

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

**SOUTHERN APPALACHIAN MOUNTAIN
STEWARDS, APPALACHIAN VOICES,
and SIERRA CLUB,**

Plaintiffs,

v.

CIVIL ACTION NO. 2:23-CV-00002

A&G COAL CORPORATION,


Defendant.

**MOTION FOR AN ORDER
ENFORCING THIS COURT’S JANUARY 26, 2023 CONSENT DECREE
AND REQUIRING DEFENDANT TO SHOW CAUSE WHY IT SHOULD NOT BE
HELD IN CIVIL CONTEMPT OF THE CONSENT DECREE**

For the reasons explained in the accompanying memorandum, Plaintiffs Southern Appalachian Mountain Stewards, Appalachian Voices, and Sierra Club respectfully request that the Court enforce the January 26, 2023 Consent Decree in this action (CM/ECF #11) (“Consent Decree”) by enjoining A&G from mining coal at Sawmill Hollow #3 Mine (Mining Permit No. 1101914), Looney Ridge Surface Mine #1 (Mining Permit No. 1101905), and Canepatch Surface Mine (Mining Permit No. 1101918), until such time as Defendant establishes to the satisfaction of the Court that it is in full compliance with the Consent Decree. Plaintiffs further request this Court order A&G to show cause why it should not be held in civil contempt of the Consent Decree, and to provide additional relief as detailed in the accompanying memorandum, as circumstances may warrant, and as the Court deems appropriate.

DATED: October 31, 2024

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Claire Marie Horan, do hereby certify that on October 31, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF filing system.



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**MEMORANDUM IN SUPPORT OF MOTION FOR AN ORDER
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HELD IN CIVIL CONTEMPT OF THE CONSENT DECREE**

Defendant A&G Coal Corporation (“A&G”) has utterly failed to comply with this Court’s January 26, 2023 Consent Decree (CM/ECF #11) (“Consent Decree”). A&G has already missed the Consent Decree’s deadlines to complete reclamation at Looney Ridge Surface Mine #1 (Mining Permit No. 1101905¹) (hereinafter, “Looney Ridge”) and Canepatch Surface Mine (Mining Permit No. 1101918) (hereinafter, “Canepatch”), and appears poised to miss the Consent Decree’s deadline to reclaim the Sawmill Hollow #3 Mine (sometimes referred to as “Job 2” or “A&G #2”) (Mining Permit No. 1101914) (hereinafter, “Sawmill Hollow”). A&G has failed to satisfy even the least demanding requirements in the Consent Decree, such as maintaining adequate equipment and personnel on each site, submitting status reports, holding reclamation funds in an escrow account, and providing Plaintiffs with copies of AML fee reports. Furthermore,

¹ The mining permits referenced herein were issued by the Virginia Department of Mines, Minerals, and Energy, which has since been renamed “Virginia Energy.”

Virginia Energy inspection reports indicate that A&G may have engaged in coal removal at one or more of the sites in violation of the Consent Decree. A&G's recent communication to Plaintiffs indicates it is planning to mine coal at Sawmill Hollow in the near future, and today it asks the Court to modify the Consent Decree to allow it to do so. *See* CM/ECF #12. Accordingly, Plaintiffs ask this Court to enforce the Consent Decree by enjoining A&G from mining coal at any of the three sites until it is in full compliance with the Consent Decree. Plaintiffs further request this Court order A&G to show cause why it should not be held in civil contempt of this Court's January 26, 2023 Consent Decree, and to provide additional relief as detailed below, as circumstances may warrant, and as the Court deems appropriate.

I. Background

Plaintiffs Southern Appalachian Mountain Stewards, Appalachian Voices, and Sierra Club brought this citizen suit for declaratory and injunctive relief against A&G on January 18, 2023, for its failure to timely reclaim three of its surface mining operations in Wise County, Virginia—Looney Ridge, Canepatch, and Sawmill Hollow—in violation of federal and state regulations promulgated under the Surface Mining Control and Reclamation Act (“SMCRA”), 30 U.S.C. § 1201 *et seq.*, and the Virginia Coal Surface Mining Control and Reclamation Act (“VCSMCRA”), respectively, and the terms and conditions of the three Virginia Coal Surface Mining Operation Permits referenced above. Complaint, CM/ECF #1, ¶¶1, 2. Plaintiffs' myriad concerns include the environmental, economic, health, recreational, and aesthetic harms of A&G's failure to timely reclaim its mine sites. *Id.*, ¶13. Through this action, Plaintiffs sought to prevent the risk of erosion and landslides, as well as water quality impacts from polluted runoff entering nearby streams. *Id.*

On January 26, 2023, this Court entered a Consent Decree to ensure the reclamation of Looney Ridge, Canepatch, and Sawmill Hollow. CM/ECF #11, ¶16. The Consent Decree became

effective on the date it was entered by the Court (*id.*, ¶47) and remains in effect until “the Virginia Department of Energy has granted Phase III bond release, as defined at 4 VAC 25-130-800.40, at each of the three Mine Sites” (*id.*, ¶54). This Court expressly retained jurisdiction to enforce the Consent Decree. *Id.*, ¶48.

A. Requirements of the Consent Decree

The Consent Decree required A&G, among other things, to complete reclamation at Looney Ridge by August 31, 2023; at Canepatch by February 29, 2024; and requires complete reclamation of Sawmill Hollow by December 31, 2025. *Id.*, ¶16. In an ill-fated effort to ensure compliance with those deadlines, the Consent Decree requires certain reclamation equipment to be maintained in good operating condition on each site until reclamation is complete, starting on November 15, 2022, for Looney Ridge; on December 15, 2022, for Canepatch; and on January 1, 2024, for Sawmill Hollow. *Id.*, ¶¶13, 14.

For Looney Ridge, the equipment includes “at least: 1 Caterpillar D10 tractor; 1 Caterpillar D11 tractor; 1 blasthole drill; 1 Caterpillar 992 loader; and 1 Caterpillar 777D rock truck.” ¶13(i). For Canepatch, the equipment includes “at least: 1 bulldozer (either a Caterpillar D9, D10, or D11 model); 1 Caterpillar 992 loader; and 2 Caterpillar 777D rock trucks.” ¶13(ii). For Sawmill Hollow, the equipment includes “at least: 1 bulldozer (either a Caterpillar D9, D10, or D11 model); 1 Caterpillar 992 loader; and 1 Caterpillar 777D rock truck.” ¶13(iii).

The Consent Decree allows for A&G to move equipment from its original site to one of the other two sites for the purposes of reclamation before completing reclamation at the original site, but only “with written approval from the Plaintiffs.” *Id.*, ¶14. The Consent Decree further requires A&G to maintain on each site “sufficient” workers to operate the above-mentioned

required equipment “in a manner that will allow Defendant to meet the deadlines listed in paragraph 16.” *Id.*, ¶15.

In order to allow Plaintiffs to monitor reclamation progress, the Consent Decree included a schedule for A&G to submit status reports to Plaintiffs by electronic mail to Plaintiffs’ counsel. *Id.*, ¶25. A&G was required to submit an initial status report on the status of reclamation at each of the three sites within two months of January 26, 2023, the date the Consent Decree became effective, and subsequent reports every two months thereafter until all three sites are approved by Virginia Energy for Phase II bond release. *Id.*, ¶¶11(c), 22, 47. The Consent Decree provides that “[e]ach status report shall identify every piece of equipment located at each Mine Site during the preceding two-month period” and indicate any dates the equipment was “not in good operating condition” or “not present” at the site. *Id.*, ¶22. A&G is also required to provide Plaintiffs’ counsel “with a copy of each AML fee report (OSM 1 form) that it files for each” of the three sites, within fourteen days of filing, while the Consent Decree remains in effect. *Id.*, ¶24. The Consent Decree requires A&G to “create, fund, and maintain” an escrow account to hold funds dedicated to reclamation at the three sites. *Id.*, ¶29. The Consent Decree includes specific requirements for deposit amounts, and A&G is required to “provide Plaintiffs with a detailed accounting” of how any withdrawal from the escrow account is spent, within thirty days of such expenditure. *Id.*, ¶¶30, 33.

Finally, the Consent Decree prohibits A&G from engaging in coal removal at Looney Ridge, Canepatch, or Sawmill Hollow until certain compliance requirements have been met. *Id.*, ¶26. Those three sites are referred to in the Consent Decree as the “Mine Sites.” *Id.*, ¶11. Paragraph 26 states:

Defendant agrees that it is prohibited from coal removal at each Mine Site until it has achieved, documented, and reported to the Plaintiffs its compliance with all

applicable deadlines provided in section V Paragraph 13 at that Mine Site. If, at any time subsequent to Defendant's documented achievement of compliance with the requirements of Paragraph 13, Defendant falls out of compliance with the terms of this Consent Decree, as defined by failure to comply with any requirement of any paragraph of Section V (entitled "Injunctive Relief"), Defendant is prohibited from coal removal at all of the Mine Sites until such time as Defendant brings itself back into full compliance with the terms of this Consent Decree.

Id., ¶26.

The requirements of Section V, with which Paragraph 26 requires compliance before coal removal may take place, include deploying certain reclamation equipment to each Mine Site by specified deadlines (*id.*, ¶13); keeping that equipment onsite and in good operating condition (*id.*, ¶14); maintaining enough workers at each Mine Site to allow for reclamation to be completed on schedule (*id.*, ¶15); achieving Completion of Reclamation² for Looney Ridge by August 31, 2023 (*id.*, ¶16.i), for Canepatch by February 29, 2024 (*id.*, ¶16.ii), and for Sawmill Hollow by December 31, 2025 (*id.*, ¶16.iii); pursuing any permit modifications and permissions necessary for reclamation, as well as applications for bond release (*id.*, ¶17); and, finally, establishing and funding an escrow account (*id.*, ¶17).

B. Status of Reclamation and Coal Removal at the Three Sites and Other Noncompliance with the Consent Decree

The Consent Decree's deadlines for reclamation at Looney Ridge and Canepatch have passed, and A&G appears poised to miss its deadline for Sawmill Hollow as well.

² "Completion of Reclamation," as referenced in Paragraph 16, is defined in the Consent Decree as "approval by the Virginia Department of Energy of an application for Phase II bond release, as defined at 4 VAC 25-130-800.40[.]" CM/ECF #11, ¶11.c.

i. Looney Ridge

The Consent Decree's deadline for Completion of Reclamation at Looney Ridge was August 31, 2023. Appalachian Voices's designated representative, Matthew Hepler, visited Looney Ridge on September 26, 2023, and observed that A&G had failed to complete reclamation at the site and that no personnel or equipment were engaged in reclamation work. Decl. of Matthew Hepler, ¶¶9–10 (attached as Exhibit 1). Inspection reports from site visits on October 6, 2023, and November 16, 2023, indicate that A&G may have engaged in coal removal after its deadline to complete reclamation had passed, in violation of Paragraph 26 of the Consent Decree. The inspection reports state: "There has also been intermittent coal removal and haulage, however there was no overburden removal or coal haulage during this inspection." Ex. 1, app. A, at 1, 3.

When Mr. Hepler visited Looney Ridge again on February 6, 2024, he saw an idle bulldozer but no equipment was being operated, and the site remained unreclaimed. Ex. 1, ¶15. A Virginia Energy inspection report³ from a site visit on September 26, 2024, confirms that reclamation at Looney Ridge is not complete, with less than half of the disturbed acreage reclaimed (275.16 out of 590.09 acres). *See* Ex. 1, app. A, at 23. The reclaimed acreage as of September 26, 2024, is exactly the same as stated in an inspection report from a site visit on November 16, 2023. *Compare* Ex. 1, app. A, at 23, *with* Ex. 1, app. A, at 3. In other words, no progress at all was made in those ten months. Plaintiffs are unaware of any application for any phase of bond release filed by A&G for the Looney Ridge site and, as made clear by the description of the mine's status described above, A&G would not be able to satisfy the criteria for bond release.

³ Mr. Hepler obtained Virginia Energy inspection reports by email from Tarah Kesterson at Virginia Energy. Ex. 1, ¶¶18–20.

ii. Canepatch

Inspection reports from site visits to Canepatch on October 2, 2023, and October 11, 2023, indicate that A&G engaged in coal removal after its August 31, 2023 deadline to complete reclamation at Looney Ridge had passed, in violation of Paragraph 26 of the Consent Decree. The inspection report from October 2, 2023, states:

The operator was mining on the Redwine seam. In the process of mining this seam they were placing material over the wall, henceforth, eliminating existing highwall. Equipment being used was a CAT coal loader (loading coal) and a CAT Excavator (cleaning coal). All other equipment was idle at this time. Mr. Breeding stated that the company's plans were to continue mining on the Redwine seam.

Ex. 1, app. B, at 1. The inspection report from the October 11, 2023 site visit states: "The operator was actively mining coal during this inspection." Ex. 1, app. B, at 6.

