

February 25, 2010

Mr. J. Brett Harvey
President
Consolidation Coal Company
1800 Washington Road
Pittsburgh, PA 15241

Mr. John Owsiany
Director, Compliance and Water Resources
Consolidation Coal Company
St. Rt. 7 & US 19
PO Box 100
Osage, WV 26543

By Certified Mail – Return Receipt Requested

Re: 60-Day Notice of Intent to File Citizen Suit Under Clean Water Act Section 505(a)(1) for Violation of Terms and Conditions of West Virginia NPDES Permits WV0064602 and WV0040711, and 60-Day Notice of Intent to File Citizen Suit Under the Federal Surface Mining Control and Reclamation Act Section 520(a)(1) for Violations of Federal and State Regulations and Permit Conditions of West Virginia Surface Mining Permits U004684 and U007883

Dear Mssrs. Harvey and Owsiany:

For several years, Consolidation Coal Company (“Consol”) has been discharging illegally high levels of chloride from its mining operations into Dunkard Creek. These discharges have violated the federally enforceable (1) conditions in Consol’s discharge permits; (2) numeric and narrative West Virginia water quality standards; and (3) Total Maximum Daily Loads (TMDLs) for Dunkard Creek. Those violations have caused serious ongoing harm to the aquatic life in the Creek, including a recent massive fish kill. The West Virginia Department of Environmental Protection (WVDEP) has failed to enforce violations of those permits, standards and loads, and has instead issued “compliance” orders that purport to extend compliance deadlines and substitute weaker interim discharge limits. However, WVDEP’s unilateral actions did not, and cannot, have the effect of changing the federally enforceable permit terms, water quality standards, and TMDLs applicable to Consol’s discharges. The CWA expressly prohibits WVDEP from adopting or enforcing any limitation which is less stringent than those federally-enforceable limitations. 33 U.S.C. § 1370.

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The Sierra Club and the West Virginia Highlands Conservancy, in accordance with section 505 of the Clean Water Act (the “Act” or the “CWA”), 33 U.S.C. § 1365, and 40 C.F.R. Part 135, hereby notify you that Consolidation Coal Company (“Consol”) has violated, and continues to violate, “an effluent standard or limitation” under Section 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A), by failing to comply with the terms and conditions of West Virginia/National Pollution Discharge Elimination System (“WV/NPDES”) Permits WV0064602 and WV0040711. If within sixty days of the postmark of this letter Consol does not bring itself into full compliance with the Act, we intend to file a citizens’ suit seeking civil penalties for Consol’s ongoing and continuing violations and for an injunction compelling it to come into compliance with the Act.

We further notify you, in accordance with section 502 of the federal Surface Mining Control and Reclamation Act (“SMCRA”), 30 U.S.C. § 1270, and 30 C.F.R. § 700.13, that Consol is in ongoing and continuing violation of certain federal and state regulations promulgated under SMCRA and the West Virginia Surface Coal Mining and Reclamation Act (“WVSCMRA” or the “State Act”) and certain permit conditions of its West Virginia Surface Mining Permits U004684 and U007883 as a result of its discharge of chloride into Dunkard Creek and its tributaries. If, within sixty days, Consol does not bring itself into full compliance with SMCRA, the regulations promulgated under SMCRA and the WVSCMRA, and the Surface Mining Permits identified below, we intend to file a citizens’ suit in federal court seeking an injunction compelling Consol to come into compliance with the applicable statutes, regulations, and permits.

I. FACTUAL BACKGROUND

West Virginia has promulgated a water quality standard for chloride. This standard has two components—(1) an acute criterion of 860 mg/l, which is a one-hour average concentration not to be exceeded more than once every three years on the average, and (2) a chronic criterion of 230 mg/l, which is a four-day average concentration not to be exceeded more than once every three years on the average. 47 C.S.R. Series 2, Appendix E, Table 1 and notes 1 and 2. EPA has approved this water quality standard. See EPA, Repository of Documents, West Virginia, Requirements Governing Water Quality Standards, available at <http://www.epa.gov/waterscience/standards/wqslibrary/wv/index.html>.

