring shall not apply. The coal mining operation shall be maintained in accordance with best management practices including, but not limited to the applicable performance standards contained in Title 38, Series 2, West Virginia Mining Reclamation Regulation until the associated performance bond has been final released.

5. STORM WATER DISCHARGES

Such discharges shall comply with the applicable Water Quality Standards in 47 CSR 2. Activities consisting of discharges of storm water runoff or snow melt composed entirely of flows which are from conveyances used for collecting and conveying precipitation runoff, in accordance with 47 CSR 30, Section 3.1.a.6 and are authorized under Chapter 22, Article 3, are authorized by this permit. Such storm water discharges shall not involve any mineral removal, pumping of storm water, or storm water runoff commingled with mine drainage, refuse drainage, coal stockpile areas, preparation plant areas, loading areas or unloading areas. The activities shall be constructed and maintained in accordance with the issued Article 3 Permit Revision including incidental boundary revisions and with the best management practices and performance standards contained in 38 CSR 2 and Chapter 22, Article 3. These storm water discharges are authorized under this Condition upon issuance of the associated Article 3 application for the life of this permit. Updated NPDES permit application information will be submitted in the next reissuance application for activities covered under this Condition. The Director reserves the right to require any permittee to submit a NPDES modification when the Director determines that such receiving stream will be better protected by an individual NPDES modification.

6. REOPENER CLAUSE

This permit may be reopened and modified, suspended, revoked and reissued or revoked at any time if information becomes available and demonstrates that the established controls do not attain and maintain the narrative water quality criteria at 47 CSR 3.2.e and 47 CSR 3.2.i.

7. TABLE 2-IV- A, B and C ANALYSIS

The permittee must perform Table 2-IV-A, B, C analyses upon first discharge of the outlet(s) contained in this permit. Representative outlets are acceptable for discharges which receive drainage from similar mining activities and are of the same outlet type. Two (2) copies of the Table 2-IV, A, B and C analyses and any additional potential pollutant analyses must be submitted to the regional office Permit Supervisor and Inspector Supervisor within 30 days of sampling.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit; the plans and specifications submitted with Permit Application No. N/A, completed the N/A day of N/A N/A; the information submitted with the application for Reissuance No. WV1014137 completed the 29 day of November 2017, with the plan of maintenance and method of operation thereof submitted with such application(s) with the WVNPDES Regulations, Series 30 and with any applicable rules and regulations promulgated by the State Environmental Quality Board.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. N/A, completed the N/A day of N/A, N/A, with the information submitted with Application No. for Reissuance No. WV1014137 completed the 29 day of November, 2017 and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Article 11, Chapter 22 of the code of West Virginia.

This permit is issued in accordance with the provisions of Article 11, Chapter 22 of the Code of West Virginia and is transferable under the terms of WVNPDES Regulations, Series 30, Subsection 3.5.c.

EMERGENCY RESPONSE SPILL ALERT SYSTEM
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

REQUIREMENTS:

West Virginia Legislative Rules Title 47, Series 11, Section 2 effective July 1, 1987.

RESPONSIBILITY FOR REPORTING:

Each and every person who may cause or be responsible for any spill or accidental discharge of pollutants into the waters of the State shall give immediate notification to the Emergency Notification Number **1-800-642-3074**. Such notification shall set forth insofar as possible and as soon thereafter as practical the time and place of such spill or discharge, type or types and quantity or quantities of the material or materials therein, action or actions taken to stop such spill or discharge and to minimize the polluting effect thereof, the measure or measures taken or to be taken in order to prevent a recurrence of any such spill or discharge and such additional information as may be requested by the Department of Environmental Protection. A written verification of such notification shall be submitted upon request of the Department of Environmental Protection.

It shall be the responsibility of each industrial establishment or other entity discharging directly into a stream to have available the following information pertaining to those substances that are employed or handled in its operation in sufficiently large amount as to constitute a hazard in case of an accidental spill or discharge into a public stream:

1. Potential toxicity in water to man, animals and aquatic life;
2. Details on analytical procedures for the quantitative estimation of such substances in water; and
3. Suggestions on safeguards or other precautionary measures to nullify the toxic effects of a substance once it has gotten into a stream.

Failure to furnish such information as required by Section 14, Article 11, Chapter 22, Code of West Virginia shall be punishable under Section 24, Article 11, Chapter 22, Code of West Virginia.

It shall be the responsibility of any person who causes or contributes in any way to the spill or accidental discharge of any pollutant or pollutants into State waters to immediately take any and all measures necessary to contain such spill or discharge. It shall further be the responsibility of such person to take any and all measures necessary to clean up, remove and otherwise render such spill or discharge harmless to the water of the State.

When the Director, Division of Water and Waste Management determines it necessary for the effective containment and abatement of spills and accidental discharges, the Director of Water and Waste Management may require the person or persons responsible for such spill or discharge to monitor affected waters on a manner prescribed by the Director of Water and Waste Management until the possibility of any adverse effect on the waters of the State no longer exists.

VOLUNTARY REPORTING BY LAW OFFICERS, U.S. COAST GUARD, LOCK MASTERS AND OTHERS:

In cases involving river and highway accidents where the responsible party may or may not be available to report the incident, law officers, U.S. Coast Guards, Lock Masters and other interested persons should make the report.

WHO TO CONTACT:

Notify Department Headquarters in Charleston, West Virginia at the following number: 1-800-642-3074. (This is a toll-free, 24-hour emergency response number.)

INFORMATION NEEDED:

- | | |
|---|--|
| • Source of spill or discharge | • Personnel at the scene |
| • Location of incident | • Actions initiated |
| • Time of incident | • Shipper/Manufacturer identification |
| • Name of material spilled/discharged | • Railcar/Truck identification numbers |
| • Amount of material spilled/discharged | • Container type |
| • Spilled/discharged materials toxicity | |

RIGHT TO APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this agency action as provided under West Virginia Code § 22-11-21. Pursuant to the provisions of § 22B-1-7(c), a person subject to this action (permittee) may file an appeal to the Environmental Quality Board (EQB) within 30 days of being served notice of such agency action.

For other parties (citizens) adversely affected or aggrieved by this action, an appeal may be filed to the EQB within 30 days after the date upon which service was complete to the subject person "(permittee)". Such Notice of Appeal shall be sent to the EQB on the form prescribed by the Board.

West Virginia Environmental Quality Board
601 57th Street, SE
Charleston, West Virginia 25304

	RATIONALE	PAGE
--	-----------	------

NPDES Number: WV1014137 (NPR-5-Major)

County: Mineral

Company Name: D. & L. COAL COMPANY, INCORPORATED

Facility Name: Beryl Tipple

SMA/Permit No.: I059300

Other Apps:

Date of Draft: 11/29/2017

Permit Writer: Heather Browning

Region: Philippi

1. New or expanded discharge? YES
2. Facility eligible for General Permit? NO
3. Basis for effluent limitation:

A. Determine uses of each receiving stream.

Stream Uses

Stream Name

2

NORTH BR OF POTOMAC

B. Parameters of concern: YES pH YES Fe YES Mn
YES Al (D) YES Al (T) NO Others

Specify Others:

C. Justification Review: D & L Coal Company, Inc. applied for the reissuance of an existing NPDES permit to maintain, monitor, and operate a Coal Stockpile, Haul road, and Coal Load-Out Facility. This operation discharges Treated Water and Storm Water into North Branch Potomac River. The operation is located approximately 1 mile West of Piedmont in Mineral District of Mineral County in West Virginia.

This facility is in the North Branch Potomac River Watershed. TMDLs have been established for a small portion of the North Branch of the Potomac River (67 square miles of the total 583 square miles) however this facility is located within a portion of the watershed for which no approved TMDLs have been established. North Branch Potomac River is not included in the 2014 303(d) list as being impaired for any parameters. North Branch Potomac River is considered a trout stream.

The applicant is not requesting any changes in this reissuance.

EFFLUENT LIMITATIONS-

This permit is subject to new source performance standards (NSPS) 40CFR434.35. As such, pH and total suspended solids (TSS) are in accordance with NSPS. The water quality effluent limitations assigned for iron and manganese are as or more stringent than would be required by NSPS ELGs. The proposed site is located outside of the 5-mile zone upstream of a known water supply; therefore, manganese human health criterion does not apply.

Effluent limits for manganese were previously capped at tech based at all three outlets and will remain the same in this reissuance.

Effluent limits for iron were previously capped at tech based. Since North Branch Potomac River is considered a trout stream, effluent limits for iron are being revised in this reissuance. Effluent limits for iron are being set in accordance with cold water trout criteria and will be 0.94 mg/L average monthly and 1.64 mg/L daily maximum. (Please see attached WQBELs Worksheet). A review of the Discharge Monitoring Reports (DMRs) for this facility show that none of the outlets have ever discharged since construction. If any of the outlets do begin to discharge and the applicant has concerns about meeting these trout limits, they may submit a modification requesting a compliance schedule for iron.

Effluent limits for total aluminum were previously capped at tech based. Since North Branch Potomac River is considered a trout stream, effluent limits for total aluminum are being revised in this reissuance. Effluent limits for total aluminum are being set in accordance with cold water trout criteria and will be 0.08 mg/L average monthly and 0.14 mg/L daily maximum. (Please see attached WQBELs Worksheet). As stated above, the DMRs for this facility show that none of the outlets have ever discharged since construction. If any of the outlets do begin to discharge and the applicant has concerns about meeting these trout limits, they may submit a modification requesting a compliance schedule for total aluminum.

Since the outlets associated with this permit have never discharged, no water quality data is available for TABLES 2-IV-A, B, or C. This permit contains a special condition requiring that the Table 2-IV-A, B, and C analyses be submitted for review upon discharge from any outlet. This condition is in Section D.7 of this permit.

All monitoring requirements and effluent limits will remain the same at each outlet, unless otherwise noted above.

Outlets 001, 002, and 003 have the following limits and Report Only requirements:
Report Only = Flow (GPM), Specific Conductance, Sulfates, Dissolved Aluminum, and TDS
pH = 6.0 STU - 9.0 STU
TSS = 35mg/L monthly average - 70 mg/L maximum daily
SS = maximum daily limit 0.5mL/L
Total Iron (T-Fe) = 0.95 mg/L monthly average and 1.64 mg/L maximum daily
Total Manganese (T-Mn) = 2.00 mg/L monthly average - 4.00 mg/L maximum daily
Total Aluminum (T-Al) = 0.08 mg/L monthly average - 0.14 mg/L maximum daily

NARRATIVE WATER QUALITY STANDARDS

Per the "Permitting Guidance for Surface Coal Mining Operations to Protect West Virginia's Narrative Water Quality Standards, 47CSR2 Sections 3.2.e and 3.2.i" issued August 12, 2010 and revised August 18, 2010, facilities of this type are unlikely to cause or contribute to violations of West Virginia's narrative water quality standards. Precipitation induced discharges (storm water) flow only in response to precipitation and do not have residence time with un-weathered rock and therefore would not be expected to have elevated mineralization/ions in the discharge. Precipitation-induced outlets only flow at times when the receiving streams have the greatest assimilative capacity (dilution). Specifically, these Outlets (001, 002, and 003) are designed to not discharge during critical low flow conditions of the receiving stream, and therefore do not have a reasonable potential to adversely impact the aquatic ecosystem.

Discharge Monitoring Reports (DMRs) indicate that none of the outlets (001, 002, and 003) have ever discharged since they were constructed in the late 1990's. Since Outlets 001, 002, and 003 are considered precipitation induced, the NWQS Guidance Document is not applicable to these outlets.

4. Types of effluent limitations:

Technology Based Outlets (0):

Water Quality Based Outlets (3): 001, 002, 003

Best Professional Judgement Based Outlets (0):

Special Outlets (0):

Ammonia Outlets (0):

Sewage Outlets (0):

Additional Comments: Please note revised iron and aluminum limits at all outlets.

5. Special Conditions or other monitoring requirements:

Stream Monitoring:

Groundwater Monitoring:

6. Does the application contain:

Valley fills/refuse?

N/A

In Ephemeral Streams?

N/A

In Intermittent/Perennial Streams?