On February 6, 2024, Mr. Hepler visited the Canepatch site and observed that there was no equipment on site and that it would be "physically impossible" for A&G to meet the February 29, 2024 Completion of Reclamation deadline in the Consent Decree. Ex. 1, ¶15. A Virginia Energy inspection report of regulatory site visits at Canepatch on October 8, 2024, indicates that reclamation remains incomplete, with only about one-seventh of the disturbed acreage reclaimed (93.59 acres reclaimed out of 699.50 disturbed acres). Ex. 1, app. B, at 24. The reclaimed acreage as of October 8, 2024, is exactly the same as stated in an inspection report from a site visit on October 2, 2023. *Compare* Ex. 1, app. B, at 24, *with* Ex. 1, app. B, at 1. As with Looney Ridge, A&G has made zero progress on reclamation in the past year. The report from the October 8, 2024 site visit states: "There is no work ongoing on this site currently (equipment, personnel, etc.)." Ex. 1, app. B, at 24. Just as Plaintiffs are unaware of any bond release application for Looney Ridge, Plaintiffs are similarly unaware of any application for any phase of bond release filed by A&G for

the Canepatch site, and—just as for Looney Ridge—A&G would not be able to satisfy the criteria for bond release for Canepatch.

iii. Sawmill Hollow

On February 6, 2024, while Mr. Hepler was visiting Looney Ridge and Canepatch, he learned from an A&G representative that A&G was doing road work to improve access to the Sawmill Hollow mine. Ex. 1, ¶16. A Virginia Energy inspection report of a site visit to Sawmill Hollow on February 29 and March 4, 2024, indicates that reclamation has not been completed at Sawmill Hollow and that no reclamation work was taking place at the site “due to a lack of fuel.” Ex. 1, app. C, at 1. The same inspection report, which identifies James Sexton as an A&G representative present during the inspections, states:

Mr. Sexton informed the inspectors that the plan is to highwall mine the High Splint Coal Seam, then backfill the open pit to the level of overlying seams to the level of overlying seams to highwall mine these. During the previous week, a small amount of material has been removed from the pit area to expose coal for highwall mining operations.

Id. At that time, only about a quarter of the disturbed acreage had been reclaimed (571.99 reclaimed acres out of 2,031.50 disturbed acres). *Id.* An inspection report from a site visit on September 10, 2024 – six months later – shows that no additional acreage has been reclaimed. Ex. 1, app. C, at 60.

Plaintiffs gave notice to A&G, by letters dated October 6, 2023 (attached as Exhibit 2) and March 14, 2024 (attached as Exhibit 3), of its failures to complete remediation at Looney Ridge and Canepatch, respectively, by the Consent Decree’s deadlines.⁴ In the second letter, Plaintiffs further notified A&G that, because it was out of compliance with the Consent Decree’s deadlines

⁴ As noted in both letters, Plaintiffs do not concede that notice was required or that the notice provisions in Paragraph 17 of the Consent Decree applied to the violations described in the letters. (*See* Exs. 2, 3).

for completion of reclamation at Looney Ridge and Canepatch, any coal removal at Sawmill Hollow would violate Paragraph 26 of the Consent Decree. Ex. 3.

On October 23, 2024, A&G's counsel notified Plaintiffs, by letter carbon copied to Virginia Energy, that it proposes to allow a contractor to mine coal at Sawmill Hollow before A&G has completed reclamation at Looney Ridge or Canepatch. A&G's letter fails to acknowledge the obvious: (1) that reclamation of Sawmill Hollow is mandatory under the Consent Decree, federal and state law, and the terms and conditions of A&G's permit; and (2) that this plan violates Paragraph 26's prohibition on coal removal while out of compliance with the Consent Decree. Ex. 1, app. D. On October 29, 2024, Mr. Hepler was contacted by a representative of Virginia Energy at A&G's request, in an apparent attempt to further A&G's plan to commence highwall mining at Sawmill Hollow. Ex. 1, ¶23.

Instead of focusing on fulfilling its overdue reclamation obligations under federal and state law and the Consent Decree in this action, A&G now brazenly asks the Court to allow it to break its promises and modify the Consent Decree so it can move forward with its plan. CM/ECF #12, at 1. In making its request, the company shamelessly and ironically accuses Plaintiffs of “frustrat[ing] both the public good and the purpose of the Consent Decree” by “refusing to agree” to allow it to mine in violation of the Consent Decree. *Id.* Although A&G currently seeks the Court's blessing, the company has been willing to violate the Consent Decree repeatedly – and without asking leave of the Court – over the almost two years since agreeing to its terms. Consequently, the Court's intervention is needed to stop A&G from further violating the Consent Decree.

II. The Court Should Enforce the Consent Decree by Declaring that Mining at Sawmill Hollow Would Violate the Consent Decree and Provide Serious Penalties for Any Further Contempt of this Court's Orders.

As detailed above, A&G's imminent plans to allow a contractor to mine coal at Sawmill Hollow would be a further violation of the Consent Decree. Plaintiffs accordingly request that the Court declare that mining at Sawmill Hollow, Looney Ridge, or Canepatch before coming into compliance with the Consent Decree would violate Paragraph 26 of the Consent Decree; expressly prohibit A&G from mining coal at any of the three sites unless a further order of this Court allows it to do so; and to fashion steep penalties if A&G violates that order. *See W. Va. Highlands Conservancy*, 2022 WL 5226026, at *7 (ordering party to consent decree to abandon plans to engage in coal mining prohibited by consent decree). Plaintiffs request that the Court warn A&G and its corporate officers that, if they allow any coal removal at any of the three sites, the Court will impose the most severe penalties available to it.

III. A&G Should Be Held in Contempt.

“Federal courts are not reduced to approving consent decrees and hoping for compliance. Once entered, a consent decree may be enforced.” *Frew v. Hawkins*, 540 U.S. 431, 440 (2004). To establish civil contempt, the moving party must demonstrate each of the following elements by clear and convincing evidence:

- (1) the existence of a valid decree of which the alleged contemnor had actual or constructive knowledge; (2) . . . that the decree was in the movant's 'favor'; (3) . . . that the alleged contemnor by its conduct violated the terms of the decree, and had knowledge (at least constructive), of such violations; and (4) . . . that [the] movant suffered harm as a result.

JTH Tax, Inc. v. H & R Block Eastern Tax Servs., Inc., 359 F.3d 699, 705 (4th Cir. 2004) (quoting *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 301 (4th Cir. 2000)) (alterations in original). “Civil contempt is an appropriate sanction if [the court] can point to an order of [the court] which ‘sets

forth in specific detail and unequivocal command’ which a party has violated.” *In re General Motors Corp.*, 61 F.3d 256, 258 (4th Cir. 1995) (quoting *Ferrell v. Pierce*, 785 F.2d 1372, 1378 (7th Cir. 1986)).

“A court may impose sanctions for civil contempt ‘to coerce obedience to a court order or to compensate the complainant for losses sustained as a result of the contumacy.” *Cromer v. Kraft Foods N. Amer., Inc.*, 390 F.3d 812, 821 (4th Cir. 2004) (quoting *In re General Motors Corp.*, 61 F.3d at 258). “[T]he remedy for civil contempt is within a court’s broad discretion.” *Ohio Valley Envtl. Coalition v. Apogee Coal Co., LLC*, 744 F. Supp. 2d 561, 568 (S.D. W.Va. 2010) (citing *JTH Tax*, 359 F.3d at 705). Any sanction should be sufficient to “concentrate the mind” of the contemnor. *Taylor v. Home Ins. Co.*, 646 F. Supp. 923, 930 (W.D. N.C. 1986).

A. There Is a Valid Consent Decree, of Which A&G Had Actual Knowledge.

This factor is easily met. The Consent Decree in this action was negotiated by and submitted to the Court on January 19, 2023, by counsel on behalf of Plaintiffs and A&G, who each signed the submitted copy. CM/ECF #5-1, at 16. Paragraph 51 of the Consent Decree states that “[e]ach undersigned representative of Plaintiffs and Defendant certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.” It was entered by the Court in this action on January 26, 2023. CM/ECF #11. The Consent Decree remains valid, as it provides for termination only “once the Virginia Department of Energy has granted Phase III bond release, as defined at 4 VAC 25-130-800.40, at each of the three Mine Sites[,]” events which have not occurred. Thus,

A&G had actual knowledge of the Consent Decree, which was valid on January 26, 2023, and remains valid today.

B. The Consent Decree Was in Plaintiffs' Favor.

The Court's January 26, 2023 Consent Decree was in Plaintiffs' favor. It directed A&G to take specific actions to reclaim the three mining sites, and A&G entered into it to "avoid further litigation" based on Plaintiffs' allegations that A&G was violating federal and state regulations issued pursuant to Title V of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§ 1251-1279, the Virginia Coal Surface Mining Control and Reclamation Act, and the terms of Virginia Coal Surface Mining Operation Permits 1101905, 1101914, and 1101918.

C. A&G Is in Violation of the Decree and Is Aware of Its Violations.

A&G has violated the Consent Decree in myriad ways – and is planning to further violate the Consent Decree by mining coal at Sawmill Hollow. First, A&G failed to complete reclamation at Looney Ridge and Canepatch by the deadlines in the Consent Decree. *See* Ex. 1, apps. X, X (inspection reports of sites visits to Looney Ridge and Canepatch on September 26, 2024 and October 8, 2024, respectively). Second, inspection reports show that A&G removed coal at Canepatch, and may also have done so at Looney Ridge, after it missed the deadline to complete reclamation at Looney Ridge; coal removal under these circumstances is a violation of Paragraph 26 of the Consent Decree. A&G is currently planning to further violate the prohibition on coal removal by mining at Sawmill Hollow, as A&G indicated in its October 23, 2024 letter to Plaintiffs. *See* Ex. 1, app. D. Third, A&G either failed to deploy the required equipment and personnel to each site by the initial deadline and/or failed to maintain the equipment onsite and in

good operating condition and with sufficient workers to operate the equipment “in a manner that [would] allow Defendant to meet the [reclamation] deadlines,” as shown by various inspection reports documenting a lack of equipment, workers, or work taking place at each site. *See generally* Ex. 1, apps. A–C. Fourth, Plaintiffs have seen no evidence that A&G has established an escrow account or deposited any funds into it, as required by Paragraphs 18–21 of the Consent Decree. A&G’s October 23, 2024 letter to Plaintiffs mentions that A&G hopes to mine at Sawmill Hollow in order to “fully fund the \$600,000 escrow to which the parties previously agreed” without indicating the current existence of an escrow account and without indicating whether the required escrow account, if it exists, currently has any funds. Ex. 1, app. D. Fifth, A&G failed to timely submit its initial status reports and has failed entirely to submit any status reports to Plaintiffs after August 2023, a failure to comply with Paragraph 22 of the Consent Decree which has hampered Plaintiffs’ ability to monitor the extent of A&G’s noncompliance with the Consent Decree.⁵ Finally, it appears that A&G may not have submitted to Plaintiffs copies of its AML fee reports within fourteen days of filing them, as required by Paragraph 24 of the Consent Decree.⁶

A&G is aware, or should be aware, of its many violations of the Consent Decree. A&G is a signatory to the Consent Decree and therefore is aware of its obligations under the Consent Decree. A&G is also aware, or should be aware, of the lack of progress of its own reclamation efforts, the details of its operations (including the locations of its equipment and personnel),

⁵ Plaintiffs request the Court allow discovery to determine the extent of A&G’s violations. *See, e.g., SmartSky Networks, LLC v. Wireless Sys. Sols., LLC*, 630 F. Supp. 3d 718, 731 (M.D.N.C. 2022) (granting expedited, limited discovery to determine whether evidence existed supporting contempt proceedings).

⁶ A&G provided four OSM-1 forms (attached as Exhibit 4) to Plaintiffs on May 8, 2024, one form for each quarter of 2023. Each of the four forms addresses at least one of the permits at issue in the Consent Decree. Ex. 4. A&G also represented at that time that the fee for the first quarter of 2024 was zero.

whether it has or does not have an escrow account and any account activity, and reports and communications sent (or not sent) on its behalf. Furthermore, A&G has access to the Virginia Energy inspection reports that document many of these violations. Plaintiffs did provide notice to A&G of some of its violations by letters in October 2023 and March 2024, but A&G was or should have been aware of its violations without being notified of them by Plaintiffs. As such, A&G is aware, or should be aware, of its violations.

Such awareness is sufficient. The law is clear that willfulness is not an element of civil contempt. *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949); *United States v. Westbrook*, 780 F.3d 593, 596 n.3 (4th Cir. 2015); *In re Gen. Motors Corp.*, 61 F.3d 256, 258 (4th Cir. 1995). That is because,

[s]ince the purpose of [civil contempt] is remedial, it matters not with what intent the defendant did the prohibited act.¹ The decree was not fashioned so as to grant or withhold its benefits dependent on the state of mind of respondents. It laid on them a duty to obey An act does not cease to be a violation . . . of a decree merely because it may have been done innocently.

McComb, 336 U.S. at 191 (internal footnote omitted).