Consol operates various underground mines and associated wastewater treatment facilities in West Virginia, including its Blacksville No. 2 Deep Mine (West Virginia Surface Mining Permit No. U004684) and Loveridge Mine (West Virginia Surface Mining Permit No. U007883), which are actively mined and operated in Monongalia County, West Virginia. See attached map. On May 17, 2006, WVDEP issued to Consol WV/NPDES Permit No. WV0064602, which limits its discharges into the West Virginia Fork of Dunkard Creek from its Blacksville No. 2 mine. Effective June 27, 2007, that permit established two effluent limitations for discharges of chloride from outfall 003 into West Virginia Fork. The average monthly limit for chloride is 218 mg/l and the maximum daily limit is 378 mg/l. Permit, p. 4. In addition, effective May 17, 2006, Part C of that Permit incorporated by reference 147 CSR § 30-5.1.f,

which provides that: “The discharge or discharges covered by a WV/NPDES permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the Department of Environmental Protection, Title 47, Series 2.” Permit, p. 11. To measure compliance with the chloride in-stream water quality standard, the Permit requires Consol to monitor the chloride in West Virginia Fork upstream and downstream from Outfall 003. Permit, p. 12. Monitoring must be performed at approximately the same time as monitoring from outfall 003. Id.

On May 16, 2005, WVDEP issued to Consol WV/NPDES Permit No. WV0040711, which limits its discharges into Dunkard Creek and its tributaries from its Loveridge Mine. Effective June 27, 2007, that permit established the same effluent limitations (218 mg/l monthly average/378 mg/l daily maximum) for discharges of chloride from Outfall 016 into the South Fork of Dunkard Creek. Permit, p. 6. In addition, effective May 16, 2005, Part C of that Permit incorporated by reference 47 CSR § 30-5.1.f, which provides that: “The discharge or discharges covered by a WV/NPDES permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the Department of Environmental Protection, Title 47, Series 2.” Permit, p. 15. To measure compliance with the chloride in-stream water quality standard, the Permit requires Consol to monitor the chloride in South Fork upstream and downstream from outfall 016. Permit, p. 16. Monitoring must be performed at approximately the same time as monitoring from outfall 016. Id.

South Fork is a tributary of West Virginia Fork, which in turn flows into the main stem of Dunkard Creek. The monitoring points for the Loveridge permit are upstream from the monitoring points for the Blacksville No. 2 permit. Going downstream, the sequence of monitoring points is as follows: upstream in South Fork (UUSF8), Outfall 016, downstream in South Fork (DUSF9), upstream in West Virginia Fork (UWVF1), Outfall 003, and downstream in West Virginia Fork (DWVF2).

Consol’s discharges from outfalls authorized by the Blacksville No. 2 and Loveridge permits have been flowing into Dunkard Creek since at least February 2005. Those discharges provide most of the constituent flow for the immediate receiving waters and provide the water which has historically supported the aquatic ecology of the streams. The discharges are primarily a result of the pumping of the Blacksville No.2 and Loveridge mine pools. See 2009 Order, below, p. 1.

Consol’s Discharge Monitoring Reports since 2005 show that it has measured in-stream chloride concentrations downstream from Outfalls 003 and 016 that exceed the acute and chronic water quality standards for chloride. These exceedances show that Consol’s discharges are causing violations of that standard, in violation of Consol’s WV/NPDES permits and 47 CSR § 30-5.1.f. These violations are listed in Attachment A to this letter, and are highlighted in yellow on that list.

In August 2008, we notified Consol of our intent to sue to enforce violations of Consol’s WV/NPDES Permits WV0064602 and WV0040711, including violations of the chloride

limitations in those two permits. On September 30, 2008, WVDEP issued an administrative order and compliance schedule—Order No. 133C—to Consol applicable to WV/NPDES Permits WV0064602 and WV0040711, among others. 2008 Order. That order purported to suspend the chloride effluent limitations in those two permits until September 6, 2013. *Id.*, p. 4. That order did not, and legally could not, suspend the prohibition in those permits and 47 CSR § 30-5.1.f. against causing violations of the chloride water quality standard. Nor could the order, as it purports to do, “suspend” the duly promulgated water quality standards for chloride.

On December 18, 2009, WVDEP issued another administrative order and compliance schedule—Order No. M-09-070—to Consol in connection with its discharges from its Blacksville No. 2 and Loveridge mines under WV/NPDES Permits WV0064602 and WV0040711, respectively. 2009 Order, p. 1. WVDEP issued the 2009 Order three months after “a massive and devastating fish and mussel kill” on Dunkard Creek in September 2009. *Id.* at 2. During that fish kill, Consol’s pumping operations repeatedly discharged water with chloride levels that exceeded both the acute and chronic state water quality standards for chloride of 860 mg/l and 230 mg/l, respectively. *Id.* at 3. WVDEP determined that this fish and mussel kill “was the consequence of toxins released from a species of golden algae” that thrives in “water high in total dissolved solids (TDS).” *Id.* at 2. Chloride is a contributor to TDS. High chloride concentrations therefore create conditions “favorable to the growth of golden algae.” WVDEP Dec. 21, 2009 Press Release, p. 1.

