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FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I
CASE NO. 10-CI-1867 & 10-CI-1868
(Consolidated)

COMMONWEALTH OF KENTUCKY,
ENERGY AND ENVIRONMENT CABINET

PLAINTIFF

V.

ORDER

FRASURE CREEK MINING, LLC
and
ICG HAZARD, LLC, et. al.

DEFENDANTS

This action came before the Court for a status hearing on December 14, 2010 at 3:00 p.m. The plaintiff Energy & Environment Cabinet (EEC) was represented by Hon. Mary Stephens and Hon. John Horne; the defendant Frasure Creek Mining LLC was represented by Hon. Anne Adams Chesnut and Hon. Marty Cunningham; the ICG defendants were represented by Hon. Kevin McGuire. Also appearing was Hon. Mary Cromer, on behalf of the parties who are seeking to intervene in this action under CR 24. The EEC, Frasure Creek and ICG have moved the Court for the entry of the proposed Consent Judgment; various individual citizens and environmental groups have objected to the entry of the Consent Judgment and requested the right to file in intervening complaint asserting claims in this action under CR 24.

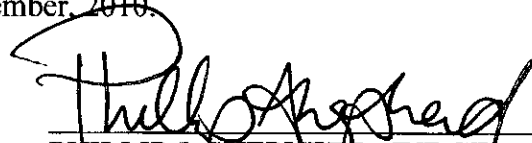
The Court being sufficiently advised, IT IS ORDERED:

1. For purposes of public notice and comment, the Court will follow a procedure similar to that set forth in 28 CFR § 50.7, which sets the policy for public comment under certain circumstances involving violations of the Clean

Water Act. 28 CFR § 50.7 requires thirty (30) days for public comment when consent judgments are proposed in actions to enjoin discharges of pollutants.

2. The Energy and Environment Cabinet shall post on its website electronic versions of all tendered consent judgments in this consolidated case. Such posting shall continue for thirty (30) days following the entry of this Order. The posting shall allow for public comments to be received electronically by the Cabinet or by mail to the Cabinet or this Court.
3. The parties who have filed the Motion to Intervene may file a supplemental memoranda of law in support of their motion on or before Wednesday, December 22, 2010.
4. Any parties who oppose the Motion to Intervene may file responsive briefs in opposition to the Motion to Intervene on or before Friday, January 7, 2011.
5. Counsel shall serve all opposing counsel with copies of any supplemental memoranda, or responsive briefs, and any other filings required to be served under CR 5.02, by electronic mail. Electronic copies shall also be served on the Court at phillipshepherd@kycourts.net.
6. After the filing of the supplement legal memorandum of the applicants, and the responses of any parties who oppose their request for intervention, the Court will contact the parties and potential intervenors to schedule a hearing in January to consider: 1) the merits of the Motion to Intervene; and 2) the merits of the tendered consent judgments.

SO ORDERED this the 15th day of December, 2010.


PHILLIP J. SHEPHERD, JUDGE
Franklin Circuit Court, Division I

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