N/A

WATER QUALITY BASED EFFLUENT LIMITATIONS:

D & L Coal Company

Reissuance No. 5 - Outlets 001, 002, and 003

AQUATIC LIFE PROTECTION:

STREAM:	(stream name)	HARDNESS:	100 (mg/l as CaCO3)	EFF. Q:										(MGD)									
			In(hrd) = 4.605170186																				
PARAMETER	WEST VIRGINIA WQS		STREAM	WASTELOAD ALLOCATION		EFFLUENT CV	ACUTE	CHRONIC	WLA	WLA	LONG TERM AVERAGES		LIMITING (mg/l)	NUM SAMP PER MONTH	AML	AQUATIC LIFE		AQUATIC LIFE					
	ACUTE	CHRONIC	BKGRD	ACUTE	CHRONIC		ACUTE	CHRONIC	ACUTE	CHRONIC	ACUTE	CHRONIC			AVG.	MAX.	AVG. MO.	MAX. DAY					
	AQU. LIFE (mg/l)	AQU. LIFE (mg/l)	CONC. (mg/l)	AQU. LIFE (mg/l)	AQU. LIFE (mg/l)		AQU. LIFE (mg/l)	AQU. LIFE (mg/l)	MLTP.	MLTP.	AQU. LIFE (mg/l)	AQU. LIFE (mg/l)			MONTHLY MLTP.	DAILY MLTP.	LIMITS (mg/l)	LIMITS (mg/l)					
Zinc					0.60	0.55451	0.29356	0.32	0.53			0.0000	2	0.40683	1.80	3.11	0.0000	0.0000					
Iron					1.0000	0.60	0.55451	0.29356	0.32	0.53		0.5274	2	0.40683	1.80	3.11	0.95	1.64					
Aluminum				0.1400	0.1400	0.60	0.55451	0.29356	0.32	0.53	0.0450	0.0738	0.0450	2	0.40683	1.80	3.11	0.0808	0.1400				
Chlorides						0.60	0.55451	0.29356	0.32	0.53			0.0000	2	0.40683	1.80	3.11	0	0				

HUMAN HEALTH PROTECTION:


PARAMETER	WEST VIRGINIA WQS		LIMITING (mg/l)	STREAM BKGRD CONC.	WLA HH (mg/l)	EFFLUENT CV	NUM SAMP PER MONTH	sigma	sigma-n	(sigma)2	(sigma-n)2	MAX. DAILY MLTP.	HUMAN HEALTH		FINAL WQBELs	
	HUMAN HEALTH (A) (mg/l)	HUMAN HEALTH (C) (mg/l)		(mg/l)									AVG. MO. LIMITS (mg/l)	MAX. DAY LIMITS (mg/l)	AVG. MO. EFFLUENT LIMITS (mg/l)	MAX. DAY EFFLUENT LIMITS (mg/l)
Iron						0.60	2	0.5545	0.4068	0.3075	0.1655	1.73	1.00	1.73	0.95	1.64
Chlorides						0.60	2	0.5545	0.4068	0.3075	0.1655	1.73	0	0	0.00	0.00
Manganese						0.60	2	0.5545	0.4068	0.3075	0.1655	1.73	0.00	0.00	0.00	0.00
Zinc															0.00	0.00
Aluminum															0.08	0.14

Limits for Iron will be 0.95 mg/l Monthly Average and 1.64 mg/l Daily Maximum

Limits for Total Aluminum will be 0.08 mg/l. Monthly Average and 0.14 mg/l. Daily Maximum

These Limits apply to Outlets 001, 002, and 003

ATTACHMENT B

	Applicant: D. & L. COAL COMPANY, INCORPORATED Reference ID: WV1014137 Reissuance (02/03/2017) Status: ERIS - Closed - Issued	Type: Reissuance, NPDES #5 Permit ID: WV1014137 Printed: Feb. 20, 2020 12:46 PM
--	---	--

Reissue: MR-5 APPLICATION, GENERAL INSTRUCTIONS

The West Virginia Department of Environmental Protection (WVDEP) Division of Mining and Reclamation NPDES/HPU (National Pollutant Discharge Elimination System/Hydrologic Protection Unit) is changing information being collected in Table 2-I-A.

Effective January 28, 2013:

- Total Disturbed Acres has been added back to the Table 2-I-A. This data was collected from 2003 until beginning of 2009. The earlier provided information was recorded in our internal system (ERIS) and has remained there as a protected unchangeable data field since that time. This is what you will now see begin rendered in the table. As this information is old, you should take time to review and change if need be. This information is used in the TMDL Watershed Assessments.

The West Virginia Department of Environmental Protection (WVDEP) Division of Mining and Reclamation application fees change June 16, 2011.

Effective June 16, 2011:

- Notice of Intent to Prospect (PRO) - \$2,000.00, regardless of tonnage.
- Surface Mine Application (SMA) - \$3,500.00.
- Dam Control Application (DAM) - \$300 application fee. (Fee applies to each dam certificate to be issued for new, modification, abandonment, or transfer categories.)
- Permit Revision (REV) - \$2,000.00, if significant.
- Incidental Boundary Revision (IBR) - \$2,000.00, if significant.
- Permit Renewal (RNW) - \$3,000.00, if Quarry \$500.00.
- Permit Amendment (AMEND) - \$2,550.00.
- Permit Transfer (19A) - \$1,500.00 per permit, Quarry \$500.00 per permit.
- Operator Assignment (19) - \$1,500.00 per permit.
- Inactive Status (INA) - \$2,000.00, Quarry is free.
- Coal Removal for Construction Purposes (4C) - \$3,500.00, paper application.

The West Virginia Department of Environmental Protection (WVDEP) Division of Mining and Reclamation has implemented the following new reporting standards.

Effective January 1, 2009:

- The new eMap file should conform to the WVDEP eMap standards and be attached in the "Maps and eMap Data Section" toward the end of each application. See documentation in that section.
- The "Maps and eMap Data Section" should generally contain, where appropriate, the proposal, drainage, and subsidence control maps along with the eMap. Please attach other drawings and maps in the specific section where they are discussed.
- DO NOT refer to any information existing only in another application, please provide the information in this application.

**NPDES/ARTICLE 11 WATER POLLUTION CONTROL PERMIT
MR-5 APPLICATION, GENERAL INSTRUCTIONS (NPR)**

(Revised 2/03)

1. The application consists of fourteen (14) modules and a copy of the instructions. These modules are:

Module 1	- General Information
Module 2	- Monitoring Information
Module 3	- Adjacent Surface and Ground Water
Module 4	- Mineral Information
Module 5	- Barrier Information
Module 6	- Preparation, Stockpiling, Handling and Disposal
Module 7	- Effluent Treatment
Module 8	- Abandonment Plan
Module 9	- Sewage Material Disposal Facility
Module 10	- Underground Disposal
Module 11	- Modification
Module 12	- Transfer Modification
Module 13	- Remining
Module 14	- Groundwater Protection Plan (GPP)

2. Include all modules shown in Column 2 for each activity in Column 1 for which the application is requesting coverage.

<u>COLUMN 1</u>	<u>COLUMN 2</u>
(Application Activity)	(Required Modules)
A. ALL REISSUANCES (also include modules below if activity pertains to the application)	1, 2, 14
Abandon a Deep Mine or Sites not Bonded under SMCRA (Tipple, Loadout, Treatment Facility)	8
Sewage Treatment System	9
B. REISSUE / TRANSFER	12

3. In addition to this electronic submittal, you must submit one(1) hardcopy, with signatures, to the appropriate WVDEP regional office.

ALL WATER QUALITY ANALYSIS MUST BE PERFORMED IN ACCORDANCE WITH EPA TESTING PROCEDURES, 40 CFR, PART 136 AND METALS, ACIDITY AND ALKALINITY MUST BE REPORTED IN TOTAL CONCENTRATIONS.

THE APPLICANT MUST SUBMIT A JOINT ARTICLE 3 or 4 / NPDES PERMIT APPLICATION BEFORE THEY CAN REFERENCE ANY MATERIALS AS BEING FOUND IN THE ARTICLE 3 or 4 APPLICATION. ALL MATERIALS REFERENCED MUST BE IN THE JOINT ARTICLE 3 or 4/NPDES APPLICATION, NOT IN PREVIOUSLY SUBMITTED APPLICATIONS.

Mod 1: General Information

Type of Permitting Action(s) Requested (Mark all that apply and enter appropriate numbers in the spaces provided. If a transfer and/or modification is included with this reissuance, in addition to providing the reissuance number, you need to check their box(es) and provide their number(s).)

☐ New ☒ Reissue # ☐ Transfer # ☐ Modification #

Is socioeconomic justification included with this application?

☐ Yes ☒ No

Permittee Name:

Regional Office:

CAUTION: Once you select a permit the system will protect the fields above, excluding the sequence numbers, and populate other information in this application. Please review carefully the information you have provided before proceeding. If you choose the wrong permit number you will need to start another application.

Permit - County - Nearest PO - Latitude - Longitude

Required reissuance filing date:  (120 days prior to expiration date)

USGS/SCS Hydrologic Region(s) Receiving Effluent.

Major Watershed:

Code:

Minor Watershed:

Code:

Group:

Stream Uses:

Coordinate Information:

Latitude: ° ' " Longitude: ° ' "

Geospatial Method:

Datum:

Application Filing Fee

☒ (Coal)

☐ (Non-Coal)

☒ New or Reissuance

Annual Fees Paid:

(Enter the last date annual fees were paid)

☐ Modification

Fee Schedule Worksheet for Non-Coal

	County	Annual Rainfall (ft./yr.)
Drainage Area (acres)	<input type="text"/>	<input type="text"/>
Runoff Coefficient	<input type="text"/>	<input type="text"/>
Annual Discharge Volume for Stormwater Runoff (gal./day)	<input type="text"/>	<input type="text"/>
Total Discharge Volume from Outlets other than Stormwater Runoff (gal./day)	<input type="text"/>	<input type="text"/>
Total Discharge Volume Fee	<input type="text"/>	<input type="text"/>
Facility Factor	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>

Application Filing Fee

Mod 1 Part I: Applicant Owner (Operator) Information

A. New Address?

☐ Yes ☒ No

Applicant Name:

Mailing Address:

(if this is Post Office Box

Street Address:

provide Street Address)

City:

Country:

State:

Zip:

Phone:

B. Category of applicant: *(Check appropriate category; if "other" specify type)*

☐ Federal
 ☐ State
 ☒ Private
 ☐ Public
 ☐ Other

Mod 1 Part II: Facility Information

A. Facility Information

Facility Name:

Street:

City:

Country: State:

Zip: Phone:

County: *

Physical Location of Facility (driving instructions - no GPS coordinates):

Nearest P.O.:

Contact Name:

Contact Title:

Contact Phone:

*** To select multiple, hold down Ctrl key while making selections.**

B. The facility and discharges therefrom fall under the selected category below:

☒ New Source - Facility covered under 40 CFR Part 434, including an abandoned mine for which remining commenced after September 19, 1977 or which is determined to constitute a major alteration. *(See Title 47, Series 30, Section 2.29.)*

☐ Existing Source - A coal mine, preparation plan, and all refuse or waste there from: (a) from where there is or may be a discharge or pollutants which commenced prior to September 19, 1977; and (b) which is not a new source. *(See Title 47, Series 30, Section 2.20.)*

C. In the table below show the type of permitting action being requested and the type(s) of operations to be covered in this application. Check each operation in the appropriate category column.

Permitting Action Requested: *(Mark the one that applies)*

☐ Issue New Permit
 ☒ Reissue Permit

Operations Covered (select all that apply, contact local DEP office if additional options are needed):

Action:	Activity:	Operate:	Remine:	Abandon:
Exists ▼	Haulroad ▼	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exists ▼	Loadout Facility ▼	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
New ▼	Coal Stockpile ▼	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D. Mark all activities below that this application is requesting coverage for.

☐ Sewage Treatment
 ☒ Chemical Treatment
 ☐ Underground Disposal System

☒ Physical Treatment
 ☐ Passive Treatment
 ☐ Remining [under CWA Sec.301(p)]

☐ Ash Utilization
 ☒ Other *(describe activity)*

Mod 1 Part III: Reissuance of Existing Permits

A. Provide a narrative describing all permitting actions taken since the last issuance of this permit up to and including this reissuance application. Briefly describe each modification or transfer request submitted (*by number*) and the date they were approved, withdrawn, or denied (*to include any changes requested in this application*).

☒ N/A

Mod 1 Part IV: SIC Code

A. Select all SIC (Standard Industrial Codes) code(s) below that this facility falls under.

Bituminous Coal
Asphalt Paving Mixture & Blocks
Clay, Ceramic & Refractory Minerals

To select multiple, hold down Ctrl key while making selections.

Mod 1 Part V: Environmental Permits

A. List the following information for all existing environmental permits for this facility.
**(If effluent from this facility is treated under another NPDES permit indicate as Off-Site Treatment)*

Office	Issuing Agency and Address:					Off-Site Treatment*
Type of Permit:	Permit or ID Number:	Date Issued:	Expiration Date:			
HPU	WV DEP Division of Water and Waste Management (HPU)					
NPDES Art. 11	WV1014137	09/03/1996		09/03/2017		<input type="checkbox"/>
OWR	WV DEP Division of Water and Waste Management (Water)					
UIC	N/A	N/A		N/A		<input type="checkbox"/>
OWMS	WV DEP Division of Water and Waste Management (Waste)					
	N/A	N/A		N/A		<input type="checkbox"/>
OAQ	WV DEP Division of Air Quality					
Article 5	N/A	N/A		N/A		<input type="checkbox"/>
DHHR	WV Health Department					
Sewage	N/A	N/A		N/A		<input type="checkbox"/>
Land	WV Public Land Corporation					
	N/A	N/A		N/A		<input type="checkbox"/>
Corp	US Army Corps of Engineers					
	N/A	N/A		N/A		<input type="checkbox"/>
OMR	WV DEP Division of Mining and Reclamation					
Article 4	N/A	N/A		N/A		<input type="checkbox"/>
OMR	WV DEP Division of Mining and Reclamation (list all)					
SMCRA Art. 3	I059300	01/18/1981		07/23/2017		<input type="checkbox"/>

B. Select any submitted pending SMA(s) for this facility.

Pending Permit ID	Regional Office	Applicant / Facility Name
-------------------	-----------------	---------------------------

Mod 1 Part VI: Map

A. A topographic map drawn to a reasonable scale and extending at least one thousand feet (1,000') beyond the limits of the facility that identifies and/or shows: *(Label "Exhibit 1-VI-A")*
(Read and follow all instructions concerning map requirements and preparation)

1. Limits of each and every operation (*permit*) to be covered, and adjacent operations.
2. All physical (*sediment control*), chemical, sewage, biological and passive treatment systems.
3. All intake or discharge points and any internal, ground water or in-stream monitoring stations.
4. All streams, creeks, rivers, lakes, or other surface bodies of water.
5. All seeps, springs or other ground water discharge points.
6. All drinking, domestic use or ground water monitoring wells and any production, injection or abandoned commercial wells.
7. Delineate all wellhead protection areas.
8. Delineate all wetlands known to be affected by this facility.
9. Legend, title block, location map and North arrow.
10. If Module 14 is included in this application, then locate all items shown in "Table 14-I-A" of the Groundwater Protection Plan (GPP) on the map and label them by the ID shown in that table.