In the 2009 Order, WVDEP found that Consol’s discharges from those mines had caused violations of the chloride water quality standard:

12. During the investigation and analysis of conditions associated with the fish and mussel kill on Dunkard Creek, WVDEP determined that the chloride levels in Dunkard Creek exceeded the acute water quality standard for aquatic life use downstream of Blacksville No.2 outfall number 005. Specifically, chloride concentrations exceeded the water quality criteria limit of 860 mg/l on September 3, 4, 9, 10, 13, 14, 15, 16, 17, and 19 of the year 2009, a violation of WV Legislative Rules, Title 47, Series 2, Section 8. Additionally, similar violations occurred during this time period downstream of Loveridge outfall number 016.

13. During the investigation and analysis of conditions associated with the fish and mussel kill on Dunkard Creek, WVDEP determined that the chloride levels in Dunkard Creek exceeded the chronic water quality standard for aquatic life use downstream of Blacksville No.2 outfall number 005. Specifically, chloride concentrations exceeded the four day water quality criteria limit of 230 mg/l on September 13-16, 2009, a violation of WV Legislative Rules, Title 47, Series 2, Section 8. Chloride concentration ranged from 1790 mg/l to 3000 mg/l with a four day average of 2255 mg/l. Additionally, similar violations occurred during this time period downstream of Loveridge outfall number 016.

2009 Order, p. 3. These violations are violations of Consol's WV/NPDES permits and 47 CSR § 30-5.1.f.

After the kill, Consol voluntarily stopped pumping water from the Blacksville No. 2 mine pool. 2009 Order, p. 2. However, Consol later asked WVDEP to resume pumping based on "its concern for worker safety" as the unpumped water accumulated in the mine. *Id.* In response, WVDEP issued its order allowing Consol to resume pumping and discharging this water into Dunkard Creek. *Id.* at 4.

The 2009 Order purported to establish new weaker limits on chloride up to 1400 mg/l, which is nearly double the acute standard of 860 mg/l and more than six times the chronic standard of 230 mg/l. *Id.* at 5. This condition is expressed as an effluent limitation that the concentration of "in-stream chloride . . . shall not exceed" certain numerical concentrations, depending on the stream temperature at the time of discharge. *Id.* The point of compliance with these limits is in the West Virginia Fork of Dunkard Creek, 200 feet upstream of its confluence with Pennsylvania Fork of Dunkard Creek. *Id.* This point is downstream from Outfall 003. Press Release, p. 2 ("The order calls for chloride . . . monitoring to be conducted at Blacksville No. 2's discharge point and downstream in West Virginia Fork of Dunkard Creek.").

The 2009 order, like the 2008 order, did not, and legally could not, suspend the prohibition in Consol's permits and 47 CSR § 30-5.1.f. against causing violations of the chloride water quality standard. Nor did it suspend the water quality standards for chloride.

In its December 28, 2009 Corrective Action Plan in response to the WVDEP order, Consol stated that it expects the typical chloride concentration in the pumped mine water discharged from Outfall 003 will be 5,500 mg/l. Plan, p. 1. Consol's modeling calculations indicate that it expects to be able to discharge up to 550 gallons per minute at this concentration without exceeding the in-stream chloride limitations in the Order. *Id.* at 5. At that rate, Consol would be discharging up to 36,329 pounds per day of chloride into Dunkard Creek.³

WVDEP has listed the West Virginia Fork of Dunkard Creek under § 303(d) of the CWA as impaired for chloride, and has issued a Waste Load Allocation (WLA) for the mining point sources in that Creek of 10,014 pounds per day of chloride. TMDL, pp. 11, 49. Consol's Blacksville No. 2 mine discharges into the West Virginia Fork of Dunkard Creek. Dunkard Creek Aquatic Life Kills, September 2009, p. 3. In the TMDL, WVDEP identified that mine as one of the sources of chloride discharges into that Fork. TMDL, p. 24.