D. A&G's Failure to Comply with the Consent Decree Harms Plaintiffs.

A&G's failure to comply with the Consent Decree has resulted in, and will continue to result in, harm to Plaintiffs, their members, and the environment. More than a decade has passed since A&G ceased its mining operations at Looney Ridge and Sawmill Hollow, and seven years since mining ceased at Canepatch. Compl., CM/ECF #1, ¶57, 74. During all that time, Plaintiffs and their members have endured the "visual scars" of the unreclaimed sites, been "concerned about the risk of erosion and landslides from the sites," and worried about the "effects of polluted runoff from the sites into local streams." *Id.*, ¶13. Plaintiffs' members and employees have spent time and

resources monitoring reclamation at the sites, as well as monitoring water quality and ecological health of streams polluted by the unreclaimed sites. *Id.* The Consent Decree should have alleviated that harm, but the same harms have continued due to A&G’s failure to satisfy – or even work diligently toward satisfying – its obligations.

Moreover, A&G’s violations of the Consent Decree harm Plaintiffs by depriving them of the benefit of their bargain. Plaintiffs agreed to forego litigating the claims in this action in exchange for A&G’s promise not to engage in coal mining if it failed to comply with the decree. Plaintiffs’ loss of the benefit of that bargain is sufficient harm to support consent decree enforcement. *W. Va. Highlands Conservancy, Inc. v. ERP Envtl. Fund, Inc.*, Civ. No. 3:11-cv-00115, 2022 WL 5226026, at *5 (S.D. W. Va. Oct. 5, 2022) (holding that conducting coal mining prohibited by a consent decree “clearly deprive[s] Plaintiffs of the benefit of what they bargained for in the decree”).

Because Plaintiffs, their members, and the environment are harmed by A&G’s ongoing failure to complete reclamation of the three sites, and because Plaintiffs are also harmed by the need to expend extra resources to monitor and document A&G’s lack of compliance with the Consent Decree, a finding of contempt is appropriate.

E. Appropriate Remedies for Defendant’s Contemptuous Actions Additional Requirements for Compliance with the Consent Decree, Disgorgement of Ill-gotten Gains, Payment of Stipulated Penalties, and Payment of Plaintiffs’ Attorney’s Fees.

Courts have broad discretion in choosing a remedy for civil contempt. *The Colonial Williamsburg Found. v. The Kittinger Co.*, 792 F. Supp. 1397, 1407 (E.D. Va. 1992), *aff’d*, 38 F.3d 133 (4th Cir. 1994). The remedy must, however, serve either “to coerce the contemnor into complying in the future . . . or to compensate the complainant for loses resulting from past

noncompliance.” *Id.* Plaintiffs’ respectfully request that the Court order (1) injunctive relief in the form of additional requirements to ensure A&G’s future compliance with the Consent Decree; (2) disgorgement of any revenue A&G gained by violating the Consent Decree; (3) the stipulated penalties required in the Consent Decree, ¶¶ 19–21, and any further coercive fines the Court deems appropriate; and (4) the payment of attorney fees to compensate Plaintiffs for their costs in pursuing a finding of contempt. The requested relief will serve both to coerce the Defendant into complying and to compensate Plaintiffs. Plaintiffs reserve the right to request additional or alternative contempt remedies depending on the substance of A&G’s response to this motion and any new evidence elucidated in this proceeding.⁷

⁷ James C. Justice III, President of A&G, has declared under penalty of perjury that “A&G currently has no operations or revenues, and it cannot conduct the reclamation activities required under the Consent Order unless it can conduct limited mining and coal sales to generate funds for reclamation.” CM/ECF #12-1, ¶5. Mr. Justice’s declaration suggests that A&G may invoke financial impossibility as a defense to this contempt motion. In the event that A&G does so, Plaintiffs additionally request that the Court order A&G to formally notify Virginia Energy and the federal Office of Surface Mining Reclamation and Enforcement (“OSMRE”) that it is unable to conduct the required reclamation, unable to abate its ongoing violations of federal and state mining law, and unable to comply with its permit requirements at Looney Ridge, Canepatch, and Sawmill Hollow. Both SMCRA and VCSMCRA require permittees to post bonds sufficient to assure completion of reclamation by the regulatory authority if the operator refuses or is unable to complete reclamation. 30 U.S.C. § 1259(a), (b); Va. Code § 45.2-1016(A); *see also* 30 C.F.R. §§ 800.14(b); 800.50(g). Under Virginia regulations, “[i]f the permittee refuses or is unable to conduct reclamation of an unabated violation, fails to comply with the terms of the permit, or defaults on the conditions under which the bond was accepted,” Virginia Energy is required to forfeit all or part of the bond to complete reclamation. 4 Va. Admin. Code § 25-130-800.50(a); *see also id.* § 25-130-801.19. Virginia regulations allow self-bonding in some cases, but only for applicants with net worth of at least \$1 million. *Id.* § 25-130-801.13(a)(2). A self-bonded permittee is required to “immediately notify” Virginia Energy “of any change in his total liabilities or total assets which would jeopardize the support of the self-bond. If the permittee fails to have sufficient resources to support the self-bond, he shall be deemed without bond coverage in violation of 4 VAC 25-130-800.11(b). *Id.* § 25-130-801.13(d). It would appear that A&G’s claimed change in financial situation would put any self-bonding in jeopardy such that A&G is required to notify Virginia Energy of that change. Accordingly, if A&G is unable to complete reclamation due to lack of funds, the Court should order it to formally notify OSMRE and Virginia Energy of the same, setting in motion the bond forfeiture process and allowing the SMCRA bonding program to work as Congress intended and designed.

i. Injunctive Relief in the Form of Additional Requirements

Injunctive relief is an appropriate remedy for contempt. *See Schwartz v. Rent-A-Wreck of America*, 261 F. Supp. 3d 607 (D. Md. 2017). Because A&G has failed to comply with the requirements of the Consent Decree, injunctive relief is needed in the form of additional oversight and assurances. First, Plaintiffs request an accounting of any mining activity at the sites since the entry of the Consent Decree and any revenue A&G derived from that activity. Second, Plaintiffs ask the Court to set new deadlines by which the reclamation of Looney Ridge and Canepatch must be completed, but to keep the deadline of December 31, 2025 in place for Sawmill Hollow. Third, because A&G has thus far failed to comply with the vast majority of the requirements in the Consent Decree, A&G should be ordered to file with the Court monthly status reports indicating, in itemized detail, its compliance or lack thereof with each requirement of the Consent Decree. Fourth, because A&G appears not to have maintained an escrow account as set forth in the Consent Decree and to allow for more transparency and accountability with the Court, Plaintiffs ask the Court to order A&G to deposit the funds described in Paragraphs 29–34 of the Consent Decree with the Court to secure A&G’s reclamation obligations, rather than in A&G’s own escrow account. Alternatively, and at a minimum, A&G should be required to include, in its monthly status reports with the Court, documentation of its establishment of an escrow account and to list any deposits or withdrawals from the escrow account.

ii. Disgorgement of Any Revenue A&G Gained by Violating the Consent Decree

Disgorgement of ill-gotten gains is an appropriate remedy for civil contempt. *See Consumer Fin. Prot. Bureau v. Klopp*, 957 F.3d 454, 467 (4th Cir. 2020) (explaining that “[d]istrict

courts enjoy wide latitude in imposing a sanction that is ‘compensatory,’ ‘incentivizing,’ or both” and that “[d]isgorgement—the payment of profits arising from improper conduct—is one such sanction”). Plaintiffs therefore request that the Court order A&G to immediately pay any revenue it acquired through coal removal at any of the sites after August 31, 2023 (A&G’s missed deadline for completing reclamation at Looney Ridge) to the Upper Tennessee River Roundtable.⁸ Disgorgement of the contemptuous income will serve to coerce A&G to comply with the Consent Decree by removing its financial incentive to violate the Consent Decree. And, as the Upper Tennessee River Roundtable is a non-profit working to improve water quality in the Upper Tennessee River Watershed, it is an appropriate recipient to compensate Plaintiffs for the harms A&G has caused to the environment.

iii. Stipulated Penalties

Plaintiffs further request that the Court order A&G to immediately pay the stipulated penalties for noncompliance required by the Consent Decree (CM/ECF #11, ¶ 19–21), as well as any coercive fines the Court deems appropriate. Plaintiffs are entitled to stipulated penalties due to A&G’s failure to place and maintain the equipment specified in Paragraph 13 on each site from the initial deadline until reclamation is achieved at that site. ¶19(i, ii). Those failures have resulted in the accrual of \$37,500 in stipulated penalties for any initial deadline that was missed and an additional \$37,500 per month during which either there was a 24-hour period in which any of the required equipment was “off-site for a purpose other than repairs” or any equipment remained in disrepair for longer than 30 days. *Id.* Plaintiffs are also entitled to stipulated penalties of \$75,000

⁸ The Upper Tennessee River Roundtable is designated in the Consent Decree as the recipient of stipulated penalties. *See* CM/ECF #11, ¶21.

for each reclamation deadline A&G missed for Looney Ridge and Canepatch, as well as \$37,500 per site for each subsequent month after the respective deadline that A&G failed to complete reclamation. *Id.*, ¶19(iii).

In the case of A&G's failure to maintain the required equipment on each site, Plaintiffs are unable to calculate the penalties due to A&G's failure to provide bi-monthly status reports as required by the Consent Decree. *See id.*, ¶22. Plaintiffs therefore ask the Court to allow discovery in this proceeding to determine the extent of A&G's failures to maintain the required equipment onsite, so that Plaintiffs can calculate the penalties incurred. Even without those penalties, Plaintiffs calculate that A&G has incurred \$900,000 in stipulated penalties as of September 30, 2024 due to its ongoing failure to complete reclamation at Looney Ridge and Canepatch.

iv. Attorneys' Fees

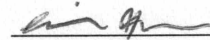
Finally, the Court should award Plaintiffs their attorneys' fees for this contempt proceeding, as included in the Consent Decree. Those fees have been incurred as a direct result of A&G's willful noncompliance with the Consent Decree. Consequently, it is appropriate to award Plaintiffs their attorney's fees if this motion is successful. *See, e.g., S. Appalachian Mountain Stewards v. A&G Coal Corp.*, No. 2:12-CV-00009, 2014 WL 349484 (W.D. Va. Jan. 31, 2014) (Jones, J.) (awarding additional attorneys' fees to Plaintiffs for contempt motion based on A&G's failure to pay court-ordered attorneys' fees); *Atl. States Legal Found. v. Onondaga Dep't of Drainage and Sanitation*, 899 F. Supp. 84 (N.D.N.Y. 1995).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court prevent A&G from engaging in coal removal at any of the three sites at issue in this action. Plaintiffs further request that this Court order A&G to show cause why it should not be held in contempt for failing to satisfy this Court's January 26, 2023 Consent Decree, and – if A&G fails to show good cause – to award the relief requested above, as well as such other relief as the Court may deem just and equitable.

DATED: October 31, 2024

Respectfully submitted,



Claire Marie Horan (VSB No. 95386)
Appalachian Mountain Advocates
250 West Main Street, Suite 201
Charlottesville, Virginia 22902
choran@appalmad.org
(907) 687-8561

Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

**SOUTHERN APPALACHIAN MOUNTAIN
STEWARDS, APPALACHIAN VOICES,
and SIERRA CLUB,**

Plaintiffs,

v.


CIVIL ACTION NO. 2:23-CV-00002

A&G COAL CORPORATION,

Defendant.

CERTIFICATE OF SERVICE

I, Claire Marie Horan, do hereby certify that on October 31, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF filing system.



Claire Marie Horan (VSB No. 95386)
Appalachian Mountain Advocates
250 West Main Street, Suite 201
Charlottesville, Virginia 22902
choran@appalmad.org
(907) 687-8561

Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

**SOUTHERN APPALACHIAN MOUNTAIN
STEWARDS, APPALACHIAN VOICES,
and SIERRA CLUB,**

Plaintiffs,

v.

CIVIL ACTION NO. 2:23-CV-00002

A&G COAL CORPORATION,

Defendant.

DECLARATION OF MATTHEW HEPLER

I, Matthew Hunter Hepler, declare that the following statements are true and correct to the best of my knowledge, information, and belief and are based on my personal knowledge, observations, and experience:

- 1.) I am over 18 years of age and am fully competent to make this Declaration.
- 2.) I am a resident of Glade Spring, Virginia, and have been since October of 2016.
- 3.) I am an employee at Appalachian Voices and have worked there since January of 2017.
- 4.) I am also a member of Appalachian Voices.
- 5.) Appalachian Voices is a nonprofit North Carolina corporation committed to protecting the land, air, and water of the central and southern Appalachian region, focusing on reducing coal's impact on the region. Appalachian Voices has 805 members, the majority of whom reside in the Appalachian region, including North Carolina, Virginia, and Tennessee. Appalachian Voices

maintains a permanent office in Norton, Virginia. Appalachian Voices has a coal impacts team whose body of work includes protecting communities who are negatively impacted by coal surface mining.