*This information may be shown on the mine site topographic map, submitted with DEP's Article 3 (MR-4) mining application, if it can **clearly** show **all** of the required information and is submitted in a joint application.*

See Attachment

For attached SHP files, please select from below:

Datum:

Projection:

Mod 1 Part VII: Transfers and Additional Responsibilities

A. If proposing any of the following (*with this application*) include the appropriate attachments:

1. To allow effluent from operations, owned by persons or organizations other than the applicant, to be discharged through any outlet proposed (or covered) by this application, or to allow flow from operations proposed (or covered) by this application to be discharged through an outlet of a different NPDES permit.
☒ No ☐ Yes ☐ N/A (*previously submitted*)
 If Yes, complete Module 1R.
2. To transfer the Groundwater Protection Plan.
☒ No ☐ Yes
 If Yes, complete MR-5GT in Module 12.

Mod 1 Part VIII: Applicant Certification

A. I certify under penalty of law that this application and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Timothy B. Schwinabart Vice-President
 (Name of Official) (Title of Official)

 (Signature in accordance with Title 47, Series 30, Section 4.7.1)

Subscribed and sworn before me this _____ day of _____, 2017.

My commission expires: _____

 (Signature of Notary Public) (Seal)

Any and all certifications pertaining to this application can be viewed at the WVDEP Regional Office.

Mod 2 Part I - A: Table 2-I-A Instructions**TABLE 2-I-A INSTRUCTIONS**

- A. Provide the information requested below in "Table 2-I-A" for all outlets and/or all monitoring points/stations for the facility. Complete as many tables as necessary to show all points the applicant intends to use to meet the monitoring requirements. Those currently approved and open in the permit were automatically loaded when you chose the permit number in Module 1. Please review the menu structure for this module to ensure the list is appropriate and report any discrepancies before proceeding. For each outlet or monitoring station include the following information:
1. Action: When the pre-existing outlets display for the first time, this field will be 'Existing'. If you want to close the outlet, select 'Close'. If you want to change any of the data on an outlet, select 'Change', and make the necessary changes. If adding an outlet the action would be 'New'.
 2. Inspectable Unit Code: This is the station identifier. In a re-issuance or modification this column shows the existing station number. To add a Station, go to the bottom of the existing Stations and press the 'Add' button and a new Table 2-I-A data entry form will appear.
 3. Inspectable Unit Type: This data field is for entering the type of station. Use the Search Icon to select the proper type. The choices are 'Dewater Allowed', 'Groundwater Monitoring', 'Injection Monitoring', 'Outlet' and 'Stream Monitoring'.
 4. Inspectable Unit Sub-Type: Choose the option that best clarifies the 'Inspectable Unit Type' chosen in the previous field. The values available in this dropdown change based on the inspectable unit type selected.
 5. Effluent (Pipe) Type: Choose the type of area the discharge will be coming from.
 6. Effluent Waste Type: Choose the type of effluent waste. Note: For outlets associated with coal removal 'Other' should be selected.
 7. Outlet Sub-Type: Choose the option that best describes the type of outlet. This is only required when the 'Inspectable Unit Type is Outlet'.
 8. Anhydrous Ammonia Used: This is a 'Yes' or 'No' field.
 9. New Source: All permits issued after September 19, 1977, are considered 'New Source' outlets. Permits issued before September 19, 1977, were issued as 'Existing Source' outlets, and upon their re-issuance are changed to 'New Source' outlets.
 10. Mining Activity: Indicate whether the mining activity is either 'Post' or 'Active'.
 11. Underground Disposal: This is a 'Yes' or 'No' field.
 12. Trout Stream: This is a 'Yes' or 'No' field. (47 CSR 2-2.18)
 13. Water Temperature: Indicate whether the stream is 'Warm' or 'Cold'. If you have selected 'Yes' for 'Trout Stream' this should be 'Cold'.
 14. Sampling Frequency: This field is used to enter the frequency the outlet will be sampled. The choices are 'Annual', 'Daily', 'Monthly', 'Semi-Annually', 'Semi-Monthly', 'Quarterly' and 'Weekly'.
 15. Reporting Frequency: This field is used to enter the frequency that Discharge Monitoring Reports will be submitted to the West Virginia Department of Environmental Protection. The choices are 'Annual', 'Monthly', 'Quarterly', 'Semi-Monthly' and 'Weekly'.
 16. Latitude: Enter the coordinates in degrees, minutes and seconds.
 17. Longitude: Enter the coordinates in degrees, minutes and seconds.
 18. Elevation (Surface): Enter the surface elevation of all outlets (including injection), internal and in-stream monitoring points. For ground water monitoring wells enter the static water level of the well in the Surface column.
 19. Elevation (Bottom): Enter the bottom elevation of all ground water monitoring wells and injection outlets (wells).
 20. Geospatial Method: Method used to obtain the longitude and latitude. There is a drop down to choose the correct method used.
 21. Datum: The map datum used for the coordinates. There is a drop down to choose the correct datum.
 22. Major Watershed: List the 'Major Watershed' receiving stream from the search button. You will be taken to a window that has a drop down for the 'Major Watershed', pick the appropriate 'Major Watershed'. Then you will need to pick the 'Minor Watershed'. The 'Group' field will automatically be populated based on your selection.
 23. Minor Watershed: The 'Minor Watershed' dropdown is populated based on the choice made under the 'Major Watershed'.
 24. WVDNR Receiving Stream Code: Enter the WVDNR Code for the receiving stream. Click the search Icon and you will be taken to a window that has a drop down for the Major Tributary, choose the Major Tributary and then select the Minor Tributary from the drop down list. Once those two choices are made you are given the Stream Codes for the Minor Tributary, select the correct Stream Code. If no code exists for the immediate receiving stream, if an unnamed tributary, then use code for the receiving stream of the unnamed tributary.
 25. UT: This column is for immediate receiving streams that are unnamed tributaries. Enter the number (1, 2, 3, etc) of unnamed tributaries away from the first named stream (identified by the WVDNR code) the immediate receiving stream is. (Example: Unnamed trib. of unnamed trib. of Cabin Cr = 2; Unnamed trib. of cabin Cr = 1; etc).
 26. Receiving Stream Name: The receiving stream name will be entered automatically from the choices made under the WVDNR Receiving Stream Code.
 27. Stream Uses: Choose between one of two category listings. (47 CSR 2-6)
 28. Stream Lineage Narrative: List the path of the discharge from the immediate receiving stream, all the way through to the Major receiving stream.
 29. Total Disturbed Acres: List the total disturbed acreage for the outlet.
 30. Total Drainage Area: List the total drainage area for the outlet.


A. If this Permit has **NO** outlets, click here. ☐ No Outlets

Mod 2 Part I - A: Table 2-I-A Permitted Inspectable Units

Table 2-I-A


To alter information on this page you must change Action.

Action: Change ▾ Inspectable Unit Code: 001

Inspectable Unit Type: Outlet 


Inspectable Unit Sub-Type: Acid Tech. Based

Outlet Sub-Type: On Bench Outlet ▾ (only selectable with IU Type of Outlet)


Latitude: 39 ° 28 ' 43.0000 " Longitude: 79 ° 4 ' 0 " 

Elevation (Surface): 1075.0000 Elevation (Bottom):

Geospatial Method: Topographic Map ▾ Datum: NAD27 ▾

Major Watershed: N. Potomac River  02070002 Group: B

Minor Watershed: Direct Drains 010

Receiving Stream Name: NORTH BR OF POTOMAC  Code: PNB

Un-named Tributary Number: Stream Uses: A, B, C, D, E ▾

Major Tributary: POTOMAC RV Code: P

Minor Tributary: NORTH BR OF POTOMAC Code: PNB

Stream Lineage Narrative:
NORTH BRANCH POTOMAC RIVER


Total Drainage Area Acres: 0.50 Total Disturbed Acres: 0.50

Mod 2 Part I - A: Table 2-I-A Permitted Inspectable Units

Table 2-I-A


To alter information on this page you must change Action.

Action: Change ▾ Inspectable Unit Code: 002

Inspectable Unit Type: Outlet 


Inspectable Unit Sub-Type: Acid Tech. Based

Outlet Sub-Type: On Bench Outlet ▾ (only selectable with IU Type of Outlet)


Latitude: 39 ° 28 ' 46.0000 " Longitude: 79 ° 3 ' 57.0000 " 

Elevation (Surface): 1074.0000 Elevation (Bottom):

Geospatial Method: Topographic Map ▾ Datum: NAD27 ▾

Major Watershed: N. Potomac River  02070002 Group: B

Minor Watershed: Direct Drains 010

Receiving Stream Name: NORTH BR OF POTOMAC  Code: PNB

Un-named Tributary Number: Stream Uses: A, B, C, D, E ▾

Major Tributary: POTOMAC RV Code: P

Minor Tributary: NORTH BR OF POTOMAC Code: PNB

Stream Lineage Narrative:
NORTH BRANCH POTOMAC RIVER


Total Drainage Area Acres: 0.90 Total Disturbed Acres: 0.90

Mod 2 Part I - A: Table 2-I-A Permitted Inspectable Units

Table 2-I-A


To alter information on this page you must change Action.

Action: Change ▾ Inspectable Unit Code: 003

Inspectable Unit Type: Outlet 


Inspectable Unit Sub-Type: Acid Tech. Based

Outlet Sub-Type: On Bench Outlet ▾ (only selectable with IU Type of Outlet)


Latitude: 39 ° 28 ' 43.0000 " Longitude: 79 ° 3 ' 54.0000 " 

Elevation (Surface): 1072.0000 Elevation (Bottom):

Geospatial Method: Topographic Map ▾ Datum: NAD27 ▾

Major Watershed: N. Potomac River  02070002 Group: B

Minor Watershed: Direct Drains 010

Receiving Stream Name: NORTH BR OF POTOMAC  Code: PNB

Un-named Tributary Number: Stream Uses: A, B, C, D, E ▾

Major Tributary: POTOMAC RV Code: P

Minor Tributary: NORTH BR OF POTOMAC Code: PNB

Stream Lineage Narrative:
NORTH BRANCH POTOMAC RIVER

Total Drainage Area Acres: 1.10 Total Disturbed Acres: 1.10

Mod 2 Part I - B: Watersheds over 200 acres

- B. For all outlets located in the waters of the State (*in-stream outlets only*) with a contributing watershed of 200 acres or more, provide the size (*in pre-mining acres*) of the contributing watershed are for each, measured from a USGS Topographical map.
- ☒ N/A

Outlet No.	Watershed (Acres)
▾	

Mod 2 Part II - A: Flows

- A. Attach a flow chart showing the water flow onto, through and off of the facility to the down stream monitoring station. Include the following on the chart:
1. All sources of intake water (*storm water, pumped, seeps, springs, wells, stream, mines, slurry etc.*)
 2. All facilities and operations (*active refuse, inactive surface, abandoned deep mine, adjacent permits/mines etc*) contributing to the effluent (*identify by Article 3 permit number of if unknown by name*)
 3. All types of treatment units (*physical, chemical, passive, sewage, etc. identified by name ie. Pond 1, Ditch 2*)
 4. All outlets, internal and in-stream monitoring stations labeled to correspond to Module 1's "Topographic Map". (*If an outlet is permitted under another NPDES Permit, that is receiving effluent from a SMCRA Permit covered by this NPDES Permit, show all corresponding NPDES & SMCRA Permit Numbers and Outlet Numbers*)
 5. Water balance from the intakes(s) to the downstream monitoring stations(s). (*use designed flows from intakes, facilities, operations, treatment units, outlets, etc.*)
- See Attachment

Mod 2 Part II - B: Treatment Technologies

B. In Table 2-II-B, for each outlet or internal monitoring point, provide:

1. "Types" (*deep, surface, refuse, prep-plant, loadout, sewage, etc.*) of operations contributing to the effluent of the outlet/monitoring point.
2. "Status" (*active, regraded, abandoned*) of the operations contributing to the effluent.
3. "Constructed" Indicate if the outlet/monitoring point is constructed or not.
4. "Flow" (*In Cu. Ft./Sec.*) of each outlet/monitoring point. (*For not constructed outlets use the designed flow and for outlets constructed use the average flow.*)
5. "Action" Indicate what you want to do regarding the treatment process. Existing - currently approved and no change is being requested. Close - currently approved and want to end the process. New - requesting the process.
6. "Codes" representing the treatments performed on the wastewater. We will also display it's description.
7. "Treatment System Name" contributing to the outlet/monitoring point. (*Sed. Ditch 1, Pond 4, anoxic Drain 3, etc.*)

☐ N/A (No outlets - Stormwater only or Beltline permit.)

Table 2-II-B

Table 2-II-B (Header)	
Outlet Number:	001 ▼
Type:	<div>Coal Stockpile</div> <div>AMD Plant</div> <div>Auger</div>
Status:	Active ▼
Flow (cfs):	3
Constructed:	<input checked="" type="radio"/> Yes <input type="radio"/> No

Table 2-II-B (Detail)

Action:	Existing ▼	Treatment Code:	1-U		Sedimentation (Settling)
		Treatment System Name:	Sump A		
Action:	Existing ▼	Treatment Code:	2-K		Neutralization
		Treatment System Name:	Sump A		

Table 2-II-B

Table 2-II-B (Header)	
Outlet Number:	002 ▼
Type:	<div>Coal Stockpile</div> <div>AMD Plant</div> <div>Auger</div>
Status:	Active ▼
Flow (cfs):	5
Constructed:	<input checked="" type="radio"/> Yes <input type="radio"/> No

Table 2-II-B (Detail)

Action:	Existing ▼	Treatment Code:	1-U		Sedimentation (Settling)
		Treatment System Name:	Sump B		
Action:	Existing ▼	Treatment Code:	2-K		Neutralization
		Treatment System Name:	Sump B		

Table 2-II-B

Table 2-II-B (Header)	
Outlet Number:	003 ▼
Type:	<div>Coal Stockpile ▲</div> <div>AMD Plant ▼</div> <div>Auger ▼</div>
Status:	Active ▼
Flow (cfs):	5
Constructed:	<input checked="" type="radio"/> Yes <input type="radio"/> No

Table 2-II-B (Detail)

Action:	Existing ▼	Treatment Code:	1-U		Sedimentation (Settling)
Treatment System Name:		Sump C			
Action:	Existing ▼	Treatment Code:	2-K		Neutralization
Treatment System Name:		Sump C			

Mod 2 Part II - C: Intermittent or Seasonal Discharges

C. Except for storm water runoff, leaks, or spills are any of the discharges described in 2-II-B intermittent or seasonal? *(non-continuous pumped discharges, wet weather springs, etc.)*

☒ No ☐ Yes

If Yes, complete the following table.