Although the TMDL is expressed in pounds per day, its implementation and enforcement is "based upon the achievement of the chronic aquatic life protection criterion in the discharge" from pumped mining discharges in the watershed. *Id.* at 43. The chronic criterion for chloride is

³The conversion formula is lbs/day = mg/l x million gallons/day x 8.34 lb/gal. The flow of 550 gal/min is equal to 0.792 million gallons per day. Thus, the number of pounds of chloride discharged per day = 5500 x 0.792 x 8.34 = 36,329.

230 mg/l. *Id.* at 5, 39. *See also id.* at 77 (“WVDEP developed chloride TMDLs based upon the existing numeric chloride water quality criteria.”). Thus, to be consistent with the TMDL, discharges from mine pumping in the West Virginia Fork cannot exceed the chronic water quality criteria for chloride of 230 mg/l, or the WLA of 10,014 pounds/day. The chloride discharges allowed by WVDEP’s December 2009 compliance order would exceed both of those limitations. As a result, such discharges will cause violations of the chloride water quality standard, in violation of Consol’s WV/NPDES permits and 47 CSR § 30-5.1.f.

EPA has never approved WVDEP’s 2008 or 2009 orders, either directly, or indirectly in the form of a revision to the water quality standards or the TMDL. As WVDEP stated in its 2009 press release, “This order is a unilateral order by the state of West Virginia, which does not require approval by the Environmental Protection Agency.” Press Release, p. 2. Consequently, WVDEP’s orders have no federal imprimatur or character. They are actions under purely state law.

In § 510 of the CWA, Congress has explicitly mandated that West Virginia cannot “adopt or enforce any effluent limitation, or other limitation, . . . which is less stringent than the effluent limitation, or other limitation, . . . under this chapter.” 33 U.S.C. § 1370 (emphasis added). Thus, WVDEP cannot “adopt or enforce” an effluent limitation that is “less stringent” than its EPA-approved water quality standard for chloride. To the extent that the 2008 or 2009 orders purport to adopt or enforce less stringent chloride limitations, those limitations are pre-empted under § 510.

II. LEGAL CLAIMS

A. CLEAN WATER ACT VIOLATIONS

Section 301 of the CWA prohibits the discharge of any pollutant by any person, except in compliance with a permit. The WV/NPDES permits at issue in this notice allow Consol to discharge pollutants into West Virginia’s waters, including chloride. “The issuance of a NPDES permit does not authorize the recipient to pollute at will,” however. Sierra Club v. Powellton Coal Co., LLC, Civ. No. 2:08-cv-1363, 2010 WL 454929 at *1 (S.D. W. Va. Feb. 3, 2010). WV/NPDES Permits WV0064602 and WV0040711 impose conditions on Consol’s discharge, including the condition described above that prohibits discharges that cause violations of water quality standards. 47 C.S.R. § 30-5.1.f. That condition is enforceable in a Clean Water Act citizen suit under 33 U.S.C. § 1365(f), which defines the term “effluent standard or limitation” to include “a permit or condition thereof issued under” CWA § 402. *See Northwest Env’tl. Advocates v. City of Portland*, 56 F.3d 979, 986-988 (9th Cir. 1995). Hence, because a citizen can bring a suit against a polluter in violation of an “effluent standard or limitation,” a citizen can bring a suit against a polluter violating any term or condition of its WV/NPDES permit.

As described above and shown in Appendix A, Consol’s discharges from Outfall 003 of WV/NPDES Permit WV0064602 and Outfall 016 of WV/NPDES Permit WV0040711 have caused numerous violations of the numeric water quality criteria for chloride. Based on the

available evidence, we believe Consol's violations to be ongoing. If Consol does not cease those violations within 60-days, we intend to bring a citizen suit against Consol under Section 505 of the Clean Water Act.

Moreover, Consol's excess chloride discharges from Outfall 003 of WV/NPDES Permit WV0064602 and Outfall 016 of WV0040711 have led to violations of the narrative water quality standards that prohibit discharges of "[m]aterials in concentrations which are harmful, hazardous or toxic to man, animal or aquatic life" or that cause "significant adverse impacts to the chemical, physical, hydrologic, or biological components of aquatic ecosystems." 47 C.S.R. §§ 2-3.2.e & 2-3.2.i. That is evidenced not only by the fish and mussel kill of September 2009, but by the continuing high chloride and conductivity levels in the Creek that impair aquatic life. Accordingly, we intend to include in our citizen suit claims that Consol's discharges have caused violations of West Virginia's narrative water quality standards.