- 6.) As part of my work duties, I routinely attend Virginia Energy's inspections of A&G's Mining Permits No. 1101905, 1101914, and 1101918. Permit No. 1101905 is the permit for Looney Ridge Surface Mine #1 ("Looney Ridge"). Permit No. 1101914 is the permit for Sawmill Hollow #3 Mine ("Sawmill Hollow"). Permit No. 1101918 is the permit for Canepatch Surface Mine ("Canepatch").
- 7.) I routinely request inspections from Virginia Energy for Looney Ridge, Canepatch, and Sawmill Hollow as the designated representative of Appalachian Voices under paragraph 23 of the Consent Decree in this action. I tend to ask for these inspections on a monthly basis, but in practice they tend to happen quarterly due to logistical hurdles.
- 8.) I attended an inspection of Looney Ridge and Canepatch on the morning of September 26, 2023, as a representative of Appalachian Voices. Also attending were representatives of Virginia Energy and Penn Virginia, the owner of the land on which the mines are located. Representatives of Virginia Energy included Marshall "Randy" Moore, Greg Baker, and the mine inspector, John Jones. John Jones was present for only the inspection of Looney Ridge.
- 9.) During the September 26, 2023 inspection, I observed that the reclamation work for Looney Ridge was not finished.

- 10.) While at the inspection of Looney Ridge, I saw no coal company personnel doing work on the mine and no equipment operating of any kind.
- 11.) After the inspection was finished at Looney Ridge, we drove to Canepatch with representatives from Virginia Energy and Penn Virginia. John Jones did not accompany us on the inspection of Canepatch.
- 12.) While at Canepatch, we witnessed one bulldozer doing reclamation work, and all other equipment, including dump trucks, not moving.
- 13.) An A&G representative verbally communicated to me that the dump trucks were down for maintenance, and that the drilling rig from Looney Ridge had been moved to Canepatch, and was about to undergo some maintenance to be moved back to Looney Ridge. He stated he was expecting a new drilling rig to be moved to Canepatch from another mine known as Baden (operated by one of A&G's sister companies).
- 14.) It is my understanding that that A&G representative goes by the name of "Poss." I do not know if this is a nickname or his actual name, and I am unsure of his actual job title, but he has represented A&G coal on all of our inspections related to the Consent Decree. Poss has demonstrated that he has knowledge of most of Jay Justice's operations in the immediate area including those covered by the Consent Decree.
- 15.) On February 6, 2024, I attended an inspection of Looney Ridge and Canepatch. Neither Looney Ridge nor Canepatch had working equipment on site. At Looney Ridge there was an idle bulldozer, and there was no equipment at all at Canepatch. While on the inspection Greg Baker, a representative of Virginia


Energy, said he thought no one had been at Canepatch for about a month. From the state of reclamation I saw on February 6, 2024, it was clear there was no way A&G would make the February 29, 2024 reclamation deadline set forth in the Consent Decree.

- 16.) We did not visit Sawmill Hollow on February 6, 2024, but I was informed by other participants in that inspection that A&G had moved equipment to Sawmill Hollow. According to the A&G representative, they were doing some road access work to get better access to the site.
- 17.) At various points in the history of our inspections of Looney Ridge, Virginia Energy personnel and the A&G representative, Poss, have indicated a plan to mine a seam of coal known as the "House Coal" seam as part of the process for the reclamation.
- 18.) On March 12, 2024, I sent an email to Tarah Kesterson requesting the most recent inspection reports of Mining Permit Nos. 1101905, 1101914, 1101918. I received them the following day.
- 19.) I subsequently requested from Virginia Energy information on inspections that occurred between March 12, 2024 and October 15, 2024.
- 20.) The inspection reports I received from Virginia Energy are attached to this Declaration as Appendices A-C. Appendix A contains the inspection reports for Looney Ridge. Appendix B contains the inspection reports for Canepatch. Appendix C contains the inspection reports for Sawmill Hollow.

- 21.) I have not attended any inspections at Looney Ridge, Canepatch, or Sawmill Hollow since February 6, 2024, as inspection reports indicated no work has been done at those sites since then.
- 22.) On October 23, 2024, I received a letter from Steven R. Ruby, Counsel for A&G, that was addressed to Appalachian Voices's counsel, Isak Howell, and that was carbon copied to Marshall Moore of Virginia Energy, Jay Justice, and me. The letter states that "A&G proposes to allow a contractor to highwall mine" at Sawmill Hollow. That letter is attached to this Declaration as Appendix D.
- 23.) On October 29, 2024, I received a call from Marshall "Randy" Moore of Virginia Energy. He was calling at Jay Justice's request to try to make the highwall plan at Sawmill Hollow happen.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: October 30, 2024



Matthew Hunter Hepler

Appendix A



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

COPY: 0259167

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		0259167 (JRJ0006639)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
10/6/2023	06:00 AM	09:00 AM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	RECLAIMED/ACT.	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. BR - BACKFILLING REGRADING	2. RV - REVEGETATION

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	

COMMENTS :	PERMIT: 1101905	REPORT: 0259167
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A partial inspection was performed by John Jones of Mined Land Repurposing. There was no active coal haulage during this inspection.

BACKFILLING/REGRADED:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed.

The operator has entered a settlement agreement that specifically outlines reclamation timelines for this permit.

Currently:

There are 2 large bulldozers onsite.

The operator has been intermittently removing overburden with the loaders. There is also intermittent coal removal and haulage, however there was no overburden removal or coal haulage during this inspection. See photo below taken during this inspection:

REVEGETATION:

The Post Mined Land Use is unmanaged forest, light industrial (gas wells) and wildlife habitat. There is a large portion of this permit that is well vegetated.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

COPY: 0259167

INSPECTION



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

COPY: 0259464

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		0259464 (JRJ0006698)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
11/16/2023	06:00 AM	10:00 AM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	RECLAIMED/ACT.	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. BR - BACKFILLING REGRADING	2. RV - REVEGETATION

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	

COMMENTS :	PERMIT: 1101905	REPORT: 0259464
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A partial inspection was performed by John Jones of Mined Land Repurposing. There was no active coal haulage or backfilling during this inspection. There have been no changes since the last inspection.

BACKFILLING/REGRADED:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed.

The operator has entered a settlement agreement that specifically outlines reclamation timelines for this permit.

Currently:

There are 2 large bulldozers onsite.

The operator has been intermittently removing overburden with the loaders. There has also been intermittent coal removal and haulage, however there was no overburden removal or coal haulage during this inspection. See photo below taken during this inspection:

REVEGETATION:

The Post Mined Land Use is unmanaged forest, light industrial (gas wells) and wildlife habitat. There is a large portion of this permit that is well vegetated.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

COPY: 0259464

INSPECTION



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

COPY: 0260283

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		0260283 (JRJ0006836)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
02/23/24	08:00 AM	12:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	RECLAIMED/ACT.	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. BR - BACKFILLING REGRADING	2. RV - REVEGETATION

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	

COMMENTS :	PERMIT: 1101905	REPORT: 0260283
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A partial inspection was performed by John Jones of Mined Land Repurposing. There was no active coal haulage or backfilling during this inspection. There have been no changes since the last inspection.

BACKFILLING/REGRADED:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed.

The operator has entered a settlement agreement that specifically outlines reclamation timelines for this permit.

Currently:

There are 2 large bulldozers onsite.

There has been no recent changes. See photos below taken during drone flights by VA Energy:

The photo below was taken in January of 2021

The photo below was taken during February of 2024



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

COPY: 0260283

INSPECTION

REVEGETATION:

The Post Mined Land Use is unmanaged forest, light industrial (gas wells) and wildlife habitat. There is a large portion of this permit that is well vegetated.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

JRJ0006876

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		JRJ0006876

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-ANNUAL COMPLETE	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
03/12/24	6:00 AM	12:00 PM	FAIR
03/19/24	1:00 PM	4:30 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1,233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	RECLAIMED/ACT.	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. SS - SEDIMENT STRUCTURES
9. EF - EFFLUENT	10. WM - WATER MONITORING
11. BZ - BUFFER ZONE	12. BL - BLASTING
13. DS - DISPOSAL OF SPOIL AND WASTE	14. BR - BACKFILLING REGRADING
15. AC - APPROXIMATE ORIGINAL CONTOUR	16. AT - ACID AND TOXIC MATERIAL
17. SD - SPOIL DOWNSLOPE	18. RV - REVEGETATION
19. HR - HAUL ROADS	20. RT - RECLAMATION TAX
21. AO - AUTHORIZED TO OPERATE	22. OT - OTHER

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101905	REPORT: JRJ0006876
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A complete, AVS Annual inspection was performed by John Jones of Mined Land Repurposing. There was no activity during the inspection. There was no personnel onsite during the inspection. **There have been no changes since the last inspection.** See photos taken during the inspection:



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0006876

INSPECTION



MINING 100' - 300':

There are variances to mine within 100' of Rt.160, 300 feet of occupied dwellings, 100 feet of a stream and 500 feet of underground mines.

EXCEEDED PERMIT:

There is no evidence that the operator has exceeded the permit boundary.

MINING W/O PERMIT:

There is a valid MLR permit assigned to this site.

SIGNS AND MARKERS:

A permit sign with all applicable information has been erected at the entrance(s) to the permit. There is a permit ID sign located just off State Route #160 displaying all pertinent information. This entrance which was formally Haulroad D on #1101905 has been relinquished to what is now Revelation Energy LLC #1202139. The other sign has been placed at the Imboden Mine entrance which is permitted to Matt Mining Co., Inc. #1100877.

SEALING OF HOLES:

Deep mine entries have been sealed.

BUFFER ZONE:

There is a buffer zone variance to mine within 100 feet of Looney Creek, the right fork of Looney Creek, Franks Branch, and Lick Branch as well as multiple unnamed tributaries to Looney Creek and Lick Branch.

BLASTING:

The operator commenced blasting on 2/8/21, to aid in highwall elimination. The most recent blast was on 6/27/23, which was noted to be 9,306 ft from the nearest occupied structure. The blast contained 38 holes and used a total of 23,882 lbs of explosives. This information has not changed as the operator has not performed additional blasting.

BACKFILLING/REGRADEING:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed. The operator is reminded that the final regrade configuration of the areas above the House Coal seam must be done in accordance with the approved cross-sections in the detailed plans. A 277.93 acre section of the permit was approved for Temporary Cessation, beginning on 4/08/13 and ending on 10/05/13.

Below is an excerpt from NOVJRJ0001187, violation 1 of 1, under Performance Code BR:

There is currently no equipment or personnel activity onsite. There has been no mining activity within this permit since 4/08/13; therefore NOV JRJ0001187, violation 1 of 1, under Performance Code BR, was issued. The operator was directed to backfill all existing highwall required to be eliminated, regrade, and seed all disturbed areas on the permit. An



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0006876

INSPECTION

abatement date of 01/08/14 was given. Adequate time elapsed to fulfill the requirements of the aforementioned NOV, because there has been no progress toward compliance, a Failure to Abate Cessation Order (FTA/CO JRJ0001350, under Performance Code BR), was issued to the operator. The operator has entered a settlement agreement with DMLR that specifically outlines reclamation timelines for this permit.

Currentlty:

There is currently a D-10 onsite but have not been active recently.

TOPSOIL HANDLING:

Soiling material, which includes both native soils and mine soils, will be utilized.

DISPOSAL OF SPOIL (EXCESS):

Three excess spoil disposal areas are proposed for this site as SHF-1 was relinquished to A & G Coal Corp. #1102028. The fills are HF-E, and SHF's - G2 and G3. **These fills have not been constructed at this time.**

ACID & TOXIC MATERIAL:

No problems noted.

SPOIL DOWNSLOPE:

There is not any spoil on the downslope at this time.

REVEGETATION:

There has been no recent seeding by the operator.

HAULROADS:

The access road from the Looney Creek portion of the permit was relinquished to Mill Branch Coal Corp. #1201959, which is now Revelation Energy LLC #1202139. The existing Haulroad on Sigmon Coal Co., Inc. P.N. 1201680 located in Lick Branch is not being utilized at this time as this portion of the permit has not been disturbed by the operator. Interim Haulroad E which intersected State Rt. #160 was certified on 11/17/04 by Mark Wooten. Mining operations have backfilled and eliminated this section of haulroad.

RECLAMATION TAX:

Tax reporting is current.

AUTHORIZATION TO OPERATE:

The site is pool bonded. Total amount of bond posted is \$1,559,400.00. Ownership has not changed. The liability insurance is current through 10/22/24.

OTHER:

On 11/13/08 181.59 acres were relinquished to A & G Coal Corp. #1102028. On 2/6/09, 20.26 acres were relinquished to Maggard Branch Coal LLC. #1402032, which is now Inmet Mining PN 1402318.

The Ground Control Plan has been approved. Red Zone A and Red Zone B were identified on the map submitted to DMLR. Red Zone B is located North of Pond D and was never disturbed. Red Zone A is shown as the areas around Pond D and adjacent to State Route #160. All areas around Pond D and Rt. #160 have been reclaimed and there is no active mining being conducted by this permit in Red Zone A.