Outlet Number	Contributing Operations	Duration (Hours/Days)	Frequency (Days/Year)	Flow (MGal/Year)
▼				

Mod 2 Part III: Required Compliance

A. Do any Federal, State or Local authorities require the meeting or any implementation of a schedule for the construction, upgrading or operation of wastewater treatment equipment or practices or any other environmental programs that may affect the discharges described in this application? *(This includes, but is not limited to, permit conditions, compliance schedules, stipulations, court orders, and grant or loan conditions.)* Include any DEP issued orders, compliance schedules, etc. or other requirements in the permit.

☒ No ☐ Yes

If Yes, complete the following table.

Condition, Agreement, etc.:	
Outlet Number:	<div>001 ▲</div> <div>002 ▼</div> <div>003 ▼</div>
Source of Discharge:	
Brief Description of Project:	
Final Compliance Date -- Required:	
Projected:	



Mod 2 Part IV - A: Outlet Effluent General

A. Submit one complete **set** of Tables 2-IV-A, 2-IV-B and 2-IV-C for the effluent (*treated discharge*) from **each** outlet¹.

☐ N/A; (*New Permit, Outlets not constructed yet.*)

¹ When an applicant has two or more outlets with substantially identical effluents the director may allow the applicant to test only one outfall and report the quantitative data also applies to the substantially identical outlet. If a "Representative Outlet" is used the other outlets it represents must be shown in the spaced provided at the top of tables 2-IV-A, B and C.

Table 2-IV-A

Outlet Number:	001 ▼
Representing Outlets:	001, 002, 003
Representative Outlet Justification:	All outlets from the same source - there have been no reportable discharges from this facility over the life of the site.
Analysis performed by:	Name: Summit Technical Laboratories
	Address: PO Box 147, Meyersdale, PA 15552
	Date Sampled: NA  Date Analyzed: NA 

POLLUTANT	EFFLUENT TABLE								
	Maximum Daily Value				Long-Term Average Value				No. of Analyses
	Concentration	Units	Mass	Units	Concentration	Units	Mass	Units	
Biochemical Oxygen Demand(BOD-5day)									
Chemical Oxygen Demand (COD)									
Total Organic Carbon (TOC)									
Fecal Coliform									
Total Residual Chlorine (if used)									
Ammonia (as N)									
Total Suspended Solids (TSS)									
Oil and Grease	NA	NA			NA	NA			NA
pH	NA	std			NA	std			NA
Flow	NA	cfs			NA	cfs			NA
Temperature (Summer)	NA	°C			NA	°C			NA
Temperature (Winter)	NA	°C			NA	°C			NA

This data is to be provided in EQuIS (Environmental Quality Information System) MEDD (Multimedia Electronic Data Deliverable) format. Completed MEDDs should be attached to this page.



Multimedia Electronic Data Deliverables and their templates are available here:

When preparing an application for initial submission to DEP you should **not** attempt to register your site at this point in time with EQuIS. You need to obtain the template files and use them to report the analysis information, where you will leave the Site and Sub-Site columns empty. The EQuIS site registration process requires you provide your permit number, which DEP does not issue until your application has been submitted and fees paid. During the review of your application the DEP Reviewer will provide guidance as to when to do the EQuIS site registration.

To reference any **existing** Effluent Data in EQuIS system, provide the site number, sub-site number and location codes below.

Existing EQuIS Data			
Site:		Sub-site:	Location:

Table 2-IV-B

Outlet Number:	001 ▼
Representing Outlets:	001, 002, 003
Representative Outlet Justification:	All outlets from the same source - there have been no reportable discharges from this facility over the life of the site.
Analysis performed by:	Name: Summit Technical Laboratories
	Address: PO Box 147, Meyersdale, PA 15552
	Date Sampled: NA  Date Analyzed: NA 

POLLUTANT AND CAS No. <i>(If available)</i>	EFFLUENT TABLE										
	Pre- absent	Ab- sent	MAXIMUM DAILY VALUE				LONG-TERM AVG. VALUE				No. of Analyses
			Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	
Bromide (24959-67-9)	<input type="radio"/>	<input checked="" type="radio"/>									
Color	<input type="radio"/>	<input checked="" type="radio"/>									
Fluoride (1698-48-8)	<input type="radio"/>	<input checked="" type="radio"/>									
Nitrate-Nitrite (as N)	<input type="radio"/>	<input checked="" type="radio"/>									
Nitrogen, Total Organic (as N)	<input type="radio"/>	<input checked="" type="radio"/>									
Phosphorus, Total (as P) (7723-14-0)	<input type="radio"/>	<input checked="" type="radio"/>									
Sulfate (as SO4) (14808-79-8)	<input checked="" type="radio"/>	<input type="radio"/>	NA	NA	NA	NA	NA	NA	NA	NA	NA
Sulfide (as S)	<input type="radio"/>	<input checked="" type="radio"/>									
Sulfite (as SO3) (14265-45-3)	<input type="radio"/>	<input checked="" type="radio"/>									
Surfactants	<input type="radio"/>	<input checked="" type="radio"/>									
Aluminum, Total (7429-90-5)	<input checked="" type="radio"/>	<input type="radio"/>	NA	NA	NA	NA					NA
Aluminum, Dissolved (7429-90-5)	<input checked="" type="radio"/>	<input type="radio"/>	NA	NA	NA	NA					NA

Aluminum, Total Recoverable (7429-90-5)	<input type="radio"/>	<input checked="" type="radio"/>								
Barium, Total (7440-39-3)	<input type="radio"/>	<input checked="" type="radio"/>								
Boron, Total (7440-42-8)	<input type="radio"/>	<input checked="" type="radio"/>								
Cobalt, Total (7440-48-4)	<input type="radio"/>	<input checked="" type="radio"/>								
Iron, Total (7439-89-6)	<input checked="" type="radio"/>	<input type="radio"/>	NA	NA	NA	NA				NA
Magnesium, Total (7439-95-4)	<input type="radio"/>	<input checked="" type="radio"/>								
Molybdenum, Total (7439-98-7)	<input type="radio"/>	<input checked="" type="radio"/>								
Manganese, Total (7439-96-5)	<input checked="" type="radio"/>	<input type="radio"/>	NA	NA	NA	NA				NA
Tin, Total (7440-31-5)	<input type="radio"/>	<input checked="" type="radio"/>								
Titanium, Total (7440-32-6)	<input type="radio"/>	<input checked="" type="radio"/>								
Chloride	<input checked="" type="radio"/>	<input type="radio"/>	NA	NA	NA	NA				NA
Hardness	<input checked="" type="radio"/>	<input type="radio"/>	NA	NA	NA	NA				NA
RADIOACTIVITY										
Alpha, Total	<input type="radio"/>	<input checked="" type="radio"/>								
Beta, Total	<input type="radio"/>	<input checked="" type="radio"/>								
Radium, Total	<input type="radio"/>	<input checked="" type="radio"/>								
Radium226, Total	<input type="radio"/>	<input checked="" type="radio"/>								

This data is to be provided in EQulS (Environmental Quality Information System) MEDD (Multimedia Electronic Data Deliverable) format. Completed MEDDs should be attached to this page.



Multimedia Electronic Data Deliverables and their templates are available here:

When preparing an application for initial submission to DEP you should **not** attempt to register your site at this point in time with EQulS. You need to obtain the template files and use them to report the analysis information, where you will leave the Site and Sub-Site columns empty. The EQulS site registration process requires you provide your permit number, which DEP does not issue until your application has been submitted and fees paid. During the review of your application the DEP Reviewer will provide guidance as to when to do the EQulS site registration.

To reference any **existing** Effluent Data in EQulS system, provide the site number, sub-site number and location codes below.

Existing EQulS Data		
Site:	Sub-site:	Location:

Table 2-IV-C

Outlet Number:	001 ▼
Representing Outlets:	001, 002, 003
Representative Outlet Justification:	All outlets from the same source - there have been no reportable discharges from this facility over the life of the site.
Analysis performed by:	Name: Summit Technical Laboratories
	Address: PO Box 147, Meyersdale, PA 15552
	Date Sampled: NA  Date Analyzed: NA 

POLLUTANT AND CAS No. <i>(if available)</i>	EFFLUENT TABLE (Metals, Cyanide, and Total Phenols)								No. of Analyses
	Maximum Daily Value				Long-Term Average Value				
	Concentration	Units	Mass	Units	Concentration	Units	Mass	Units	
Antimony, Total (7440-36-0)	NA	NA	NA	NA					NA
Arsenic, Total (7440-38-2)	NA	NA	NA	NA					NA
Beryllium, Total (7440-41-7)	NA	NA	NA	NA					NA
Cadmium, Total (7440-43-9)	NA	NA	NA	NA					NA
Chromium, Total (7440-47-3)	NA	NA	NA	NA					NA
Copper, Total (7550-50-8)	NA	NA	NA	NA					NA
Lead, Total (7439-92-1)	NA	NA	NA	NA					NA
Mercury, Total (7439-97-6)	NA	NA	NA	NA					NA
Nickel, Total (7440-02-0)	NA	NA	NA	NA					NA
Selenium, Total (7782-49-2)	NA	NA	NA	NA					NA
Silver, Total (7440-22-4)	NA	NA	NA	NA					NA
Thallium, Total (7440-28-0)	NA	NA	NA	NA					NA
Zinc, Total (7440-66-6)	NA	NA	NA	NA					NA
Cyanide, Total (57-12-5)	NA	NA	NA	NA					NA
Phenols, Total	NA	NA	NA	NA					NA

This data is to be provided in EQuIS (Environmental Quality Information System) MEDD (Multimedia Electronic Data Deliverable) format. Completed MEDDs should be attached to this page.

Multimedia Electronic Data Deliverables and their templates are available here:

When preparing an application for initial submission to DEP you should **not** attempt to register your site at this point in time with EQuIS. You need to obtain the template files and use them to report the analysis information, where you will leave the Site and Sub-Site columns empty. The EQuIS site registration process requires you provide your permit number, which DEP does not issue until your application has been submitted and fees paid. During the review of your application the DEP Reviewer will provide guidance as to when to do the EQuIS site registration.

To reference any **existing** Effluent Data in EQuIS system, provide the site number, sub-site number and location codes below.

Existing EQuIS Data			
Site:		Sub-site:	
		Location:	

Mod 2 Part IV - B: Outlet Raw Water General



B. Submit "Table 2-IV-D" showing a raw water (*influent prior to any type of treatment*) analyses for, at a minimum, the representative outlets used in Section A above, and all ground water monitoring stations. Enter the following parameters for each site: Flow, pH, Total Iron, Total Manganese, Total Aluminum, Dissolved Aluminum, Acidity mg/l as CaCO₃ and Sulfates as SO₄.¹

Submit analyses for raw water (*influent prior to any type of treatment*) for representative outlets and ground water monitoring stations for the following parameters: Flow (*water elevation for wells only*), pH, Total Iron, Total Manganese, Total Aluminum, Dissolved Aluminum, Acidity mg/l as CaCO₃, Alkalinity mg/l as CaCO₃ and Sulfates as SO₄. (*You must be able to justify each representative sampling point*)

☐ NA (New Permit; No Outlets or Ground Water Monitoring Stations exist yet)

¹ When an applicant has two or more outlets with substantially identical effluents the director may allow the applicant to test only one outfall and report the quantitative data also applies to the substantially identical outlet. If a "Representative Outlet" is used the other outlets it represents must be shown in the spaced provided at the top of tables 2-IV-A, B and C.

Table 2-IV-D

Analysis performed by:	Name:	Summit Technical Laboratories, LLC	
	Address:	PO Box 147, Meyersdale, PA 15552	
Submit analyses for <u>raw water</u> (<i>influent prior to any type of treatment</i>) for representative outlets and ground water monitoring stations for the following parameters: Flow (<i>water elevation for wells only</i>), pH, Total Iron, Total Manganese, Total Aluminum, Acidity mg/l as CaCO ₃ , Alkalinity mg/l as CaCO ₃ and Sulfates as SO ₄ . (<i>You must be able to justify each representative sampling point.</i>)			
Outlet Number:	001 ▼		
Date Sampled:	4/3/2017 	Time Sampled:	9:41
Date Analyzed:	4/5/2017 	Type of Sample:	Influent ▼
PARAMETERS:			
Water Elev. (ft):		Flow (cfs):	0.002
pH (Std. Units):	6.5	Fe (mg/l):	1.84
Mn (mg/l):	0.03	Al (mg/l):	0.34
Dissolved Al (mg/l):	0.14	Acid. (mg/l):	0.7
Alk. (mg/l):	9.7	SO ₄ (mg/l):	<10.0

This data is to be provided in EQuIS (Environmental Quality Information System) MEDD (Multimedia Electronic Data Deliverable) format. Completed MEDDs should be attached to this page.

Multimedia Electronic Data Deliverables and their templates are available here:

When preparing an application for initial submission to DEP you should **not** attempt to register your site at this point in time with EQuIS. You need to obtain the template files and use them to report the analysis information, where you will leave the Site and Sub-Site columns empty. The EQuIS site registration process requires you provide your permit number, which DEP does not issue until your application has been submitted and fees paid. During the review of your application the DEP Reviewer will provide guidance as to when to do the EQuIS site registration.

To reference any **existing** Effluent Data in EQuIS system, provide the site number, sub-site number and location codes below.