B. SURFACE MINING VIOLATIONS

Section 502(a)(1) of SMCRA authorizes citizens to commence civil actions against any person alleged to be in violation of rules, orders, or permits issued pursuant to SMCRA. 30 U.S.C. § 1270(a)(1). By virtue of the excess chloride discharges described above and in Appendix A, we allege that Consol is in continuous and ongoing violation of the following:

1. 38 C.S.R. § 2-14.5.b, promulgated under the State Act;
2. 30 C.F.R. §§ 817.42, promulgated under SMCRA;
3. 38 C.S.R. § 2-14.5, promulgated under the State Act;
4. 30 C.F.R. §§ 817.41(a), promulgated under SMCRA; and
5. The permit conditions incorporated into West Virginia Surface Mining Permits U004684 and U007883 by operation of 38 C.S.R. § 2-3.33.c, promulgated under the State Act.

Consol's SMCRA-related violations began at least in April 2005, when its chloride discharges began causing violations of the water quality standards, and the violations recurred on each of the dates of the violations identified in Appendix A. Consol's violations continue to the present time.

1. BACKGROUND

In 1977, Congress enacted SMCRA in order to "assure that surface coal mining operations are so conducted as to protect the environment." 30 U.S.C. § 1202(d). SMCRA encourages "cooperative federalism" by allowing states to adopt their own programs for the regulation of mining, so long as those programs are as stringent as the federal program. See generally 30 U.S.C. § 1253. The Secretary of the Department of the Interior, charged with implementing SMCRA, has approved West Virginia's state mining regulation program. See 30 C.F.R. § 948.10. Consequently, West Virginia regulates mining operations in this state under

article 3 of chapter 22 of the West Virginia Code and issues surface mining permits consistent with that statute.

To serve the statutory goal of environmental protection, SMCRA and the State Act impose performance standards on mining operations. Those standards are codified in 40 C.F.R. Parts 816 and 817, and 38 C.S.R. § 2-14. Consol's violation of the performance standards will be the basis of any citizen suit under SMCRA.

2. CONSOL'S MINING OPERATIONS HAVE RESULTED IN WATER QUALITY STANDARDS VIOLATIONS

The federal performance standards under SMCRA mandate that all discharges from permitted mining operations "be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 C.F.R. Part 434." 40 C.F.R. §§ 817.42. The regulations under the State Act prescribe a similar standard: "Discharge from areas disturbed by surface mining shall not violate effluent limitations or cause a violation of applicable water quality standards." 38 C.S.R. § 2-14.5.b.

As described above and in Appendix A, Consol's discharges of chloride from its Blacksville No. 2 and Loveridge operations are causing numerous violations of the numeric water quality standards for chloride and the narrative water quality standards that prohibit discharges of "[m]aterials in concentrations which are harmful, hazardous or toxic to man, animal or aquatic life" or that cause "significant adverse impacts to the chemical, physical, hydrologic, or biological components of aquatic ecosystems." 47 C.S.R. §§ 2-3.2.e & 2-3.2.i. Consequently, Consol is in violation of the state and federal performance standards that prohibit mining operations from causing water quality standards violations.

2. CONSOL'S MINING OPERATIONS HAVE RESULTED IN IMPERMISSIBLE MATERIAL DAMAGE TO THE HYDROLOGIC BALANCE

The federal performance standards under SMCRA mandate that all "[u]nderground mining and reclamation activities shall be conducted to . . . prevent material damage to the hydrologic balance outside the permit area." 30 C.F.R. § 817.41(a). The regulations under the State Act prescribe a similar standard. 38 C.S.R. § 2-14.5.

The United States District Court for the Southern District of West Virginia has concluded that "material damage," at a minimum, includes violations of water quality standards. Ohio River Valley Environmental Coalition, Inc. v. Castle, Civ. No. 3:00-cv-0058, Memo. Opinion & Order at 12-13 (S.D. W. Va. June 14, 2000). Accordingly, the water quality standards violations described above constitute material damage to the hydrologic balance and are actionable in a SMCRA citizen suit against Consol.