NPDES INSPECTION COMPONENT-PERFORMANCE STANDARDS SS, EF AND WM

HYDROLOGIC SYSTEM/DRAINAGE CONTROL:

Fourteen (14) sediment structures will be used for mine site sediment control. Basin D in Looney Creek has been constructed. Basin D was certified on 6/21/04 by Mark Wooten, P.E. number 14992, recertified on 9/16/04 by Mark



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0006876

INSPECTION

Wooten and re-certified again on 11/16/05 by Mark Wooten. Basin F has been constructed and was certified on 4/27/05 by Mark Wooten, P.E. number 14992. Basin D1 has been constructed and was certified on 2/13/06 by Mark Wooten. Basin D2 was certified 3/28/08. Basin D1 discharges into Basin D. The ponds appeared stable. Annual Pond Certifications were submitted on 3/17/23, By Bill Johnson #62233.

EFFLUENT:

Discharging MPID ponds were checked with a Field Kit as follows:

Pond F (MPID 0005503) was discharging approx. 700 gpm, with a pH of 8.0, Fe less than 0.5 mg/l

Pond D (MPID 0005512) was discharging approx.. 400 gpm, with a pH of 8.0, Fe less than 1.0 mg/l

WATER MONITORING:

There are no deficiencies noted in this report. It is note that the operator has submitted the 2023/24, Biological Monitoring Report.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

JRJ0006923

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		JRJ0006923

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
04/24/24	12:00 PM	4:30 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1,233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	RECLAIMED/ACT.	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. BR - BACKFILLING REGRADING	2. RV - REVEGETATION

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	

COMMENTS :	PERMIT: 1101905	REPORT: JRJ0006923
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A partial inspection was performed by John Jones of Mined Land Repurposing. There was no active coal haulage or backfilling during this inspection. There have been no changes since the last inspection.

BACKFILLING/REGRADED:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed.

The operator has entered a settlement agreement that specifically outlines reclamation timelines for this permit.

Currently:

There is a D-10 bulldozer onsite.

There has been no recent changes. See photo below taken during this inspection:



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0006923

INSPECTION



REVEGETATION:

The Post Mined Land Use is unmanaged forest, light industrial (gas wells) and wildlife habitat. There is a large portion of this permit that is well vegetated.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0006923

INSPECTION



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

JRJ0006971

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		JRJ0006971

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
05/23/24	6:00 AM	2:00 PM	CLOUDY

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1,233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	RECLAIMED/ACT.	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. BR - BACKFILLING REGRADING	2. RV - REVEGETATION

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	

COMMENTS :	PERMIT: 1101905	REPORT: JRJ0006971
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A partial inspection was performed by John Jones of Mined Land Repurposing. There was no active coal haulage or backfilling during this inspection. There have been no changes since the last inspection.

BACKFILLING/REGRADING:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed.

The operator has entered a settlement agreement that specifically outlines reclamation timelines for this permit.

Currently:

There is a D-10 bulldozer onsite.

There has been no recent changes. See photo below taken during this inspection:



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0006971

INSPECTION



REVEGETATION:

The Post Mined Land Use is unmanaged forest, light industrial (gas wells) and wildlife habitat. There is a large portion of this permit that is well vegetated.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0006971

INSPECTION



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

JRJ0007008

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		JRJ0007008

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-QUARTERLY COMPLETE	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
06/27/24	6:00 AM	12:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1,233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	RECLAIMED/ACT.	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. SS - SEDIMENT STRUCTURES
9. EF - EFFLUENT	10. WM - WATER MONITORING
11. BZ - BUFFER ZONE	12. BL - BLASTING
13. DS - DISPOSAL OF SPOIL AND WASTE	14. BR - BACKFILLING REGRADING
15. AC - APPROXIMATE ORIGINAL CONTOUR	16. AT - ACID AND TOXIC MATERIAL
17. SD - SPOIL DOWNSLOPE	18. RV - REVEGETATION
19. HR - HAUL ROADS	20. RT - RECLAMATION TAX
21. AO - AUTHORIZED TO OPERATE	22. OT - OTHER

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101905	REPORT: JRJ0007008
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A complete, AVS Annual inspection was performed by John Jones of Mined Land Repurposing. There was no activity during the inspection. There was no personnel onsite during the inspection. **There have been no changes since the last inspection.** See photo taken during the inspection:



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0007008

INSPECTION



MINING 100' - 300':

There are variances to mine within 100' of Rt.160, 300 feet of occupied dwellings, 100 feet of a stream and 500 feet of underground mines.

EXCEEDED PERMIT:

There is no evidence that the operator has exceeded the permit boundary.

MINING W/O PERMIT:

There is a valid MLR permit assigned to this site.

SIGNS AND MARKERS:

A permit sign with all applicable information has been erected at the entrance(s) to the permit. There is a permit ID sign located just off State Route #160 displaying all pertinent information. This entrance which was formally Haulroad D on #1101905 has been relinquished to what is now Revelation Energy LLC #1202139. The other sign has been placed at the Imboden Mine entrance which is permitted to Matt Mining Co., Inc. #1100877.

SEALING OF HOLES:

Deep mine entries have been sealed.

BUFFER ZONE:

There is a buffer zone variance to mine within 100 feet of Looney Creek, the right fork of Looney Creek, Franks Branch, and Lick Branch as well as multiple unnamed tributaries to Looney Creek and Lick Branch.

BLASTING:

The operator commenced blasting on 2/8/21, to aid in highwall elimination. The most recent blast was on 6/27/23, which was noted to be 9,306 ft from the nearest occupied structure. The blast contained 38 holes and used a total of 23,882 lbs of explosives. **This information has not changed as the operator has not performed additional blasting.**

BACKFILLING/REGRADEING:



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0007008

INSPECTION

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed. The operator is reminded that the final regrade configuration of the areas above the House Coal seam must be done in accordance with the approved cross-sections in the detailed plans. A 277.93 acre section of the permit was approved for Temporary Cessation, beginning on 4/08/13 and ending on 10/05/13.

Below is an excerpt from NOVJRJ0001187, violation 1 of 1, under Performance Code BR:

There is currently no equipment or personnel activity onsite. There has been no mining activity within this permit since 4/08/13; therefore NOV JRJ0001187, violation 1 of 1, under Performance Code BR, was issued. The operator was directed to backfill all existing highwall required to be eliminated, regrade, and seed all disturbed areas on the permit. An abatement date of 01/08/14 was given. Adequate time elapsed to fulfill the requirements of the aforementioned NOV, because there has been no progress toward compliance, a Failure to Abate Cessation Order (FTA/CO JRJ0001350, under Performance Code BR), was issued to the operator. The operator has entered a settlement agreement with DMLR that specifically outlines reclamation timelines for this permit.

Currently:

There is currently a D-10 onsite but has not been active recently.

TOPSOIL HANDLING:

Soiling material, which includes both native soils and mine soils, will be utilized.

DISPOSAL OF SPOIL (EXCESS):

Three excess spoil disposal areas are proposed for this site as SHF-1 was relinquished to A & G Coal Corp. #1102028. The fills are HF-E, and SHF's - G2 and G3. **These fills have not been constructed at this time.**

ACID & TOXIC MATERIAL:

No problems noted.

SPOIL DOWNSLOPE:

There is not any spoil on the downslope at this time.

REVEGETATION:

There has been no recent seeding by the operator.

HAULROADS:

The access road from the Looney Creek portion of the permit was relinquished to Mill Branch Coal Corp. #1201959, which is now Revelation Energy LLC #1202139. The existing Haulroad on Sigmon Coal Co., Inc. P.N. 1201680 located in Lick Branch is not being utilized at this time as this portion of the permit has not been disturbed by the operator. Interim Haulroad E which intersected State Rt. #160 was certified on 11/17/04 by Mark Wooten. Mining operations have backfilled and eliminated this section of haulroad.

RECLAMATION TAX:

Tax reporting is current.

AUTHORIZATION TO OPERATE:

The site is pool bonded. Total amount of bond posted is \$1,559,400.00. Ownership has not changed. The liability insurance is current through 10/22/24.

OTHER:

On 11/13/08 181.59 acres were relinquished to A & G Coal Corp. #1102028. On 2/6/09, 20.26 acres were relinquished to Maggard Branch Coal LLC. #1402032, which is now Inmet Mining PN 1402318.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

JRJ0007008

INSPECTION

The Ground Control Plan has been approved. Red Zone A and Red Zone B were identified on the map submitted to DMLR. Red Zone B is located North of Pond D and was never disturbed. Red Zone A is shown as the areas around Pond D and adjacent to State Route #160. All areas around Pond D and Rt. #160 have been reclaimed and there is no active mining being conducted by this permit in Red Zone A.

NPDES INSPECTION COMPONENT-PERFORMANCE STANDARDS SS, EF AND WM

HYDROLOGIC SYSTEM/DRAINAGE CONTROL:

Fourteen (14) sediment structures will be used for mine site sediment control. Basin D in Looney Creek has been constructed. Basin D was certified on 6/21/04 by Mark Wooten, P.E. number 14992, recertified on 9/16/04 by Mark Wooten and re-certified again on 11/16/05 by Mark Wooten. Basin F has been constructed and was certified on 4/27/05 by Mark Wooten, P.E. number 14992. Basin D1 has been constructed and was certified on 2/13/06 by Mark Wooten. Basin D2 was certified 3/28/08. Basin D1 discharges into Basin D. The ponds appeared stable. **Annual Pond Certifications were submitted on 5/9/24, By Bill Johnson #62233.**

EFFLUENT:

Discharging MPID ponds were checked with a Field Kit as follows:

Pond F (MPID 0005503) was discharging approx. 500 gpm, with a pH of 8.0, Fe less than 0.5 mg/l

Pond D (MPID 0005512) was discharging approx.. 200 gpm, with a pH of 8.0, Fe less than 0.5 mg/l

WATER MONITORING:

There are no deficiencies noted in this report. It is note that the operator has submitted the 2023/24, Biological Monitoring Report.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

COPY: 0261657

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		0261657 (JRJ0007050)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
07/24/24	06:00 AM	01:00 PM	CLOUDY

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. SM - SIGNS AND MARKERS 3. RV - REVEGETATION	2. BR - BACKFILLING REGRADING

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	

COMMENTS :	PERMIT: 1101905	REPORT: 0261657
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A partial inspection was performed by John Jones of Mined Land Repurposing. There was no active coal haulage or backfilling during this inspection. There have been no changes since the last inspection.

SIGNS AND MARKERS:

There are permit signs at the entrances to the permit.

BACKFILLING/REGRADED:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed.

The operator has entered a settlement agreement that specifically outlines reclamation timelines for this permit.

Currently:

There is a D-10 bulldozer onsite.

There has been no changes since the last inspection.

REVEGETATION:

The Post Mined Land Use is unmanaged forest, light industrial (gas wells) and wildlife habitat. There is a large portion of this permit that is well vegetated.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

COPY: 0261657

INSPECTION



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

COPY: 0262167

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101905		0262167 (JRJ0007134)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-QUARTERLY COMPLETE	NOV ISSUED NOV REPORT

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
09/26/24	06:00 AM	01:00 PM	RAIN

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
1233.47	590.09	275.16	275.16	634.01

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	2.1 MILES NE OF EXETER ON LOONEY CREEK

INSPECTION BY	COPY OF REPORT
JONES, JOHN	Mailed - A & G Coal Corporation Officials (e-mail)

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. SS - SEDIMENT STRUCTURES
9. EF - EFFLUENT	10. BZ - BUFFER ZONE
11. BL - BLASTING	12. DS - DISPOSAL OF SPOIL AND WASTE
13. BR - BACKFILLING REGRADING	14. AC - APPROXIMATE ORIGINAL CONTOUR
15. AT - ACID AND TOXIC MATERIAL	16. SD - SPOIL DOWNSLOPE
17. RV - REVEGETATION	18. HR - HAUL ROADS
19. RT - RECLAMATION TAX	20. AO - AUTHORIZED TO OPERATE
21. OT - OTHER	

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:
1. WM - WATER MONITORING

COMMENTS :	PERMIT: 1101905	REPORT: 0262167
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A complete, AVS Annual inspection was performed by John Jones of Mined Land Repurposing. There was no activity during the inspection. There was no personnel onsite during the inspection. There have been no changes since the last inspection. See photo taken during the inspection:

MINING 100' - 300':

There are variances to mine within 100' of Rt.160, 300 feet of occupied dwellings, 100 feet of a stream and 500 feet of underground mines.

EXCEEDED PERMIT:

DMLR-ENF-044S
 REV. 10/2021

Printed: 10/16/24



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

COPY: 0262167

INSPECTION

There is no evidence that the operator has exceeded the permit boundary.

MINING W/O PERMIT:

There is a valid MLR permit assigned to this site.

SIGNS AND MARKERS:

A permit sign with all applicable information has been erected at the entrance(s) to the permit. There is a permit ID sign located just off State Route #160 displaying all pertinent information. This entrance which was formally Haulroad D on #1101905 has been relinquished to what is now Revelation Energy LLC #1202139. The other sign has been placed at the Imboden Mine entrance which is permitted to Matt Mining Co., Inc. #1100877.

SEALING OF HOLES:

Deep mine entries have been sealed.