Existing EQuIS Data			
Site:		Sub-site:	
		Location:	

Mod 2 Part IV - C: In-Stream Monitoring General

- C. Submit "Table 2-IV-E" for each set of new in-stream monitoring stations. The analysis in "Table 2-IV-E" must be submitting for each stream receiving effluent from the facility. The analyses reported must be either the average value of data collected over a period reflecting seasonal variations (*minimum six months*), or for a seven consecutive day flow during drought stream conditions that would occur with a frequency of every ten years (7Q10 flow).

(If this application is for a new NPDES permit, discharge into a new receiving stream or new section of the stream not currently covered by this permit then "Table 2-IV-E" must be completed.)

- ☒ NA (Existing permit - no new streams or section of streams affected;
-OR- Stormwater only and no outlets exists.)

Mod 2 Part IV - D-G: General Intake and Effluent Characteristics

- D. Is it known, or is there reason to believe, any pollutants listed in Appendix C or E of the NPDES Regulations 47CSR30 are discharged, from any outlet?

☒ No ☐ Yes

(If YES; list below every pollutant believed present, briefly describe the reasons believed to be present, and report any analytical data possessed as "Attachment 2-IV-D")

POLLUTANT	SOURCE

- E. Were the analyses required in "Module 2" for pollutants performed in accordance with 40 CFR, Part 136?
☐ N/A ☒ Yes ☐ No *(List the pollutant, and describe method used for analysis below.)*

POLLUTANT	DESCRIPTION OF METHOD

- F. Were the toxic metals, cyanide and phenols reported under Table 2-IV-C analyzed with a precision to the nearest microgram per liter?

☒ N/A ☐ Yes ☐ No *(List below the pollutant, method and detection limit used for analysis.)*

Pollutant:	
Description of Method:	
Detection Limit Used:	

- G. Provide the days the applicant will collect the required compliance monitoring samples for the proposed WVPNDES permit.

☐ NA - No Outlets

FREQUENCY: Semi Monthly ▼

DAY(S) OF WEEK

☒ Mon ☐ Tue ☒ Wed ☐ Thu ☐ Fri ☐ Sat ☐ Sun

WEEK(S) OF MONTH

☒ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5

MONTH OF YEAR*

☒ Jan ☒ Feb ☒ Mar ☒ Apr ☒ May ☒ Jun ☒ Jul ☒ Aug ☒ Sep ☒ Oct ☒ Nov ☒ Dec

Mod 2 Part V: Potential Discharges not Covered by Analysis

- A. Is any pollutant listed in "Table 2-IV-C" a substance or a component of a substance which is now, or is expect over the next five (5) years, to be used or manufactured as an intermediate or final product or byproduct?

☒ No ☐ Yes

If Yes, list below all such pollutants and possible sources.

POLLUTANT	POSSIBLE SOURCES
<input type="text"/>	<input type="text"/>

Mod 2 Part VI: Biological Toxicity Testing Data

- A. Has there been performed, or is there any knowledge of or reason to believe that any biological test for acute or chronic toxicity has been made on a receiving water in relation to a proposed discharge within the last three (3) years?

☒ No ☐ Yes

If Yes, submit copies of test results and a description of the reason for test for the outfall or stream on which the test was performed.

Mod 2 Part VII: Narrative Water Quality Standards (NWQS)

A. Applicability of Narrative Water Quality Standards Guidance

NOTE: SEE INSTRUCTIONS FOR MORE DETAILS ON REQUIRED INFORMATION WHICH MUST BE PROVIDED IN THE 4 DOCUMENTS TO ADDRESS THE NWQS GUIDANCE. [click here](#)

1. NWQS JUSTIFICATION: (REQUIRED FOR ALL COAL MINING PERMITS):
Attach a justification to identify applicability of the WVDEP's "Permitting Guidance for Surface Coal Mining Operations to Protect West Virginia's Narrative Water Quality Standards". This attachment should be labeled "NWQS Justification" and should address every permitted outlet.

Is a NWQS Justification attached? ☒ Yes ☐ No

If not, why?

See Attachment

2. MONITORING PLAN: (REQUIRED FOR PERMITS WITH NON-PRECIPITATION INDUCED DISCHARGES THAT ARE NOT SUBSTANTIALLY COMPLETE)
Attach a monitoring plan to identify proposed Biological Assessment Station (BAS) locations and label attachment as "Monitoring Plan".

Is a Monitoring Plan required and attached? ☐ Yes ☒ No

3. BASELINE BENTHIC SURVEY (REQUIRED WHEN MONITORING PLAN IS REQUIRED):
A baseline benthic survey, along with the associated chemical monitoring suite provided in the guidance, must be provided for each required BAS location.

Is a Baseline Benthic Survey required and attached? ☐ Yes ☒ No

If not, why?

See Attachment

4. AQUATIC ECOSYSTEM PROTECTION PLAN (AEPP): (REQUIRED FOR PERMIT WITH NON-PRECIPITATION INDUCED DISCHARGES THAT ARE EITHER NOT CONSTRUCTED OR ACTIVITIES NOT STARTED)
Attach and AEPP to identify control measures which will be implemented to achieve WET limitations and minimize impact to the aquatic ecosystem. Label the attachment "AEPP".

Is an AEPP required and attached? ☐ Yes ☒ No

If not, why?

See Attachment

Have any new control measures been identified in the AEPP that are not currently permitted in the associated Article 3 permit? ☐ Yes ☒ No

If yes, submit an Article 3 revision to incorporate these new control measures.

- B. Have any benthic surveys been performed on a receiving water in relation to a proposed discharge within the last three (3) years outside of the requirements of the Narrative Water Quality Standards Guidance?

☐ Yes ☒ No

Were benthic surveys completed for a 401 application within this timeframe? ☐ Yes ☒ No

If Yes, submit copies of results along with a description of the reason for the survey, the stream on which the test was performed and the location of each test site.

See Attachment

Mod 2 Part VIII: Discharges into Non-complying Waters

A. Is there a proposed discharge into stream (or water segment) which either does not meet applicable water quality standards for the pollutant(s) to be discharged, or is not expected to meet those standards even after treating the discharge to the required technology based limits, and the state has performed a pollutant waste allocation for these pollutants? Please check the latest 303d list from Division of Water and Waste Management (DWWM).

☒ No ☐ Yes

If Yes, submit documentation that:

1. There are sufficient remaining pollutant load allocations to allow for the discharge (TMDL development); and
2. The existing discharges into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards; **OR**
3. The applicant qualifies for an alternate water quality based effluent limitation by making an adequate demonstration to the Director pursuant to the Environment Quality Board's Administrative Regulations, 47 CSR2.

Mod 2 Part IX: Variances

A. Is a variance from effluent limitations requested?

☒ No ☐ Yes

If Yes, comply with NPDES regulations, Title 47, Series 30, Section 4.5.F or 4.5.G..

Mod 8 General: Abandonment Plan Required?

Does this proposed application require Abandonment Plan information?

☒ Yes ☐ No

If Yes, Add and complete the Abandonment Plan section which follows.

If No, please explain in the area below:

Mod 8 Part I: General Abandonment Information

A. This module is being submitted for compliance with:

☒ Plan for Abandonment. (All NPDES Permits) 47CSR30 Section 4.5.2.k
The information required in a plan for abandonment pursuant to section 4.5.4 of these regulations.

☐ Permit to Abandon. (WVSCMRA Permits) 47CSR30 Section 4.4.2
Any person proposing to abandon a deep mine facility under W.Va. Code § 20-5A-5(b)(6) [now § 22-11-8(b)(6)] and Section 3.1.1.e of these regulations shall apply for an abandonment permit at least one hundred and eighty (180) days prior to the sealing of the deep mine. Any person proposing to abandon a surface mine facility under W. Va. Code § 20-5A-5(b)(6) [now § 22-11-8(b)(6)] and Section 3.1.1.e of these regulations shall apply for an abandonment permit with a request for Phase II bond release under WVSCMRA. (See instruction for "remining" sites)

☐ Permit to Abandon. (Non WVSCMRA Permits)
Any person proposing to abandon a surface facility under W.Va. Code § 20-5A-5(b)(6) [now § 22-11-8(b)(6)] and Section 3.1.1.e of these regulation, that is not regulated under WVSCMRA, shall apply for an abandonment permit at least one hundred and eighty (180) days prior to the removal of the last point source discharge (outlet).

B. Does the facility involve only surface operations (*surface mines, preparation plants, loadouts , etc.*)?

☐ No ☒ Yes

If Yes, go to Part III.

Mod 8 Part III: Surface Operation Abandonment

A. Provide a description of how the operation will be conducted, backfilled, regarded and revegetated to eliminate or minimize any adverse effects on hydrological regime. Include information and drawings required to adequately support the plan. At a minimum include the following:

1. Provide a plan for removing, burying, blending, segregating, and/or treating acid/toxic material encountered in the operation.
2. Include ample cross-section (*to scale*) to represent the area distributed by the operation depicting the surface configuration prior to operations, during operation and at abandonment. The cross-sections shall be shown on the "Plot Plan" and identify (*at a minimum*) (a) All materials requiring special handling (*iron or acid producing materials etc*); (b) Regarding and topsoiling material storage or borrow areas; (c) Limits of proposed disturbed areas.
3. Provide a plot plan (*to scale*) showing regraded drainage pattern and all treatment structures.

☒ See I059300
(The information must be in joint application)

The site is a coal stockpile area with minimal surface disturbance. At the time of closure, all coal stockpiles shall be removed and the site vegetated in

Mod 14 Part I: Applicant Owner (Operator) Information

From Mod 1 Part I: Applicant Owner (Operator) Information

Applicant Name: D. & L. COAL COMPANY, INC.
 Mailing Address: RT 6 BOX 6192 (if this is Post Office Box
 Street Address: provide Street Address)
 City: KEYSER
 Country: United States of America State: West Virginia
 Zip: 26726 Phone: 301-359-3003

Mod 14 Part II: Facility Information

B. Facility Information

Facility Name: Beryl Tipple
 Street: Route 6 / Box 6192
 City: Keyser
 Country: United States of America State: West Virginia
 Zip: 26726 Phone: 301-359-3003
 County: * Mineral
 Barbour
 Berkeley

Physical Location of Facility (driving instructions - no GPS coordinates):

From the Piedmont Post Office turn right and head north on Ashfield St/2nd St (Route 46), travel 0.2 miles, Turn left onto Front St (Route 135), travel 1.8

Nearest P.O.: Piedmont, WV
 Contact Name: Timothy B. Schwinabart
 Contact Title: Vice-President
 Contact Phone: 301-359-3003

* To select multiple, hold down Ctrl key while making selections.

Article 3/4 Permit(s)	
Article 3/4 Permit	I059300

Article 11 Permit(s)	
Article 11 Permit	WV1014137

Mod 14 Part III: Inventory of Manmade Potential Contaminants

A. Complete "Table 14-III-A" listing all manmade potential contaminants at your facility. At a minimum, be sure to include all of the activities such as; distribution, loading and bulk facilities, drums, tanks, areas used for maintenance and/or cleaning of equipment, preparation plant, material handling and storage areas to include piping, ditching and pumping of material. For each area/site potential contaminants are found include the following information:

1. Give a brief description of the potential contaminant with location (*Ex: Stockton bench portable diesel tank; or Heating oil tank for office building; etc).*
2. The specific type of potential contaminant (*Ex: Diesel Fuel, Sodium Hydroxide*),
3. The type of container or storage system used at this site and it's size (*Ex: single wall steel tank on skids 750 gal; or 5 to 10 steel drums 55 gal*),
4. The existing protective controls for the contaminant at that site (*Ex: 110 cu ft of secondary containment by earthen dike lined with clay, containment barrels with oil absorbent materials for minor spills during during fueling*),
5. Any proposed protective controls with a projected installation date (*Ex: A secondary containment of 114 cu ft consisting of a concrete pad with block walls, sealed against leakage, is to be installed by August 1, 1997*)

Table 14-III-A Potential Groundwater Contaminant Sources and Controls	
ID No.:	A
Item Description:	Diesel Fuel
Material:	Diesel Fuel
Container Type:	Steel Tank (1,000 gal)
Existing Controls:	Double-Wall Tank
Proposed Controls:	None
ID No.:	B
Item Description:	Soda Ash Briquettes (water treatment)
Material:	Soda Ash Briquettes (water treatment)
Container Type:	Plastic bags transported to site by truck
Existing Controls:	Materials are not stored at site but transported to site on an as needed basis for water treatment
Proposed Controls:	None
ID No.:	C
Item Description:	Coal Anti-Freeze Liquid
Material:	Coal Anti-Freeze Liquid
Container Type:	Steel Tank (500 gal)
Existing Controls:	Double-Wall Tank
Proposed Controls:	None

Mod 14 Part IV: Spill Response Plan

A. Provide a plan that will be followed when a leak or spill of a potential contaminant is detected at the facility. At a minimum provide the following: (*Label "Attachment 14-IV-A"*)

1. The types of immediate action that will be taken by the person finding the leak/spill to prevent further contamination. (*immediate actions taken, materials used, procedures followed, persons contacted, etc.*),
2. Location and title/name of the person (*spill coordinator*) that is responsible for insuring the GPP is followed and to whom all leaks/spills are reported. (*use position not name, i.e. foreman, superintendent*)
3. The procedures that the spill coordinator will follow when contacted about a leak/spill. (*give procedures for each type of potential contaminant at the facility, by size of the leak/spill*),
4. The actions that will be taken should the spill be beyond the capability of the site personnel. (*provide who will be contacted in the case of such a situation and provide options to be taken*),
5. The disposal of the contaminated materials collected from leaks/spills during routine maintenance of the GPP. (*if by private contractor give name and address of company or method by which contract is let*)

See Attachment 14-IV-A

Mod 14 Part V: Training and Inspections

- A. Provide procedures and schedules for initial and refresher training of employees, contract workers and site visitors concerning their involvement and the requirements of the "Spill Response Plan" for the site. (Label "Attachment 14-V-A")

See Attachment 14-V-A


- B. Provide procedures for inspections (*min. every 6 months*) and routine maintenance operations to insure the Groundwater Protection Plan are in place and in good working order. (Label "Attachment 14-V-B")

See Attachment 14-V-B

Mod 14 Part VI: Monitoring Wells

- A. Identify by type and number each groundwater monitoring site being used to monitor the GPP. List the latitude and longitude (*to the nearest second*), the water surface and bottom elevation of each station.