3. CONSOL IS IN ONGOING AND CONTINUING VIOLATION OF THE CONDITIONS OF WEST VIRGINIA SURFACE MINING PERMITS U004684 and U007883

Under the State Act, all of the performance standards set forth in the West Virginia Surface Mining Rule—including the performance standards discussed above—are incorporated as conditions in every permit issued under the act. 38 C.S.R. § 2-3.33.c. Consol's Surface Mining Permits U004684 and U007883 are associated with its unlawful discharges under the WV/NPDES Permits described above. By operation of 38 C.S.R. § 2-33.c, those surface mining permits incorporate the performance standards that prohibit water quality standards violations and material damage discussed above. The upshot of that incorporation is that Consol's unlawful discharges of chloride are subject to regulation under the terms of its surface mining permit.

As described above, Consol is violating the performance standards that prohibit violations of water quality standards and material damage. See 30 C.F.R. §§ 817.41(a) & 817.42, 38 C.S.R. §§ 2-14.5 & 2-14.5.b. Consequently, it is simultaneously violating the conditions of Surface Mining Permits U004684 and U007883 and is subject to a citizen suit under SMCRA.

III. CONCLUSION

As discussed above, if Consol fails to come into compliance with the Clean Water Act; the terms of WV/NPDES Permits WV0064602 and WV0040711; SMCRA; surface mining regulations; and the permit conditions of Surface Mining Permits U004684 and U007883, we intend to file a citizen suit under section 505(a)(1) of the Clean Water Act seeking civil penalties and injunctive relief, as well as a citizen suit under section 520(a)(1) of SMCRA seeking a court order compelling Consol to come into compliance with the law. Be aware that this notice is sufficient to allow us to sue Consol for any post-notice violations related to the violations described herein. See generally, Public Interest Research Group of N.J., Inc. v. Hercules, Inc., 50 F.3d 1239 (3rd Cir. 1995).

If Consol has taken any steps to eradicate the underlying cause of the violations described above and in Appendix A, or if Consol believes that anything in this letter is inaccurate, please let us know. If Consol does not advise us of any remedial steps during the 60-day period, we will assume that no such steps have been taken and that violations are likely to continue.

Additionally, we would be happy to meet with Consol or its representatives to attempt to resolve these issues within the 60-day notice period.

Sincerely,

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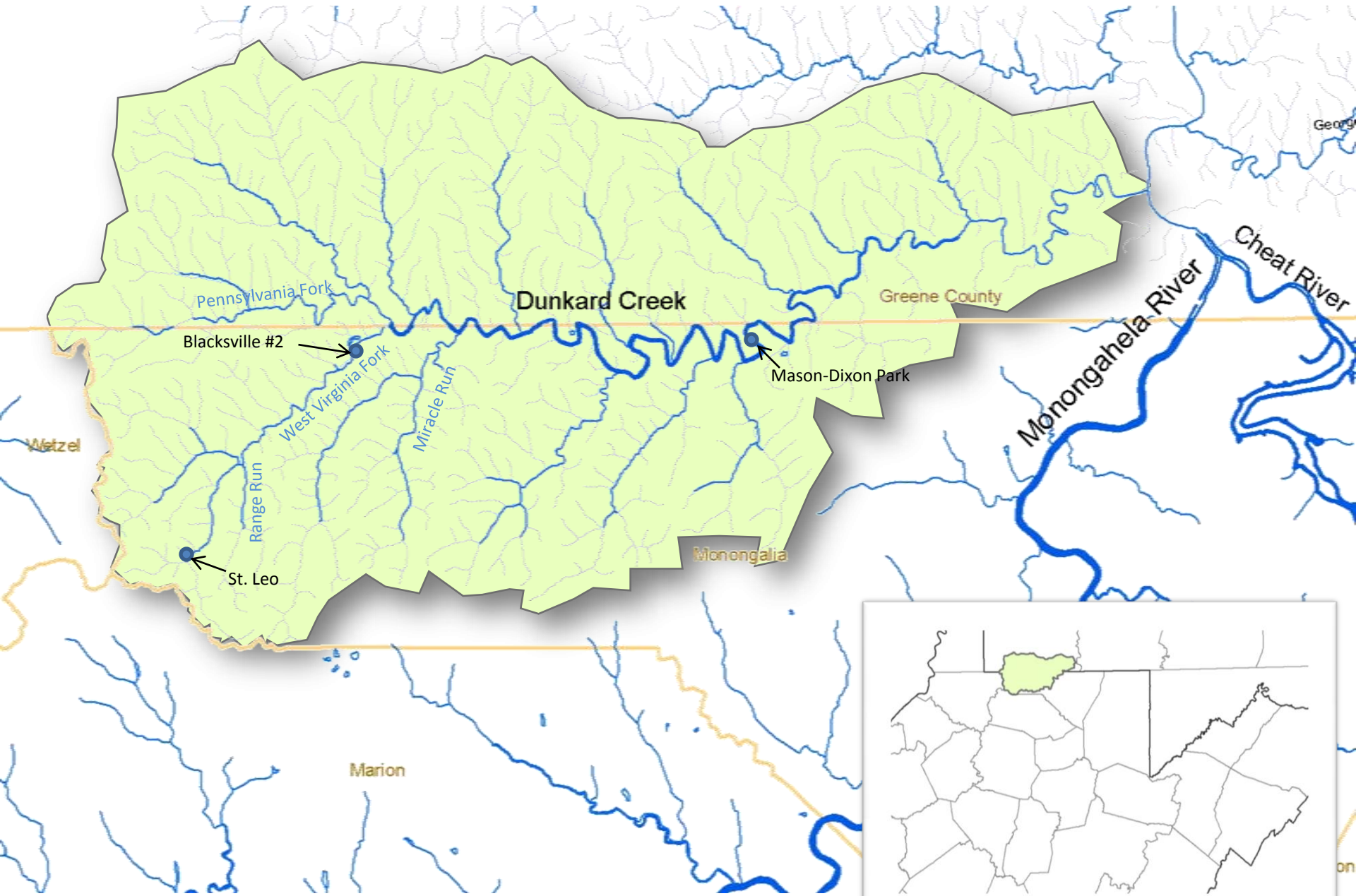
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Attachment A