BUFFER ZONE:

There is a buffer zone variance to mine within 100 feet of Looney Creek, the right fork of Looney Creek, Franks Branch, and Lick Branch as well as multiple unnamed tributaries to Looney Creek and Lick Branch.

BLASTING:

The operator commenced blasting on 2/8/21, to aid in highwall elimination. The most recent blast was on 6/27/23, which was noted to be 9,306 ft from the nearest occupied structure. The blast contained 38 holes and used a total of 23,882 lbs of explosives. This information has not changed as the operator has not performed additional blasting.

BACKFILLING/REGRADEING:

The approved plans state there can be 16,000 feet of highwall exposed if two spreads of equipment are utilized. If one spread of equipment is used the total amount of highwall exposed will be 8,000 feet. Trees have been planted on the regraded areas of Looney Creek and on the slopes of all the regraded area in Frank's Branch. The overburden from the House Coal Seam will be used to eliminate the existing highwalls in the Looney Creek watershed. The operator is reminded that the final regrade configuration of the areas above the House Coal seam must be done in accordance with the approved cross-sections in the detailed plans. A 277.93 acre section of the permit was approved for Temporary Cessation, beginning on 4/08/13 and ending on 10/05/13.

Below is an excerpt from NOVJRJ0001187, violation 1 of 1, under Performance Code BR:

There is currently no equipment or personnel activity onsite. There has been no mining activity within this permit since 4/08/13; therefore NOV JRJ0001187, violation 1 of 1, under Performance Code BR, was issued. The operator was directed to backfill all existing highwall required to be eliminated, regrade, and seed all disturbed areas on the permit. An abatement date of 01/08/14 was given. Adequate time elapsed to fulfill the requirements of the aforementioned NOV, because there has been no progress toward compliance, a Failure to Abate Cessation Order (FTA/CO JRJ0001350, under Performance Code BR), was issued to the operator. The operator has entered a settlement agreement with DMLR that specifically outlines reclamation timelines for this permit.

Currently:

There is currently a D-10 onsite but has not been active recently.

TOPSOIL HANDLING:

Soiling material, which includes both native soils and mine soils, will be utilized.

DISPOSAL OF SPOIL (EXCESS):

Three excess spoil disposal areas are proposed for this site as SHF-1 was relinquished to A & G Coal Corp. #1102028. The fills are HF-E, and SHF's - G2 and G3. These fills have not been constructed at this time.

ACID & TOXIC MATERIAL:

No problems noted.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
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INSPECTION

SPOIL DOWNSLOPE:

There is not any spoil on the downslope at this time.

REVEGETATION:

There has been no recent seeding by the operator.

HAULROADS:

The access road from the Looney Creek portion of the permit was relinquished to Mill Branch Coal Corp. #1201959, which is now Revelation Energy LLC #1202139. The existing Haulroad on Sigmon Coal Co., Inc. P.N. 1201680 located in Lick Branch is not being utilized at this time as this portion of the permit has not been disturbed by the operator. Interim Haulroad E which intersected State Rt. #160 was certified on 11/17/04 by Mark Wooten. Mining operations have backfilled and eliminated this section of haulroad.

RECLAMATION TAX:

Tax reporting is current.

AUTHORIZATION TO OPERATE:

The site is pool bonded. Total amount of bond posted is \$1,559,400.00. Ownership has not changed. The liability insurance is current through 10/22/24.

OTHER:

On 11/13/08 181.59 acres were relinquished to A & G Coal Corp. #1102028. On 2/6/09, 20.26 acres were relinquished to Maggard Branch Coal LLC. #1402032, which is now Inmet Mining PN 1402318.

The Ground Control Plan has been approved. Red Zone A and Red Zone B were identified on the map submitted to DMLR. Red Zone B is located North of Pond D and was never disturbed. Red Zone A is shown as the areas around Pond D and adjacent to State Route #160. All areas around Pond D and Rt. #160 have been reclaimed and there is no active mining being conducted by this permit in Red Zone A.

NPDES INSPECTION COMPONENT-PERFORMANCE STANDARDS SS, EF AND WM

HYDROLOGIC SYSTEM/DRAINAGE CONTROL:

Fourteen (14) sediment structures will be used for mine site sediment control. Basin D in Looney Creek has been constructed. Basin D was certified on 6/21/04 by Mark Wooten, P.E. number 14992, recertified on 9/16/04 by Mark Wooten and re-certified again on 11/16/05 by Mark Wooten. Basin F has been constructed and was certified on 4/27/05 by Mark Wooten, P.E. number 14992. Basin D1 has been constructed and was certified on 2/13/06 by Mark Wooten. Basin D2 was certified 3/28/08. Basin D1 discharges into Basin D. The ponds appeared stable. Annual Pond Certifications were submitted on 5/9/24, By Bill Johnson #62233.

EFFLUENT:

Discharging MPID ponds were checked with a Field Kit as follows:
Pond F (MPID 0005503) was discharging approx. 500 gpm, with a pH of 8.0, Fe less than 0.5 mg/l
Pond D (MPID 0005512) was discharging approx.. 200 gpm, with a pH of 8.0, Fe less than 0.5 mg/l

WATER MONITORING:

There are no deficiencies noted in this report. It is note that the operator has submitted the 2023/24, Biological Monitoring Report.



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INSPECTION

Appendix B



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

COPY: 0258980

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		0258980 (SRM0001107)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-QUARTERLY COMPLETE	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
10/2/2023	11:00 AM	05:30 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACTIVE	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. SS - SEDIMENT STRUCTURES
9. WM - WATER MONITORING	10. BZ - BUFFER ZONE
11. BL - BLASTING	12. DS - DISPOSAL OF SPOIL AND WASTE
13. BR - BACKFILLING REGRADING	14. AC - APPROXIMATE ORIGINAL CONTOUR
15. HE - HIGH WALL ELIMINATION	16. AT - ACID AND TOXIC MATERIAL
17. SD - SPOIL DOWNSLOPE	18. RV - REVEGETATION
19. HR - HAUL ROADS	20. RT - RECLAMATION TAX
21. AO - AUTHORIZED TO OPERATE	22. OT - OTHER

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: 0258980
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Mined Land Repurposing Inspectors, Scottie Masters, and Robert Case, conducted an AVS Quarterly complete inspection of permit #1101918 on 10/02/2023. During this inspection we spoke with Job Foreman, Rick Breeding. We discussed current mining plans, and highwall elimination. The operator was mining on the Redwine seam. In the process of mining this seam they were placing material over the wall, henceforth, eliminating existing highwall. Equipment being used was a CAT coal loader (loading coal) and a CAT Excavator (cleaning coal). All other equipment was idle at this time. Mr. Breeding stated that the company's plans were to continue mining on the Redwine seam. No violations were observed during this inspection. If there are any questions, please contact this inspector.

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

GENERAL OBLIGATION:
 DMLR-ENF-044S
 REV. 10/2021

Printed: 2/15/2024



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MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
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COPY: 0258980

INSPECTION

Reclamation Compliance Agreement

The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, "While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events."

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00. The O/C information contained in the permit application is consistent with the field investigation results and is in compliance with the requirements of the AVS/MOU.

NPDES Renewal Application #1010662 was computer processed on 11/09/2020.

MINING 100'-300': There is no mining proposed within 300 feet of an occupied dwelling or within 100 feet of a public road. The operator was previously advised that extreme caution should be used when operating above State Route 603. The operator placed reflective signs and yellow caution ribbon along the outer berm in the areas that have been designated as a "Red Zone" area as part of the approved Ground Control Plan. This plan was approved on May 19, 2005, for this permit that is known as Strip Mine No. 12, Mine Index Number 14587AA. Red Zone areas are stable and there is no current mining.

EXCEEDING PERMIT BOUNDARY: No evidence during the inspection that the operator exceeded the permit boundary.

MINING W/O PERMIT: This operation has a valid Mined Land Repurposing permit assigned to this site.

SUBSIDENCE CONTROL: Protected structures overlying proposed auger works include power lines, line towers, and natural gas transmission lines. Any damages to these structures will be repaired as per approved plans. Auguring by highwall mining is approved for the permit for a distance of 500 feet outside the PN1101918 permit boundary near the permit boundary with PN1101800. The mining is depicted in the operations map in revision number 1002129; the approved area is outlined in yellow.

SIGNS AND MARKERS: A permit sign showing all required information has been posted at the permit entrance. The permit perimeter has been flagged with ribbon. The operator is reminded to maintain permit signs and markers and keep brush cleared from in-front of the permit signs so they can be clearly seen.

SEALING OF HOLES: The only known underground deep mines located within, or in close proximity to, the amended area (1002129) is a Kelly Seam Deep Mine. Additional details are provided in section 18.1 (MEASURES TO SEAL OR MANAGE OPENINGS) of the approved plans.

TOPSOIL: The topsoil-handling plan indicates that native soils, as well as existing mine soils, will be salvaged and placed on regraded areas or stockpiled for later use. Topsoil stockpile areas are denoted on the operations site map.

BLASTING: At this time, the operator is actively blasting. The Blasting Publication Notice is current through 07/07/2024.

DISPOSAL OF SPOIL: Quarterly Fill certifications were submitted on 08/03/23 by Bill Johnson (PE #62233).

MLR Fill # (Yes/No)	Company #	Under Construction Last Quarterly Cert Date	Completion of Construction Date
F08856 HF-A	Yes	8/03/2023	1/29/2013
F08857 HF-A1	Yes	8/03/2023	1/29/2013



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F09003 SHF-B Yes 8/03/2023 7/08/2005

BACKFILLING / GRADING: Revision application 1002129 states essentially area mining operations are proposed for the permit. A minimum of two (2) production spreads will be worked at this site. A production spread is an individual fleet of equipment capable of overburden removal. One production spread will consist of a loader and truck fleet. The other production spread will consist of at least two (2) D-11 Caterpillar bulldozers or a separate loader and truck fleet. The distance limitation is based upon the following scenario. A 2,800 LFt. backfill ramp constructed on a 10 percent grade, a 300 LFt auger pit, a 300 LFt coal pit, a 300 LFt overburden removal pit and a 300 LFt shot pit or total length of exposed highwall of 4,000 LFt per coal pit being worked. Because each production spread must have two (2) coal pits per spread to efficiently operate, a total of four (4) pits or 16,000 LFt of highwall will be exposed.

Therefore, the distance limitation for rough backfilling and grading operations is 3,400 LFt from the point of coal removal. Because area mining operations were proposed, there is a time limitation of 180 days. The width of any unbackfilled coal pit shall not exceed 300 HFt. or two (2) mining cuts, whichever is less. The maximum amount of exposed highwall, at any point in the operation, shall not exceed 16,000 LFt, if two (2) production spreads are worked. If one (1) production spread is worked, then the exposed highwall limitation will be 8,000 LFt.

Operator has approval to backfill spoil into Backfill Storage Area M on PN1101800 and Backfill Storage Area B. Revision application 1101800/1005097 was approved on 4-29-09 to approve adding backfill to Fill No. 1 (F06897) and change the name to Backfill Storage Area M.

Application no. 1006223 allows Red River Coal Company to backfill approximately 790,000 cubic yards of excess spoil from PN1101760 onto Backfill Storage Area B.

APPROXIMATE ORIGINAL CONTOUR: According to the permit, all highwalls must be eliminated and the area returned to the approximate original contour.

HIGHWALL ELIMINATION: In the permit application, the operator claimed 7,340 feet of pre-existing wall. The permit states all highwalls that will be disturbed must be eliminated and the area returned to the approximate original contour. The operator appears to be reclaiming pre-existing walls as mining progresses.

ACID AND TOXIC MATERIAL: Details concerning acid/ toxic materials are provided in section 15.1 (ACID/ TOXIC MATERIALS) of the approved plans.

SPOIL DOWNSLOPE: No spoil was identified downslope off the permit during the inspection.

REVEGATATION: The proposed post mining land use is wildlife enhancement. This is part of the mitigation plan for loss of stream habitat. Sediment ponds and berms have been reseeded and mulched. The approved application outlines Forest Reclamation Approach (FRA) practices that will be applied during regrading and revegetation. During 2006, the operator planted trees on the regraded areas between Ponds 7A and 8 and also on the graded slopes above Pond A. The success rate of this tree planting activity should be monitored. It appears that Locust, Oak, and Pine are the species predominately planted in these areas. Locust and Oak are doing well on slope above Haulroad E.

During the 5-5-2011 inspection it was noted that an area had been hydro-seeded, upslope from HR-E between Pond B1 and B1A. It was noted during the 4-10-2012 inspection, that the operator had planted tree seedlings in this area.

It appears that the vegetation in the areas of Storage Area B and areas above SHF-B is progressing well.



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MINED LAND REPURPOSING**

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INSPECTION

HAULROADS: In application 1007056, the operator upgraded the primary haulroads on the permit. There are currently 5 permanent haulroads on the permit. Haulroad D is the only external haulroad. Subsequent haulroad construction certification was provided by Mark S. Wooten, P. E. #14992, dated 4-26-2011; for haulroads D, E, F, G, and H.

Haulroads G and most of E were being utilized as access to fuel storage tank and powder bins. Haulroad H had been used to access Storage Area B. The operator should monitor ditching and sumps DS-6E, DS-7E, and DS-8E on Haulroad E.