☒ N/A

Station Type:	<input type="text"/>	Station Number:	<input type="text"/>
Latitude:	<input type="text"/> ° <input type="text"/> ' <input type="text"/> "	Longitude:	<input type="text"/> ° <input type="text"/> ' <input type="text"/> " 
Elevation Surface:	<input type="text"/>	Elevation Bottom:	<input type="text"/>
Geospatial Method:	<input type="text"/>	Datum:	<input type="text"/>

Mod 14 Part VII: Contamination and Monitoring Wells Map

- A. Submit a map showing the location of all items listed in "Part III" and "Part VI" above. Identify each on the map using the ID shown on "Table 14-III-A" or the Station No. for the monitoring well. The map shall be of the same scale as the "Exhibit 1-VI-A" map of Module 1 and must clearly show each site. (*rubber tired mobile tanks may be addressed by a note on the map, see instructions*)

☒ See "Module 1, Exhibit 1-VI-A"

For attached SHP files, please select from below:

Datum:

Projection:

Mod 14 Part VIII & IX: Applicant Certification

- A. I, the undersigned, having examined this facility and this Groundwater Protection Plan (GPP), will commit the resources to comply with this plan, the Groundwater Protection Act, and the applicable regulations.

Timothy B. Schwinabart

Vice-President

(Name of Official)

(Title of Official)

(Signature in accordance with Title 47, Series 30, Section 4.7.1)

Subscribed and sworn before me this _____ day of _____, 2017.

My commission expires: _____

(Signature of Notary Public)

(Seal)

Any and all certifications pertaining to this application can be viewed at the WVDEP Regional Office.

WVDEP Representative:	
(Signature)	(Date)

MR-34-BR: NPDES Reissuance Advertisement

ADVERTISEMENT MR-34-BR	
Notice is hereby given that <u>D. & L. COAL COMPANY, INCORPORATED</u> <u>RT 6 BOX 6192, KEYSER, WV 26726</u> has submitted an application for the reissuance of Article 11/WVNPDES Permit No. <u>WV1014137</u> to the Department of Environmental Protection, 47 School Street, Suite 301, Philippi, WV 26416-1150 in order to maintain, monitor and operate a coal stockpile, a haul road and a loadout facility	
<div style="border: 1px solid black; height: 20px; width: 100%;"></div>	in the
N/A	seam/mineral bed. The
operation will discharge <input checked="" type="checkbox"/> Treated <input type="checkbox"/> Untreated <input checked="" type="checkbox"/> Storm water into	
<div style="border: 1px solid black; padding: 2px;">North Branch Potomac River</div>	
and is located <u>1</u> (miles), <u>west</u> of <u>Piedmont, WV</u> , in	
Piedmont	District(s) of <div style="border: 1px solid black; padding: 2px; display: inline-block;"> Mineral Barbour Berkeley </div> County(ies), Longitude
<u>79</u> ° <u>04</u> ' <u>4.0</u> " and Latitude <u>39</u> ° <u>28</u> ' <u>45.0</u> " (Coordinates from USGS Topographic Map).	
The Department of Environmental Protection is seeking information on private surface water intakes for human consumption located in the above listed receiving streams and located down stream of this operation. Please provide your name, phone number, mailing address, the name of the stream being with the intake, and the physical location of the intake. This information needs to be submitted to the address above.	
An anti-degradation review has been conducted. Tier 1 protection is afforded because effluent limitations ensure compliance with water quality criteria for all designated uses. Where applicable, a full Tier 2 anti-degradation review has been conducted.	
Comments on the Article 11 WV/NPDES application or requests for a public hearing regarding the Article 11/NPDES application shall be in writing and if a public hearing is requested shall state the nature of the issues proposed to be raised in the hearing. Such written comments or requests should be sent to the Department of Environmental Protection (DEP) at the address above, and <u>must</u> also reference the Article 11/NPDES permit number shown above. Comments received by <div style="border: 1px solid black; padding: 2px; display: inline-block;">10</div> , or thirty (30) days from date of publication, will be considered. A copy of the Article 11/WVNPDES application, draft permit, rational page, and fact sheet (if required) will be available for inspection and obtaining copies during normal business hours at the DEP Regional Office located at the address above.	
DEP Telephone No. <u>304-457-3219</u>	Article 11/NPDES Permit No. <u>WV1014137</u>
<u>LOCATION MAP</u>	
Each ad must include a clear and accurate location map of a scale and detail found in the West Virginia General Highway Map. The map size must be at a minimum four (4) inches by four (4) inches with the following shown on the map:	
<ol style="list-style-type: none"> 1. Clearly define the approximate limits of the proposed permit area. 2. Longitude and latitude lines must cross at or near the center of the proposed permit area. 3. A north arrow must be shown. 4. A map to scale. 5. District(s). 6. County(ies). 7. Associated SMCRA Application/Permit Number(s) 	

eMaps: Maps and eMap Data Section

This section is to attach, where appropriate, the proposal, drainage, and subsidence control maps along with the eMap. Click the 'Attachments' button at the top right.

The eMap file is used by WVDEP to update the GIS database. It will prevent errors in representing the applicant's permit features that arise from manually georeferencing and digitizing scanned images of permit maps. It also will reduce misrepresentation due to data being out of date.

1. This file should contain a subset of features found on proposal/drainage and subsidence control plan maps.
2. A file is only required for actions that also require a proposal/drainage map, renewal/progress map, final map, or subsidence control plan map.
3. Applicants should use the available CAD templates for DWG files, or follow instructions for creating shapefiles or a personal geodatabase.

The eMap file for this application should conform to the WVDEP eMap standards as defined at the following location:

eMap Standards Requirements

WVDEP eMap AutoCAD Templates are available at the following locations:

Template files for North Zone

Template files for South Zone

A free dwg file viewer can be downloaded from the following location: (Click the "Download Now" button)


Free Autodesk DWG viewer

For any questions about the eMap file or standards, please contact:

Nick Schaer (Email: Nick.A.Schaer@wv.gov (mailto:Nick.A.Schaer@wv.gov) Phone: 304-926-0499 ext 1510)

Mike Shank (Email: Michael.C.Shank@wv.gov (mailto:Michael.C.Shank@wv.gov) Phone: 304-926-0499 ext 1620)

ATTACHMENT C

	Applicant: D. & L. COAL COMPANY, INCORPORATED Reference ID: WV1014137 January 2020 (04/15/2020) Status: ERIS - Closed - Issued	Type: Electronic DMR #54710 Permit ID: EDMR54710 Printed: Jun. 23, 2020 6:36 PM

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:
122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year:

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

Parameter	Permit Limits	Quantity					Other Units					Measurement Frequency	Sample Type	Lab Test Flag
		Minimum	Average Monthly	Maximum Daily	Units	Number Exceed	Minimum	Average Monthly	Maximum Daily	Units	Number Exceed			
00058 Flow	Reported Permit Limits	Rpt Only	Rpt Only	Rpt Only	GPM		N/A	N/A	N/A			Semi-monthly	Estimated	122
00095 Specific Conductance	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	UMHO/CM		Semi-monthly	Grab	122
00400 Ph	Reported Permit Limits	N/A	N/A	N/A			6	N/A	9	Std Units		Semi-monthly	Grab	122
00530 Suspended Solids, Total	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	35	70	MG/L		Semi-monthly	Grab	122
00545 Settleable Solids	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	0.5	ML/L		Semi-monthly	Grab	122
00945 Total Sulfates (As S04)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122
01045 Iron, Total (As Fe)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	0.95	1.64	MG/L		Semi-monthly	Grab	122
01055 Manganese, Total	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	2	4	MG/L		Semi-monthly	Grab	122
01105 Aluminum, Total (As Al)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	0.08	0.14	MG/L		Semi-monthly	Grab	122
01106 Aluminum, Dissolved (As Al)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122
70296 Solids, Total Dissolved (Tds)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:
122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year:

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:
122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year:

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

eDMR Attachments

Please provide the following attachments, when needed:

- Laboratory Results
- Cover Letter

NOTE: To upload files or view previously uploaded files, click on the 'Attach/View Files' button at the upper right of the screen.
eDMR Worksheet Certification

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.


Name of Signee:

Timothy B. Schwinabart
Principal Executive Officer or Authorized Agent

Title:

Vice President


Date:

4/15/2020 
DEP Validation Findings

When processing your DMRs if we encounter problems with the data. The attachment to this page lists the problems found by: permit, DMR date, outlet number, parameter and problem description.

DEP performs validations on the reported DMR data once it is loaded into our system. Any problems identified are listed on the attachments. Failure to correct these issues and resubmit the data in a timely manner will result in the DMR(s)/Parameter(s) being deemed as not reported, which is a violation of your permit conditions.

Please review your information for the listed problems and resubmit corrected information to the agency within 8 days. Failure to resubmit the corrected Data may result in an enforcement action being taken.

	Applicant: D. & L. COAL COMPANY, INCORPORATED Reference ID: WV1014137 February 2020 (04/15/2020) Status: ERIS - Closed - Issued	Type: Electronic DMR #54709 Permit ID: EDMR54709 Printed: Jun. 23, 2020 6:42 PM

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:

122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year: **Retrieve Parameters**

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

Parameter	Permit Limits	Quantity					Other Units					Measurement Frequency	Sample Type	Lab Test Flag
		Minimum	Average Monthly	Maximum Daily	Units	Number Exceed	Minimum	Average Monthly	Maximum Daily	Units	Number Exceed			
00058 Flow	Reported Permit Limits	Rpt Only	Rpt Only	Rpt Only	GPM		N/A	N/A	N/A			Semi-monthly	Estimated	122
00095 Specific Conductance	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	UMHO/CM		Semi-monthly	Grab	122
00400 Ph	Reported Permit Limits	N/A	N/A	N/A			6	N/A	9	Std Units		Semi-monthly	Grab	122
00530 Suspended Solids, Total	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	35	70	MG/L		Semi-monthly	Grab	122
00545 Settleable Solids	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	0.5	ML/L		Semi-monthly	Grab	122
00945 Total Sulfates (As S04)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122
01045 Iron, Total (As Fe)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	0.95	1.64	MG/L		Semi-monthly	Grab	122
01055 Manganese, Total	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	2	4	MG/L		Semi-monthly	Grab	122
01105 Aluminum, Total (As Al)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	0.08	0.14	MG/L		Semi-monthly	Grab	122
01106 Aluminum, Dissolved (As Al)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122
70296 Solids, Total Dissolved (Tds)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:

122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year: **Retrieve Parameters**

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:

122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year: **Retrieve Parameters**

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

eDMR Attachments

Please provide the following attachments, when needed:

- Laboratory Results
- Cover Letter

NOTE: To upload files or view previously uploaded files, click on the 'Attach/View Files' button at the upper right of the screen.**eDMR Worksheet Certification**

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.

Name of Signee:

Timothy B. Schwinabart

Principal Executive Officer or Authorized Agent

Title:

Vice President

Date:


4/15/2020

**DEP Validation Findings**

When processing your DMRs if we encounter problems with the data. The attachment to this page lists the problems found by: permit, DMR date, outlet number, parameter and problem description.

DEP performs validations on the reported DMR data once it is loaded into our system. Any problems identified are listed on the attachments. Failure to correct these issues and resubmit the data in a timely manner will result in the DMR(s)/Parameter(s) being deemed as not reported, which is a violation of your permit conditions.

Please review your information for the listed problems and resubmit corrected information to the agency within 8 days. Failure to resubmit the corrected Data may result in an enforcement action being taken.

	Applicant: D. & L. COAL COMPANY, INCORPORATED Reference ID: WV1014137 March 2020 (04/15/2020) Status: ERIS - Closed - Issued	Type: Electronic DMR #54711 Permit ID: EDMR54711 Printed: Jun. 23, 2020 6:39 PM

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:
122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year:

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

Parameter	Permit Limits	Quantity					Other Units					Measurement Frequency	Sample Type	Lab Test Flag
		Minimum	Average Monthly	Maximum Daily	Units	Number Exceed	Minimum	Average Monthly	Maximum Daily	Units	Number Exceed			
00058 Flow	Reported Permit Limits	Rpt Only	Rpt Only	Rpt Only	GPM		N/A	N/A	N/A			Semi-monthly	Estimated	122
00095 Specific Conductance	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	UMHO/CM		Semi-monthly	Grab	122
00400 Ph	Reported Permit Limits	N/A	N/A	N/A			6	N/A	9	Std Units		Semi-monthly	Grab	122
00530 Suspended Solids, Total	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	35	70	MG/L		Semi-monthly	Grab	122
00545 Settleable Solids	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	0.5	ML/L		Semi-monthly	Grab	122
00945 Total Sulfates (As S04)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122
01045 Iron, Total (As Fe)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	0.95	1.64	MG/L		Semi-monthly	Grab	122
01055 Manganese, Total	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	2	4	MG/L		Semi-monthly	Grab	122
01105 Aluminum, Total (As Al)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	0.08	0.14	MG/L		Semi-monthly	Grab	122
01106 Aluminum, Dissolved (As Al)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122
70296 Solids, Total Dissolved (Tds)	Reported Permit Limits	N/A	N/A	N/A			Rpt Only	Rpt Only	Rpt Only	MG/L		Semi-monthly	Grab	122

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:
122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year:

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

eDMR Worksheet
Permit: Outlet No: Type:

Lab Performing Analysis:
122 - SUMMIT TECHNICAL LABORATORIES

Report for the Month of: Year:

Report the rainfall for the 24 hour period prior to each sample in this report in the spaces below.

Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date	Rainfall (in)	Date

eDMR Attachments

Please provide the following attachments, when needed:

- Laboratory Results
- Cover Letter

NOTE: To upload files or view previously uploaded files, click on the 'Attach/View Files' button at the upper right of the screen.
eDMR Worksheet Certification

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.

Name of Signee:

Principal Executive Officer or Authorized Agent

Title:

Date:

**DEP Validation Findings**

When processing your DMRs if we encounter problems with the data. The attachment to this page lists the problems found by: permit, DMR date, outlet number, parameter and problem description.

DEP performs validations on the reported DMR data once it is loaded into our system. Any problems identified are listed on the attachments. Failure to correct these issues and resubmit the data in a timely manner will result in the DMR(s)/Parameter(s) being deemed as not reported, which is a violation of your permit conditions.

Please review your information for the listed problems and resubmit corrected information to the agency within 8 days. Failure to resubmit the corrected Data may result in an enforcement action being taken.

ATTACHMENT D

MR-6HPE HYDROLOGIC PROTECTION UNIT INSPECTION (EPA) REPORT

NPDES NUMBER	LATITUDE	LONGITUDE	DATE	INSPECTION			TYPE	PHOTOS
				TIME	REASON			
WV1014137	39 ° 28 ' 45 "	79 ° 4 ' 4 "	04/17/2018	12:00	RI		RI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED			NPDES EXP DATE		01/08/2023	
ASSOC. PERMITS		I059300						
LAST HPU INSP DATE	TYPE	CUR NPR#	CUR NPM#	CUR NPT#				
TIME USED (HRS)=>	PERMIT REVIEW	0.50	INSPECT	0.75	TRAVEL	0.50	REPORT	0.50
AREAS EVALUATED: PERMIT		N/A	FACILITY SITE REVIEW		N/A	EFFLUENT/RECEIVING WATERS		X
RECORDS/REPORTS		N/A	SELF-MONITORING PROGRAM		N/A	COMPLIANCE SCHEDULES		N/A
OPERATIONS MAINTENANCE		N/A	STORMWATER		N/A			

INSPECTION COMMENTS

Beryl Tipple: A reconnaissance inspection was done on this date. Outlets 001, 002, and 003 were inspected and were not flowing.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0011 Unapproved Bypass.....	Not Applicable		A0012 Effluent Stormwater Violation.....	Full Compliance	
A0013 Failed Toxicity Test.....	Not Applicable		A0015 Unauthorized Discharge of Brine..	Not Applicable	
A0016 Reported Fish Kill.....	Not Applicable		A0018 Approved Bypass.....	Not Applicable	
A0022 Narrative Effluent Violation.....	Not Applicable		A0023 Industrial Spill.....	Not Applicable	
B0019 Best Management Practice Deficit	Not Applicable		B0020 Improper Operation and Maintena	Not Applicable	
B0026 Failure to Allow Entry.....	Not Applicable		B0028 Oil- Failure to Implmnt SPCC Plar	Not Applicable	
B0041 Failure to Maintain Records.....	Not Applicable		B0042 Violation of a milestone in an orde	Not Applicable	
C0021 Failure to Monitor for Toxicity Reql	Not Applicable		D0011 Discharge Without a Valid Permit.	Not Applicable	
D0013 Unapproved Operation.....	Not Applicable		D0015 Failure to Pay Fees.....	Not Applicable	
D0016 Fail to Submit Timely Permit Rene	Not Applicable		D0017 Violation Specified in Comment....	Not Applicable	
E0014 Noncompl. w/ Sect. 308 Info Reql	Not Applicable		E0016 Failure to Submit Req. Report (No	Not Applicable	
E0017 Failure to Notify.....	Not Applicable				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment
001					X		No
002					X		No
003					X		No

AUTH. COMPANY REPRESENTATIVE		Tim Schwinabart	
DELIVERY METHOD / DATE TIME		Mail 4/19/2018 16:00:00	
COMPLETION DATE TIME		4/19/2018 12:00:00	
CERTIFIED MAIL NUMBER			
ADDRESS RT 6 BOX 6192, KEYSER, WV 26726			
WV DEP REP.		Carl Junior Bowmar	

NPDES NUMBER	LATITUDE	LONGITUDE	INSPECTION				PHOTOS
			DATE	TIME	REASON	TYPE	
WV1014137	39 ° 28 ' 45 "	79 ° 4 ' 4 "	09/12/2018	10:00	RI	CSI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED		NPDES EXP DATE		01/08/2023	
ASSOC. PERMITS		I059300					
LAST HPU INSP DATE	04/17/2018	TYPE	RI	CUR NPR#		CUR NPM#	
TIME USED (HRS)==> PERMIT REVIEW		0.50	INSPECT	0.50	TRAVEL	1.00	REPORT
							0.50
AREAS EVALUATED: PERMIT		X	FACILITY SITE REVIEW	X	EFFLUENT/RECEIVING WATERS	X	
RECORDS/REPORTS		X	SELF-MONITORING PROGRAM	X	COMPLIANCE SCHEDULES	X	
OPERATIONS MAINTENANCE		X	STORMWATER	X			

INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Ditches and sumps were inspected and appear to be functioning correctly. The outlets were inspected and were not flowing. Permit area appears to be good condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Not Applicable		A0013 Failed Toxicity Test.....	Not Applicable	
A0015 Unauthorized Discharge.....	Not Applicable		A0016 Reported Fish Kill.....	Not Applicable	
A0022 Narrative Effluent Violation.....	Not Applicable		A0023 Industrial Spill.....	Not Applicable	
B0019 Best Management Practice Deficit	Not Applicable		B0020 Improper Operation and Maintena	Not Applicable	
B0026 Failure to Allow Entry.....	Not Applicable		B0028 Failure to Implement SPCC Plan..	Not Applicable	
B0041 Failure to Maintain Records.....	Not Applicable		B0042 Violation of a milestone in an orde	Not Applicable	
C0021 Failure to Monitor for Toxicity Reqi	Not Applicable		D0011 Discharge Without a Valid Permit.	Not Applicable	
D0013 Unapproved Operation.....	Not Applicable		D0015 Failure to Pay Fees.....	Not Applicable	
D0016 Fail to Submit Timely Permit Rene	Not Applicable		D0017 Violation Specified in Comment....	Not Applicable	
E0014 Noncompl. w/ Sect. 308 Info Requi	Not Applicable		E0016 Failure to Submit Req. Report (No	Not Applicable	
E0017 Failure to Notify.....	Not Applicable				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment

AUTH. COMPANY REPRESENTATIVE		Tim Schwinabart	
DELIVERY METHOD / DATE TIME		Mail 9/26/2018 16:00:00	
COMPLETION DATE TIME		9/26/2018 16:00:00	
CERTIFIED MAIL NUMBER			
ADDRESS		RT 6 BOX 6192, KEYSER, WV 26726	
WV DEP REP.		Carl Junior Bowmar	

Carl J. Bowmar II 9-26-18

NPDES NUMBER	LATITUDE	LONGITUDE	DATE	TIME	REASON	TYPE	PHOTOS
WV1014137	39° 28' 45"	79° 4' 4"	11/27/2018	13:00	RI	RI	No

PERMITTEE NAME	D. & L. COAL COMPANY, INCORPORATED			NPDES EXP DATE	01/08/2023		
ASSOC. PERMITS	I059300						
LAST HPU INSP DATE	09/12/2018	TYPE	CSI	CUR NPR#	CUR NPM#	CUR NPT#	
TIME USED (HRS) ==>	PERMIT REVIEW	0.50	INSPECT	0.25	TRAVEL	1.00	REPORT 0.50
AREAS EVALUATED:	PERMIT	X	FACILITY SITE REVIEW	X	EFFLUENT/RECEIVING WATERS	X	
	RECORDS/REPORTS	X	SELF-MONITORING PROGRAM	X	COMPLIANCE SCHEDULES	N/A	
	OPERATIONS MAINTENANCE	X	STORMWATER	X			

INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Ditches and sumps were inspected and appear to be functioning correctly. The outlets were inspected and were not flowing. Permit area appears to be good condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Not Applicable		A0013 Failed Toxicity Test.....	Not Applicable	
A0015 Unauthorized Discharge.....	Not Applicable		A0016 Reported Fish Kill.....	Not Applicable	
A0022 Narrative Effluent Violation.....	Not Applicable		A0023 Industrial Spill.....	Not Applicable	
B0019 Best Management Practice Deficit	Not Applicable		B0020 Improper Operation and Maintena	Not Applicable	
B0026 Failure to Allow Entry.....	Not Applicable		B0028 Failure to Implement SPCC Plan..	Not Applicable	
B0041 Failure to Maintain Records.....	Not Applicable		B0042 Violation of a milestone in an orde	Not Applicable	
C0021 Failure to Monitor for Toxicity Reqr	Not Applicable		D0011 Discharge Without a Valid Permit..	Not Applicable	
D0013 Unapproved Operation.....	Not Applicable		D0015 Failure to Pay Fees.....	Not Applicable	
D0016 Fail to Submit Timely Permit Rene	Not Applicable		D0017 Violation Specified in Comment...	Not Applicable	
E0014 Noncompl. w/ Sect. 308 Info Reqr	Not Applicable		E0016 Failure to Submit Req. Report (No	Not Applicable	
E0017 Failure to Notify.....	Not Applicable				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment

AUTH. COMPANY REPRESENTATIVE	Tim Schwinabart		
DELIVERY METHOD / DATE TIME	Mail 12/21/2018 16:00:00	COMPLETION DATE TIME	12/21/2018 16:00:00
CERTIFIED MAIL NUMBER			
ADDRESS	RT 6 BOX 6192, KEYSER, WV 26726		
WV DEP REP.	Carl Junior Bowmar	<i>Carl J Bowmar</i>	12-21-18

NPDES NUMBER	LATITUDE	LONGITUDE	INSPECTION				PHOTOS
			DATE	TIME	REASON	TYPE	
WV1014137	39° 28' 45"	79° 4' 4"	02/25/2019	10:00	RI	RI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED		NPDES EXP DATE		01/08/2023	
ASSOC. PERMITS		I059300					
LAST HPU INSP DATE	11/27/2018	TYPE	RI	CUR NPR#		CUR NPM#	
TIME USED (HRS) ==> PERMIT REVIEW		0.50	INSPECT	0.50	TRAVEL	1.00	REPORT
							0.50
AREAS EVALUATED: PERMIT		X	FACILITY SITE REVIEW		X	EFFLUENT/RECEIVING WATERS	
RECORDS/REPORTS		X	SELF-MONITORING PROGRAM		X	COMPLIANCE SCHEDULES	
OPERATIONS MAINTENANCE		X	STORMWATER		X	N/A	

INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Ditches and sumps were inspected and appear to be functioning correctly. The outlets were inspected and were not flowing. Permit area appears to be good condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Not Applicable		A0013 Failed Toxicity Test.....	Not Applicable	
A0015 Unauthorized Discharge.....	Not Applicable		A0016 Reported Fish Kill.....	Not Applicable	
A0022 Narrative Effluent Violation.....	Not Applicable		A0023 Industrial Spill.....	Not Applicable	
B0019 Best Management Practice Deficit	Not Applicable		B0020 Improper Operation and Maintena	Not Applicable	
B0026 Failure to Allow Entry.....	Not Applicable		B0028 Failure to Implement SPCC Plan..	Not Applicable	
B0041 Failure to Maintain Records.....	Not Applicable		B0042 Violation of a milestone in an orde	Not Applicable	
C0021 Failure to Monitor for Toxicity Reqr	Not Applicable		D0011 Discharge Without a Valid Permit.	Not Applicable	
D0013 Unapproved Operation.....	Not Applicable		D0015 Failure to Pay Fees.....	Not Applicable	
D0016 Fail to Submit Timely Permit Rene	Not Applicable		D0017 Violation Specified in Comment....	Not Applicable	
E0014 Noncompl. w/ Sect. 308 Info Reqr	Not Applicable		E0016 Failure to Submit Req. Report (No	Not Applicable	
E0017 Failure to Notify.....	Not Applicable				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment

AUTH. COMPANY REPRESENTATIVE		Tim Schwinabart	
DELIVERY METHOD / DATE TIME		Mail 3/22/2019 16:00:00	COMPLETION DATE TIME 3/22/2019 16:00:00
CERTIFIED MAIL NUMBER			
ADDRESS		RT 6 BOX 6192, KEYSER, WV 26726	
WV DEP REP.		Carl Junior Bowmar	<i>Carl J. Bowmar II</i> 3-22-19

NPDES NUMBER	LATITUDE	LONGITUDE	DATE	INSPECTION			TYPE	PHOTOS
				TIME	REASON			
WV1014137	39 ° 28 ' 45 "	79 ° 4 ' 4 "	05/22/2019	10:00	RI		CSI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED				NPDES EXP DATE		01/08/2023	
ASSOC. PERMITS		I059300							
LAST HPU INSP DATE	02/25/2019	TYPE	RI	CUR NPR#		CUR NPM#		CUR NPT#	
TIME USED (HRS)=> PERMIT REVIEW		0.50	INSPECT	0.75	TRAVEL	1.00	REPORT	0.50	
AREAS EVALUATED: PERMIT		X	FACILITY SITE REVIEW		X	EFFLUENT/RECEIVING WATERS		X	
RECORDS/REPORTS		X	SELF-MONITORING PROGRAM		X	COMPLIANCE SCHEDULES		N/A	
OPERATIONS MAINTENANCE		X	STORMWATER		X	SAMPLING DONE?		Yes	

INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Ditches and sumps were inspected and appear to be functioning correctly. The outlets were inspected and were not flowing. Permit area appears to be good condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Not Applicable		A0013 Failed Toxicity Test.....	Not Applicable	
A0015 Unauthorized Discharge.....	Not Applicable		A0016 Reported Fish Kill.....	Not Applicable	
A0022 Narrative Effluent Violation.....	Not Applicable		A0023 Industrial Spill.....	Not Applicable	
B0019 Best Management Practice Defici	Not Applicable		B0020 Improper Operation and Maintena	Not Applicable	
B0026 Failure to Allow Entry.....	Not Applicable		B0028 Failure to Implement SPCC Plan..	Not Applicable	
B0041 Failure to Maintain Records.....	Not Applicable		B0042 Violation of a milestone in an orde	Not Applicable	
C0021 Failure to Monitor for Toxicity Req	Not Applicable		D0011 Discharge Without a Valid Permit.	Not Applicable	
D0013 Unapproved Operation.....	Not Applicable		D0015 Failure to Pay Fees.....	Not Applicable	
D0016 Fail to Submit Timely Permit Rene	Not Applicable		D0017 Violation Specified in Comment....	Not Applicable	
E0014 Noncompl. w/ Sect. 308 Info Requ	Not Applicable		E0016 Failure to Submit Req. Report (No	Not Applicable	
E0017 Failure to Notify.....	Not Applicable				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment
001					X		No
002					X		No
003					X		No

AUTH. COMPANY REPRESENTATIVE		Tim Schwinabart	
DELIVERY METHOD / DATE TIME		Mail 7/8/2019 16:00:00	COMPLETION DATE TIME 7/8/2019 16:00:00
CERTIFIED MAIL NUMBER			
ADDRESS		RT 6 BOX 6192, KEYSER, WV 26726	
WV DEP REP.		Carl Junior Bowmar	

NPDES NUMBER	LATITUDE	LONGITUDE	INSPECTION				
			DATE	TIME	REASON	TYPE	PHOTOS
WV1014137	39 ° 28 ' 45 "	79 ° 4 ' 4 "	08/13/2019	10:00	RI	RI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED			NPDES EXP DATE		01/08/2023	
ASSOC. PERMITS		I059300						
LAST HPU INSP DATE	05/22/2019	TYPE	CSI	CUR NPR#	CUR NPM#	CUR NPT#		
TIME USED (HRS)==> PERMIT REVIEW		0.50	INSPECT	1.00	TRAVEL	1.00	REPORT	0.50
AREAS EVALUATED: PERMIT		X	FACILITY SITE REVIEW		X	EFFLUENT/RECEIVING WATERS		X
RECORDS/REPORTS		X	SELF-MONITORING PROGRAM		X	COMPLIANCE SCHEDULES		N/A
OPERATIONS MAINTENANCE		X	STORMWATER		X	SAMPLING DONE?		No

INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Ditches and sumps were inspected and appear to be functioning correctly. Company has cleared the knotweed from the outlets allowing for easier inspection. The outlets were inspected and were not flowing. Permit area appears to be good condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Not Applicable		A0013 Failed Toxicity Test.....	Not Applicable	
A0015 Unauthorized Discharge.....	Not Applicable		A0016 Reported Fish Kill.....	Not Applicable	
A0022 Narrative Effluent Violation.....	Not Applicable		A0023 Industrial Spill.....	Not Applicable	
B0019 Best Management Practice Deficit	Not Applicable		B0020 Improper Operation and Maintena	Not Applicable	
B0026 Failure to Allow Entry.....	Not Applicable		B0028 Failure to Implement SPCC Plan..	Not Applicable	
B0041 Failure to Maintain Records.....	Not Applicable		B0042 Violation of a milestone in an orde	Not Applicable	
C0021 Failure to Monitor for Toxicity Reqr	Not Applicable		D0011 Discharge Without a Valid Permit.	Not Applicable	
D0013 Unapproved Operation.....	Not Applicable		D0015 Failure to Pay Fees.....	Not Applicable	
D0016 Fail to Submit Timely Permit Rene	Not Applicable		D0017 Violation Specified in Comment....	Not Applicable	
E0014 Noncompl. w/ Sect. 308 Info Reqr	Not Applicable		E0016 Failure to Submit Req. Report (No	Not Applicable	
E0017 Failure to Notify.....	Not Applicable				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment

AUTH. COMPANY REPRESENTATIVE	Tim Schwinabart		
DELIVERY METHOD / DATE TIME	Mail 9/26/2019 16:00:00	COMPLETION DATE TIME	9/26/2019 16:00:00
CERTIFIED MAIL NUMBER			
ADDRESS	RT 6 BOX 6192, KEYSER, WV 26726		
WV DEP REP.	Carl Junior Bowmar <i>Carl J Bowmar</i> 9-26-19		

NPDES NUMBER	LATITUDE	LONGITUDE	INSPECTION				PHOTOS
			DATE	TIME	REASON	TYPE	
WV1014137	39 ° 28 ' 45 " "	79 ° 4 ' 4 " "	10/15/2019	13:00	RI	RI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED		NPDES EXP DATE		01/08/2023		
ASSOC. PERMITS		1059300						
LAST HPU INSP DATE	08/13/2019	TYPE	RI	CUR NPR#	CUR NPM#	CUR NPT#		
TIME USED (HRS)==> PERMIT REVIEW		0.50	INSPECT	0.50	TRAVEL	1.00	REPORT	0.50
AREAS EVALUATED: PERMIT		X	FACILITY SITE REVIEW		X	EFFLUENT/RECEIVING WATERS		X
RECORDS/REPORTS		X	SELF-MONITORING PROGRAM		N/A	COMPLIANCE SCHEDULES		N/A
OPERATIONS MAINTENANCE		X	STORMWATER		N/A	SAMPLING DONE?		No

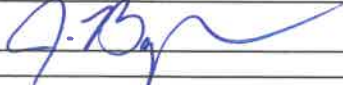
INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Outlets were not flowing during inspection. Site appears in ok condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Full Compliance		A0013 Failed Toxicity Test.....	Full Compliance	
A0015 Unauthorized Discharge.....	Full Compliance		A0016 Reported Fish Kill.....	Full Compliance	
A0022 Narrative Effluent Violation.....	Full Compliance		A0023 Industrial Spill.....	Full Compliance	
B0019 Best Management Practice Defici	Full Compliance		B0020 Improper Operation and Maintena	Full Compliance	
B0026 Failure to Allow Entry.....	Full Compliance		B0028 Failure to Implement SPCC Plan..	Full Compliance	
B0041 Failure to Maintain Records.....	Full Compliance		B0042 Violation of a milestone in an orde	Full Compliance	
C0021 Failure to Monitor for Toxicity Reqi	Full Compliance		D0011 Discharge Without a Valid Permit.	Full Compliance	
D0013 Unapproved Operation.....	Full Compliance		D0015 Failure to Pay Fees.....	Full Compliance	
D0016 Fail to Submit Timely Permit Rene	Full Compliance		D0017 Violation Specified in Comment....	Full Compliance	
E0014 Noncompl. w/ Sect. 308 Info Reqi	Not Applicable		E0016 Failure to Submit Req. Report (No	Full Compliance	
E0017 Failure to Notify.....	Full Compliance				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment
001					X		No
002					X		No
003					X		No

AUTH. COMPANY REPRESENTATIVE	Tim Schwinabart	
DELIVERY METHOD / DATE TIME	Mail 11/5/2019 12:00:00	COMPLETION DATE TIME 11/5/2019 12:00:00
CERTIFIED MAIL NUMBER		
ADDRESS	RT 6 BOX 6192, KEYSER, WV 26726	
WV DEP REP.	Jessica A Baczuk 	

NPDES NUMBER	LATITUDE	LONGITUDE	INSPECTION				PHOTOS
			DATE	TIME	REASON	TYPE	
WV1014137	39 ° 28 ' 45 "	79 ° 4 ' 4 "	01/17/2020	12:00	RI	RI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED		NPDES EXP DATE		01/08/2023		
ASSOC. PERMITS		I059300						
LAST HPU INSP DATE	10/15/2019	TYPE	RI	CUR NPR#	CUR NPM#	CUR NPT#		
TIME USED (HRS) ==> PERMIT REVIEW		0.50	INSPECT	0.50	TRAVEL	2.00	REPORT	0.50
AREAS EVALUATED: PERMIT		X	FACILITY SITE REVIEW		X	EFFLUENT/RECEIVING WATERS		X
RECORDS/REPORTS		X	SELF-MONITORING PROGRAM		N/A	COMPLIANCE SCHEDULES		N/A
OPERATIONS MAINTENANCE		X	STORMWATER		X	SAMPLING DONE?		No

INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Outlets were not flowing during inspection. Site appears in ok condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Full Compliance		A0013 Failed Toxicity Test.....	Full Compliance	
A0015 Unauthorized Discharge.....	Full Compliance		A0016 Reported Fish Kill.....	Full Compliance	
A0022 Narrative Effluent Violation.....	Full Compliance		A0023 Industrial Spill.....	Full Compliance	
B0019 Best Management Practice Deficit	Full Compliance		B0020 Improper Operation and Maintena	Full Compliance	
B0026 Failure to Allow Entry.....	Full Compliance		B0028 Failure to Implement SPCC Plan..	Full Compliance	
B0041 Failure to Maintain Records.....	Full Compliance		B0042 Violation of a milestone in an orde	Full Compliance	
C0021 Failure to Monitor for Toxicity Reqr	Full Compliance		D0011 Discharge Without a Valid Permit.	Full Compliance	
D0013 Unapproved Operation.....	Full Compliance		D0015 Failure to Pay Fees.....	Full Compliance	
D0016 Fail to Submit Timely Permit Rene	Full Compliance		D0017 Violation Specified in Comment....	Full Compliance	
E0014 Noncompl. w/ Sect. 308 Info Reqr	Not Applicable		E0016 Failure to Submit Req. Report (No	Full Compliance	
E0017 Failure to Notify.....	Full Compliance				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment
001					X		No
002					X		No
003					X		No

AUTH. COMPANY REPRESENTATIVE Tim Schwinabart

DELIVERY METHOD / DATE TIME Mail 1/24/2020 12:00:00

COMPLETION DATE TIME 1/24/2020 12:00:00

CERTIFIED MAIL NUMBER

ADDRESS RT 6 BOX 6192, KEYSER, WV 26726

WV DEP REP. Jessica A Baczuk



NPDES NUMBER	LATITUDE	LONGITUDE	DATE	TIME	REASON	TYPE	PHOTOS
WV1014137	39 ° 28 ' 45 "	79 ° 4 ' 4 "	04/17/2020	13:00	RI	RI	No

PERMITTEE NAME		D. & L. COAL COMPANY, INCORPORATED			NPDES EXP DATE		01/08/2023	
ASSOC. PERMITS		I059300						
LAST HPU INSP DATE	01/17/2020	TYPE	RI	CUR NPR#	CUR NPM#	CUR NPT#		
TIME USED (HRS)=>	PERMIT REVIEW	0.50	INSPECT	0.50	TRAVEL	2.00	REPORT	0.50
AREAS EVALUATED: PERMIT		X	FACILITY SITE REVIEW		X	EFFLUENT/RECEIVING WATERS		X
RECORDS/REPORTS		X	SELF-MONITORING PROGRAM		X	COMPLIANCE SCHEDULES		X
OPERATIONS MAINTENANCE		X	STORMWATER		X	SAMPLING DONE?		No

INSPECTION COMMENTS

Beryl Tipple: HPU inspection on this date. Outlets were not flowing during inspection. Site appears in ok condition.

SEV STANDARD	EVALUATION	SEV#	SEV STANDARD	EVALUATION	SEV#
A0012 Effluent Violation.....	Full Compliance		A0013 Failed Toxicity Test.....	Full Compliance	
A0015 Unauthorized Discharge.....	Full Compliance		A0016 Reported Fish Kill.....	Full Compliance	
A0022 Narrative Effluent Violation.....	Full Compliance		A0023 Industrial Spill.....	Full Compliance	
B0019 Best Management Practice Deficient.....	Full Compliance		B0020 Improper Operation and Maintenance.....	Full Compliance	
B0026 Failure to Allow Entry.....	Full Compliance		B0028 Failure to Implement SPCC Plan.....	Full Compliance	
B0041 Failure to Maintain Records.....	Full Compliance		B0042 Violation of a milestone in an order.....	Full Compliance	
C0021 Failure to Monitor for Toxicity Requirements.....	Full Compliance		D0011 Discharge Without a Valid Permit.....	Full Compliance	
D0013 Unapproved Operation.....	Full Compliance		D0015 Failure to Pay Fees.....	Full Compliance	
D0016 Fail to Submit Timely Permit Renewal.....	Full Compliance		D0017 Violation Specified in Comment.....	Full Compliance	
E0014 Noncompl. w/ Sect. 308 Info Request.....	Not Applicable		E0016 Failure to Submit Req. Report (Not BMP).....	Full Compliance	
E0017 Failure to Notify.....	Full Compliance				

WATER QUALITY TESTS

Outfall	pH	Fe	Mn	Al	No Flow	Not Const.	Treatment
001					X		No
002					X		No
003					X		No

AUTH. COMPANY REPRESENTATIVE Tim Schwinabart

DELIVERY METHOD / DATE TIME Mail 4/27/2020 12:00:00

COMPLETION DATE TIME 4/27/2020 12:00:00

CERTIFIED MAIL NUMBER

ADDRESS RT 6 BOX 6192, KEYSER, WV 26726

WV DEP REP. Jessica A Baczuk

Jessica Baczuk

Digitally signed by Jessica Baczuk
DN: cn=J. Baczuk, o=West Virginia Department of Environmental Protection, email=j.baczuk@wv.gov
Reason: I am the author of this document
Date: 2020.04.27 11:38:31
Full Reader Version: 3.4.0