Month/Year	Loveridge Mine									Blacksville No. 2 Mine								
	Up South Fork Min	Up South Fork Avg	Up South Fork Max	Outfall 016 Avg	Outfall 016 Max	Down South Fork Min	Down South Fork Avg	Down South Fork Max	Up WV Fork Min	Up WV Fork Avg	Up WV Fork Max	Outfall 003 Min	Outfall 003 Avg	Outfall 003 Max	Down WV Fork Min	Down WV Fork Avg	Down WV Fork Max	
February-05	5.9	6	6	1160	1300	59.1	229.1	399	11.1	12.4	13.7	455	473.5	492	28.8	32.8	36.8	
March-05	4.6	10.9	17.2	2660	2820	78.8	105.4	132	15.2	18.5	21.8		783	1120	22.1	24.7	27.3	
April-05	11.8	52.4	93	2062	2690	127	1163.5	2200	15.9	698	1380		545	545	15.1	22.95	30.8	
May-05	5.8	6.3	6.8	1490	1510	259	319.5	380	17.9	24.3	30.7		628	628	17.9	39.1	60.3	
June-05	8.9	12.8	16.7	1515	1520	407	708.5	1010	20.5	99.3	178				20.5	99.3	178	
July-05	9.8	10.8	11.8	1500	1550	784	962	1140	119	205	291				119	205	291	
August-05	14.8	16.85	18.9	1420	1440	1380	1405	1430	272	340	408				248	286	324	
September-05	7.3	9.1	10.9	1540	1660	1380	1510	1640	333	405.5	478	672	672	672	518	583.5	649	
October-05	22	24.6	27.2	1520	1570	561	960.5	1360	488	489	490	744	775	806	661	664.5	668	
November-05	10.3	14.7	19	1410	1460	439	618	797	56.2	191.1	326		629	710	56.2	191.1	326	
December-05	8	10	12	1384	1490	10	442.5	875	29.6	100.8	172				29.6	100.8	172	
January-06	6	6.5	7	1294	1330	156	295.5	435	16.4	19.5	22.6		439	439	16.4	19.5	22.6	
February-06	82	142	202	1338	1370	106	106	106	50.4	57.6	64.8		499	499	50.4	57.6	64.8	
March-06	5	6.5	8	1375	1400	198	449	700	3	3	3				3	3	3	
April-06	2	3	4	1465	1490	206	238	270	11.2	11.2	11.2				11.2	11.2	11.2	
May-06	12	13	14	1430	1460	105	257.5	410	6	6	6				6	6	6	
June-06	6	8.5	11	1525	1550	114	672	1230										
July-06	6	8	10			80	172.5	265	0.1	0.5	0.9	71.7	179.4	287	0.1	0.5	1	
August-06	19	22	25	1795	1850	680	1000	1320	0.06	0.06	0.06				0.06	0.06	0.06	
September-06	16	17	18	1435	1520	795	1112.5	1430	146	188	230	585	585	585				
October-06	14	126	238	1465	1510	703	757	810	36	80	124	545	545	545	46	65	84	
November-06	6	6.5	7	1090	1410	108	151	194	21	31	40	350	423	495	30	34	38	
December-06	9	15	20	1560	1610	210	345	480	80	95	110	700	700	700	85	88	90	
January-07	4	5	6	1325	1370	25	40	55	7	10	12	80	80	80	8	10	12	
February-07	5	6	6	1615	2100	25	108	190	12	14	15	225	243	260	22	29	35	
March-07	5	6	6	1290	1300	129	170	210	8	13	17	140	176	212	10	16	21	
April-07	6	6	6	1423	1425	59	112	165	10	11	12	410	503	595	43	59	75	
May-07	4	5	6	1530	1530	235	253	270	92	99	105	1005	1005	1005	96	198	300	
June-07	9	11	12	1495	1540	955	1038	1120	223	317	410	1210	1210	1210	363	452	540	
July-07	10	11	12	1435	1470	785	788	790	49	137	225	1240	1240	1240	122	286	450	
August-07	8	9	10	1543	1605	400	638	875	43	72	95	540	540	540	44	114	183	
September-07	11	12	12	1533	1575	1190	1193	1195	285	323	360				225	400	575	
October-07	13	14	15	1565	1570	1030	1040	1050	316	336	355				405	407	408	