Prior to idling production activities, the operator was required to add a new red zone area located at the active pit closest to Dunbar. The operator is reminded that prior to reactivation of the mine site, the operator and mine personnel will need to familiarize themselves with this area. The operator will also need to display the proper red zone markers at this specified location.

OTHER: The liability insurance is current through 10/22/2024.

THREATENED AND ENDANGERED SPECIES:

A number of on-site assessments have been performed throughout the life of the permit. No T&E species or their critical habitats have been identified. This permit is in the Powell River drainage, a number of species and habitats are listed on the VA FWIS report within this drainage. This permit has been assembled to adequately protect downstream resources. A combination of sediment control, backfilling and grading, revegetation, and monthly/annual monitoring has been included that will protect downstream resources.

Probable Biological Consequences

No impact to downstream biota is anticipated. An analysis of biomonitoring data will continue as well as best management practices to comply with the TMDL. Prompt revegetation and following the approved backfilling and regrading plan, mitigation plan, and sediment control plan will provide benefits for the aquatic and terrestrial habitats in the long-term.

No impacts to fish and overall stream ecology are expected as a result of the renewal of this application. Vegetation has been established on much of the permit and the backfilling and grading of pre-law highwall should only enhance the upland corridors. The mitigation plan and sediment control plan will ensure that stream ecology is protected and improved after mining is completed. While mining is on-going, best management practices are being implemented per 4VAC25-130-780.16(b)(3).

RECLAMATION TAX: Reclamation taxes are current at this time.

NPDES INSPECTION COMPONENTS CHECKED – SS, EF, & WM:

SEDIMENT STRUCTURES: Ponds A, B, B1, B1A, B2, 7, 7A, and 8 have been constructed. Construction Certification for Pond "A" was certified by Mark S. Wooten, P.E. No. 14992, on 2-11-05. Construction Certification for Pond "B" was certified by Mark S. Wooten, No. 14992 on 2-03-05. Construction Certification for Pond B1 (application no. 1004079) was performed by Mark S. Wooten, No. 14992 on 1-27-09. Construction certification for Pond B1A was performed by Mark S. Wooten, No. 14992 on 7-28-09. Construction certification for Pond B2 was by Mark S. Wooten, No. 14992 on 5-10-06. The Construction certifications for Pond 7A and 8 were certified on 12-7-04 by Mark S. Wooten, No. 14992. The areas where ponds 7A and 8 were constructed were surface mined just prior to their construction. These ponds were constructed as soon as operations allowed. The Certification for Pond 7 was previously certified on 8-3-01 by Mark S. Wooten, No. 14992, as part of PN 1101655. The operator submitted a written request, dated 9-1-05, to delete Pond Z (MPID # 1670032) and its associated outfall point from the monitoring of this permit. All drainage from this area is



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INSPECTION

controlled by Pond B. (The operator had previously submitted an application (#1002129) to amend additional acreage and to relocate the pond ("B") from the Imboden Mine Bench down to the area of the confluence of Cane Patch Creek and Sargent Hollow. This revision was approved on November 5, 2004.

Storage capacity for ponds A, B, B1, B1A, B2, 7, 7A, and 8 appeared adequate during this inspection. Operator should monitor Pond 7 and Pond B2 for capacity. These ponds are covered in cattails; therefore, making capacity hard to determine. Pond 7A is in series with Pond 7 and a majority of the drainage area is vegetated.

Pond 003, located on PN1101554, and Ponds 1, 4, 4A, 4B, 4E, and 4F, located on PN1101800, also control drainage on this permit.

Bill Johnson (PE #62233) submitted the annual Pond Certifications on 09/23/2023.

EFFLUENT: All discharges will pass through approved sediment control structures prior to leaving the permit area. These discharging pond(s) were checked with a field HACH kit. No effluent problems were noted on this permit during this inspection. There are no outfalls being chemically treated at this time.

Please see the following results below:

MPID	FACILITY	DISCHARGE		GPM		pH	Mn	Fe
0005433	Pond A	Yes	10	8.0	<0.5	NT		
0005578	Pond B	Yes	75	7.5	<0.5	NT		
0005709	Pond B2	No						
0004101	Pond 7	No						
0004102	Pond 8	No						

WATER MONITORING:

"Biological monitoring and ambient instream chemistry will continue to be conducted annually in the fall (September 1 – November 30) per current VDMLR policies. Results must be submitted to MLR no later than March 1 of the year following collection."

Please note that failure to perform the sample in the fall of 2023, and submit the results by March 1st, 2024, will result in violations with remedial measures required. The operator is reminded to follow all water monitoring in accordance with the approved permit plans.



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COPY: 0259078

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		0259078 (SRM0001123)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL Red Zone w/DM	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
10/11/2023	12:30 PM	05:30 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACTIVE	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. SM - SIGNS AND MARKERS 3. RT - RECLAMATION TAX 5. OT - OTHER	2. BZ - BUFFER ZONE 4. AO - AUTHORIZED TO OPERATE

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: 0259078
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Mined Land Repurposing Inspectors, Scottie Masters, and Robert case conducted a partial inspection of permit #1101918 on 10/11/2023. During this inspection, a joint Red Zone inspection was conducted with DM Inspector, Brett Collier. During this inspection all red zones were checked. The Red Zone signs in the active Redwine pit area on the Northern end of the permit were in place, but the marking had faded on some of the signs. During our inspection the operator repainted the signs that needed attention. The operator was actively mining coal during this inspection. In the process of mining this seam they were placing material over the wall, henceforth, eliminating existing highwall. The equipment in operation was as follows: One (1) 320G Cat excavator, one (1) D9T Cat dozer, one (1) 992G Cat loader. (1) 972 Cat coal loader, and (1) one 740 Cat truck. I did speak with Job Foreman, Rick Breeding, and he informed me that at this time their plans were to continue mining the Redwine seam and to continue eliminating wall. If there are any questions concerning this report, please contact this inspector.

GENERAL OBLIGATION:

Reclamation Compliance Agreement

The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
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COPY: 0259078

INSPECTION

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00. NPDES Renewal Application #1010662 was computer processed on 11/09/2020.

SIGNS AND MARKERS: A permit sign showing all required information has been posted at the permit entrance. The Red Zone in the Redwine pit that's being mined are actively being maintained and are clearly seen from the active pit area. The operator is reminded to maintain permit signs and markers and keep brush cleared from in-front of the permit signs so they can be clearly seen.

BUFFER ZONES: A & G must comply with the aquatic resource mitigation requirements of the VDMLR Permit and the proposed Corps' Mitigation Plan. Reason dictates that there can only be one (1) aquatic resource mitigation plan for the site. At this time, it is our opinion that the Corps' requirements will be more stringent than the VDMLR requirements. Therefore, the aquatic resource mitigation plan approved by the Corps has been incorporated into the VDMLR permit and made a condition of the approved VDMLR reclamation plan.

The entire Corps' NWP 21 PCN, with appropriate correspondence, has been incorporated into this item. The original PCN consists of the following items:

All maps and drawings are included in Item 21.2 and have been tagged with PCN.

The USACE authorized the proposed impacts under NWP 21 on March 10, 2004. A copy of the verification letter is contained in this item. At the time the PCN was submitted, all disturbances were being proposed under A & G Coal Corporation's VDMLR Application No. 1001671. Some of the impacts in the PCN were approved included under Meg-Lynn's VDMLR Application No. 1001670. These impacts are being relinquished by this application.

Due to comments from VDMLR Technical Reviewers and relinquishment of additional permit area, two (2) sets of Environmental Resources and Mitigation Maps are included in this application. The set tagged with PCN are those submitted to the USACE. The set tagged with the application number shows the corrections requested by reviewers and the correct permit boundary following relinquishment of additional upland areas.

Impacts to aquatic resources and proposed mitigation in the PCN were evaluated on a project basis. For further details please see (section 8.5 & 8.6) in the approved permit plans.

OTHER: The liability insurance is current through 10/22/2024.

RECLAMATION TAX: Reclamation taxes are current at this time.



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COPY: 0260094

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		0260094 (SRM0001270)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
1/31/2024	06:00 AM	09:00 AM	RAIN
2/1/2024	10:00 AM	12:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACTIVE	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. EP - EXCEEDED PERMIT	2. SM - SIGNS AND MARKERS
3. HR - HAUL ROADS	4. RT - RECLAMATION TAX
5. AO - AUTHORIZED TO OPERATE	6. OT - OTHER

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: 0260094
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Mined Land Repurposing Inspector, Scottie Masters, conducted a partial inspection of permit #1101918 on 01/31/2024 and 02/01/2024. During this inspection, there is no ongoing work on this site currently (equipment, personnel, etc.). There were no violations cited during this inspection and a copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

GENERAL OBLIGATION: The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, "While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events."

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00. NPDES Renewal Application #1010662 was computer processed on 11/09/2020.



COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

COPY: 0260094

INSPECTION

EXCEEDING PERMIT BOUNDARY: No evidence during the inspection that the operator exceeded the permit boundary.

SIGNS AND MARKERS: A permit sign showing all required information has been posted at the permit entrance. The permit perimeter has been flagged with ribbon. The operator is reminded to maintain permit signs and markers and keep brush cleared from in-front of the permit signs so they can be clearly seen.

HAULROADS: In application 1007056, the operator upgraded the primary haulroads on the permit. There are currently 5 permanent haulroads on the permit. Haulroad D is the only external haulroad. Subsequent haulroad construction certification was provided by Mark S. Wooten, P. E. #14992, dated 4-26-2011; for haulroads D, E, F, G, and H.

Haulroads G and most of E were being utilized as access to fuel storage tank and powder bins. Haulroad H had been used to access Storage Area B. The operator should monitor ditching and sumps DS-6E, DS-7E, and DS-8E on Haulroad E.

OTHER: The liability insurance is current through 10/22/2024.

RECLAMATION TAX: Reclamation taxes are current at this time.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

SRM0001341

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		SRM0001341

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
03/12/24	10:00 AM	1:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACTIVE	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. TS - TOPSOIL
3. RT - RECLAMATION TAX	4. AO - AUTHORIZED TO OPERATE
5. OT - OTHER	

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: SRM0001341
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Mined Land Repurposing Inspector, Scottie Masters, conducted a partial inspection of permit #1101918 on 03/12/2024. During this inspection, there is no ongoing work on this site currently (equipment, personnel, etc.). There were no violations cited during this inspection and a copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

GENERAL OBLIGATION: The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, "While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events."

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00. NPDES Renewal Application #1010662 was computer processed on 11/09/2020.

MINING 100'-300': There is no mining proposed within 300 feet of an occupied dwelling or within 100 feet of a public road. The operator was previously advised that extreme caution should be used when operating above State Route 603. The operator placed reflective signs and yellow caution ribbon along the outer berm in the areas that have been designated as a "Red Zone" area as part of the approved Ground Control Plan. This plan was approved on May 19, 2005, for this permit that is known as Strip Mine No. 12, Mine Index Number 14587AA. Red Zone areas are stable and there is no current mining.

TOPSOIL: The topsoil-handling plan indicates that native soils, as well as existing mine soils, will be salvaged and placed on regraded areas or stockpiled for later use. Topsoil stockpile areas are denoted on the operations site map.

OTHER: The liability insurance is current through 10/22/2024.

RECLAMATION TAX: Reclamation taxes are current at this time.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

SRM0001395

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		SRM0001395

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
04/16/24	7:00 AM	11:00 AM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACTIVE	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. MP - MINING W/O PERMIT
3. SM - SIGNS AND MARKERS	4. SL - SEALING OF HOLES
5. RT - RECLAMATION TAX	6. AO - AUTHORIZED TO OPERATE
7. OT - OTHER	

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: SRM0001395
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Mined Land Repurposing Inspector, Scottie Masters, conducted a partial inspection of permit #1101918 on 04/16/2024. During this inspection, there is no work ongoing on this site currently (equipment, personnel, etc.). There were no violations cited during this inspection and a copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

GENERAL OBLIGATION: The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, “While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events.”

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00. As of 04/08/2024 NPDES Renewal Application #1011592 is currently in technical review.

MINING W/O PERMIT: This operation has a valid Mined Land Repurposing permit assigned to this site.

SIGNS AND MARKERS: A permit sign showing all required information has been posted at the permit entrance. The permit perimeter has been flagged with ribbon. The operator is reminded to maintain permit signs and markers and keep brush cleared from in-front of the permit signs so they can be clearly seen.

SEALING OF HOLES: The only known underground deep mines located within, or in close proximity to, the amended area (1002129) is a Kelly Seam Deep Mine. Additional details are provided in section 18.1 (MEASURES TO SEAL OR MANAGE OPENINGS) of the approved plans.

OTHER: The liability insurance is current through 10/22/2024.