Attachment A

Month/Year	Loveridge Mine									Blacksville No. 2 Mine								
	Up South Fork Min	Up South Fork Avg	Up South Fork Max	Outfall 016 Avg	Outfall 016 Max	Down South Fork Min	Down South Fork Avg	Down South Fork Max	Up WV Fork Min	Up WV Fork Avg	Up WV Fork Max	Outfall 003 Min	Outfall 003 Avg	Outfall 003 Max	Down WV Fork Min	Down WV Fork Avg	Down WV Fork Max	
November-07	6	9	12	1340	1450	102	421	740	10	180	350	410	578	745	36	378	720	
December-07	6	6	6	1318	1410	158	169	180	6	8	9	393	422	450	6	27	47	
January-08	4	5	6	1400	1480	222	258	294	10	20	30	945	1039	1133	52	106	160	
February-08	4	6	8	1245	1250	121	132	142	8	9	10	342	474	605	30	49	68	
March-08	6	7	7	1275	1300	675	705	735	6	7	8	690	893	1095	35	56	77	
April-08	6	6	6	1270	1290	750	825	900	29	37	45	920	1125	1330	41	65	89	
May-08	6	6	6	1280	1300	90	365	640	12	19	26	450	628	805	52	62	71	
June-08									15	43	70	0	212	424	68	174	279	
July-08	13	59	105	1410	1440	745	928	1110	60	82	104	420	483	545	204	225	245	
August-08	11	536	1060	1493	1620	1400	1455	1510	365	383	400				580	673	765	
September-08	920	970	1020	1525	1610	1450	1475	1500	300	323	345				3200	3250	3300	
October-08	1010	1065	1120	1360	1470	1330	1615	1900	315	383	450				580	580	580	
November-08	22	461	900	2540	3750	675	1223	1770	58	142	225				99	177	255	
December-08	6	6	6	1760	2060	37	399	760	14	45	76				117	436	755	
January-09	6	6	6	1290	1300	58	314	570	10	20	29				76	103	130	
February-09	6	6	6	1415	1430	29	61	93	22	75	129				222	315	408	
March-09	6	143	280	1460	1460	7	85	163	16	22	28				26	81	137	
April-09	6	6	6	1790	1790	17	29	40	7	19	32				45	180	315	
May-09	6	6	6	1640	1650	1020	1023	1025	31	56	82				31	382	732	
June-09	6	34	62	1560	1600	1430	1520	1610	150	197	243				1750	2800	3850	
July-09	680	838	995	1805	2010	1450	1605	1760	65	140	215				425	688	950	
August-09	206	898	1590	1750	1900	1560	1575	1590	320	330	340	440	440	440	1900	3075	4250	
September-09	1200	1245	1290	1610	1660	1650	1805	1960										
October-09	6	6	6	1480	1720	640	755	870										
November-09	6	6	6	1590	1600	1005	1128	1250										
December-09	6	6	6	1455	1480	131	333	535										