RECLAMATION TAX: Reclamation taxes are current at this time.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

SRM0001453

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		SRM0001453

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-QUARTERLY COMPLETE	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
05/22/24	7:00 AM	1:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACTIVE	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. SS - SEDIMENT STRUCTURES
9. EF - EFFLUENT	10. WM - WATER MONITORING
11. BZ - BUFFER ZONE	12. BL - BLASTING
13. DS - DISPOSAL OF SPOIL AND WASTE	14. BR - BACKFILLING REGRADING
15. AC - APPROXIMATE ORIGINAL CONTOUR	16. HE - HIGH WALL ELIMINATION
17. AT - ACID AND TOXIC MATERIAL	18. SD - SPOIL DOWNSLOPE
19. RV - REVEGETATION	20. HR - HAUL ROADS
21. RT - RECLAMATION TAX	22. AO - AUTHORIZED TO OPERATE
23. OT - OTHER	

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: SRM0001453
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Mined Land Repurposing Inspector, Scottie Masters, conducted a AVS/Quarterly complete inspection of permit #1101918 on 05/22/2024. There is no work ongoing on this site currently (equipment, personnel, etc.) therefore, no AVS check is required. There were no changes noted from the last inspection. There were no violations cited during this inspection and a copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

GENERAL OBLIGATION:
 Reclamation Compliance Agreement

The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, "While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events."

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00. NPDES Renewal Application #1011591 is currently with the operator.

MINING 100'-300': There is no mining proposed within 300 feet of an occupied dwelling or within 100 feet of a public road. The operator was previously advised that extreme caution should be used when operating above State Route 603. The operator placed reflective signs and yellow caution ribbon along the outer berm in the areas that have been designated as a "Red Zone" area as part of the approved Ground Control Plan. This plan was approved on May 19, 2005, for this permit that is known as Strip Mine No. 12, Mine Index Number 14587AA. Red Zone areas are stable and there is no current mining.

EXCEEDING PERMIT BOUNDARY: No evidence during the inspection that the operator exceeded the permit boundary.

MINING W/O PERMIT: This operation has a valid Mined Land Repurposing permit assigned to this site.

SUBSIDENCE CONTROL: Protected structures overlying proposed auger works include power lines, line towers, and natural gas transmission lines. Any damages to these structures will be repaired as per approved plans. Auguring by highwall mining is approved for the permit for a distance of 500 feet outside the PN1101918 permit boundary near the permit boundary with PN1101800. The mining is depicted in the operations map in revision number 1002129; the approved area is outlined in yellow.

SIGNS AND MARKERS: A permit sign showing all required information has been posted at the permit entrance. The permit perimeter has been flagged with ribbon. The operator is reminded to maintain permit signs and markers and keep brush cleared from in-front of the permit signs so they can be clearly seen.

SEALING OF HOLES: The only known underground deep mines located within, or in close proximity to, the amended area (1002129) is a Kelly Seam Deep Mine. Additional details are provided in section 18.1 (MEASURES TO SEAL OR MANAGE OPENINGS) of the approved plans.

TOPSOIL: The topsoil-handling plan indicates that native soils, as well as existing mine soils, will be salvaged and placed on regraded areas or stockpiled for later use. Topsoil stockpile areas are denoted on the operations site map.

BLASTING: The Blasting Publication Notice is current through 07/07/2024.

DISPOSAL OF SPOIL: Quarterly Fill certifications were submitted on 08/03/23 by Bill Johnson (PE #62233).

MLR Fill #	Company #	Under Construction (Yes/No)	Last Quarterly Cert Date	Completion of Construction Date
F08856	HF-A	Yes	8/03/2023	1/29/2013
F08857	HF-A1	Yes	8/03/2023	1/29/2013
F09003	SHF-B	Yes	8/03/2023	7/08/2005

BACKFILLING / GRADING: Revision application 1002129 states essentially area mining operations are proposed for the permit. A minimum of two (2) production spreads will be worked at this site. A production spread is an individual fleet of equipment capable of overburden removal. One production spread will consist of a loader and truck fleet. The other production spread will consist of at least two (2) D-11 Caterpillar bulldozers or a separate loader and truck fleet. The distance limitation is based upon the following scenario. A 2,800 LFt. backfill ramp constructed on a 10 percent grade, a 300 LFt auger pit, a 300 LFt coal pit, a 300 LFt overburden removal pit and a 300 LFt shot pit or total length of exposed highwall of 4,000 LFt per coal pit being worked. Because each production spread must have two (2) coal pits per spread to efficiently operate, a total of four (4) pits or 16,000 LFt of highwall will be exposed.

Therefore, the distance limitation for rough backfilling and grading operations is 3,400 LFt from the point of coal removal. Because area mining operations were proposed, there is a time limitation of 180 days. The width of any unbackfilled coal pit shall not exceed 300 HFt. or two (2) mining cuts, whichever is less. The maximum amount of exposed highwall, at any point in the operation, shall not exceed 16,000 LFt, if two (2) production spreads are worked. If one (1) production spread is worked, then the exposed highwall limitation will be 8,000 LFt.

Operator has approval to backfill spoil into Backfill Storage Area M on PN1101800 and Backfill Storage Area B. Revision application 1101800/1005097 was approved on 4-29-09 to approve adding backfill to Fill No. 1 (F06897) and change the name to Backfill Storage Area M.

Application no. 1006223 allows Red River Coal Company to backfill approximately 790,000 cubic yards of excess spoil from PN1101760 onto Backfill Storage Area B.

APPROXIMATE ORIGINAL CONTOUR: According to the permit, all highwalls must be eliminated and the area returned to the approximate original contour.

HIGHWALL ELIMINATION: In the permit application, the operator claimed 7,340 feet of pre-existing wall. The permit states all highwalls that will be disturbed must be eliminated and the area returned to the approximate original contour. The operator appears to be reclaiming pre-existing walls as mining progresses.

ACID AND TOXIC MATERIAL: Details concerning acid/ toxic materials are provided in section 15.1 (ACID/ TOXIC MATERIALS) of the approved plans.

SPOIL DOWNSLOPE: No spoil was identified downslope off the permit during the inspection.

REVEGATATION: The proposed post mining land use is wildlife enhancement. This is part of the mitigation plan for loss of stream habitat. Sediment ponds and berms have been reseeded and mulched. The approved application outlines Forest Reclamation Approach (FRA) practices that will be applied during regrading and revegetation. During 2006, the operator planted trees on the regraded areas between Ponds 7A and 8 and also on the graded slopes above Pond A. The success rate of this tree planting activity should be monitored. It appears that Locust, Oak, and Pine are the species predominately planted in these areas. Locust and Oak are doing well on slope above Haulroad E.

During the 5-5-2011 inspection it was noted that an area had been hydro-seeded, upslope from HR-E between Pond B1 and B1A. It was noted during the 4-10-2012 inspection, that the operator had planted tree seedlings in this area.

It appears that the vegetation in the areas of Storage Area B and areas above SHF-B is progressing well.

HAULROADS: In application 1007056, the operator upgraded the primary haulroads on the permit. There are currently 5 permanent haulroads on the permit. Haulroad D is the only external haulroad. Subsequent haulroad construction certification was provided by Mark S. Wooten, P. E. #14992, dated 4-26-2011; for haulroads D, E, F, G, and H.

Haulroads G and most of E were being utilized as access to fuel storage tank and powder bins. Haulroad H had been used to access Storage Area B. The operator should monitor ditching and sumps DS-6E, DS-7E, and DS-8E on Haulroad E.

Prior to idling production activities, the operator was required to add a new red zone area located at the active pit closest to Dunbar. The operator is reminded that prior to reactivation of the mine site, the operator and mine personnel will need to familiarize themselves with this area. The operator will also need to display the proper red zone markers at this specified location.

OTHER: The liability insurance is current through 10/22/2024.

THREATENED AND ENDANGERED SPECIES:

A number of on-site assessments have been performed throughout the life of the permit. No T&E species or their critical habitats have been identified. This permit is in the Powell River drainage, a number of species and habitats are listed on the VA FWIS report within this drainage. This permit has been assembled to adequately protect downstream resources. A combination of sediment control, backfilling and grading, revegetation, and monthly/annual monitoring has been included that will protect downstream resources.

Probable Biological Consequences:

No impact to downstream biota is anticipated. An analysis of biomonitoring data will continue as well as best management practices to comply with the TMDL. Prompt revegetation and following the approved backfilling and regrading plan, mitigation plan, and sediment control plan will provide benefits for the aquatic and terrestrial habitats in the long-term.

No impacts to fish and overall stream ecology are expected as a result of the renewal of this application.

Vegetation has been established on much of the permit and the backfilling and grading of pre-law highwall should only enhance the upland corridors. The mitigation plan and sediment control plan will ensure that stream ecology is protected and improved after mining is completed. While mining is on-going, best management practices are being implemented per 4VAC25-130-780.16(b)(3).

RECLAMATION TAX: Reclamation taxes are current at this time.

NPDES INSPECTION COMPONENTS CHECKED – SS, EF, & WM:

SEDIMENT STRUCTURES: Ponds A, B, B1, B1A, B2, 7, 7A, and 8 have been constructed. Construction Certification for Pond "A" was certified by Mark S. Wooten, P.E. No. 14992, on 2-11-05. Construction Certification for Pond "B" was certified by Mark S. Wooten, No. 14992 on 2-03-05. Construction Certification for Pond B1 (application no. 1004079) was performed by Mark S. Wooten, No. 14992 on 1-27-09. Construction certification for Pond B1A was performed by Mark S. Wooten, No. 14992 on 7-28-09. Construction certification for Pond B2 was by Mark S. Wooten, No. 14992 on 5-10-06. The Construction certifications for Pond 7A and 8 were certified on 12-7-04 by Mark S. Wooten, No. 14992. The areas where ponds 7A and 8 were constructed were surface mined just prior to their construction. These ponds were constructed as soon as operations allowed. The Certification for Pond 7 was previously certified on 8-3-01 by Mark S. Wooten, No. 14992, as part of PN 1101655. The operator submitted a written request, dated 9-1-05, to delete Pond Z (MPID # 1670032) and its associated outfall point from the monitoring of this permit. All drainage from this area is controlled by Pond B. (The operator had previously submitted an application (#1002129) to amend additional acreage and to relocate the pond ("B") from the Imboden Mine Bench down to

the area of the confluence of Cane Patch Creek and Sargent Hollow. This revision was approved on November 5, 2004.

Storage capacity for ponds A, B, B1, B1A, B2, 7, 7A, and 8 appeared adequate during this inspection. Operator should monitor Pond 7 and Pond B2 for capacity. These ponds are covered in cattails; therefore, making capacity hard to determine. Pond 7A is in series with Pond 7 and a majority of the drainage area is vegetated.

Pond 003, located on PN1101554, and Ponds 1, 4, 4A, 4B, 4E, and 4F, located on PN1101800, also control drainage on this permit.

Bill Johnson (PE #62233) submitted the annual Pond Certifications on 09/23/2023.

EFFLUENT: All discharges will pass through approved sediment control structures prior to leaving the permit area. These discharging pond(s) were checked with a field HACH kit. No effluent problems were noted on this permit during this inspection. There are no outfalls being chemically treated at this time.

Please see the following results below:

MPID	FACILITY	DISCHARGE	GPM	pH	Mn	Fe
0005433	Pond A	Yes	25	8.0	<0.5	No Trace
0005578	Pond B	Yes	100	8.0	<0.5	No Trace
0005709	Pond B2	No				
0004101	Pond 7	No				
0004102	Pond 8	No				

WATER MONITORING: The operator is reminded to follow the monitoring program in accordance with the approved plans.

"Biological monitoring and ambient instream chemistry will continue to be conducted annually in the fall (September 1 – November 30) per current VDMLR policies. Results must be submitted to MLR no later than March 1 of the year following collection."



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

SRM0001475

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		SRM0001475

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
06/04/24	7:00 AM	10:00 AM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACTIVE	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. SC - SUBSIDENCE CONTROL
3. HE - HIGH WALL ELIMINATION	4. RT - RECLAMATION TAX
5. AO - AUTHORIZED TO OPERATE	6. OT - OTHER

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: SRM0001475
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Mined Land Repurposing Inspector, Scottie Masters, conducted a partial inspection of permit #1101918 on 06/04/2024. During this inspection, there is no work ongoing on this site currently (equipment, personnel, etc.). There were no violations cited during this inspection and a copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

GENERAL OBLIGATION: The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, "While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events."

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00. As of 04/08/2024 NPDES Renewal Application #1011592 is currently in technical review.

MINING 100'-300': There is no mining proposed within 300 feet of an occupied dwelling or within 100 feet of a public road. The operator was previously advised that extreme caution should be used when operating above State Route 603. The operator placed reflective signs and yellow caution ribbon along the outer berm in the areas that have been designated as a "Red Zone" area as part of the approved Ground Control Plan. This plan was approved on May 19, 2005, for this permit that is known as Strip Mine No. 12, Mine Index Number 14587AA. Red Zone areas are stable and there is no current mining.

SUBSIDENCE CONTROL: Protected structures overlying proposed auger works include power lines, line towers, and natural gas transmission lines. Any damages to these structures will be repaired as per approved plans. Auguring by highwall mining is approved for the permit for a distance of 500 feet outside the PN1101918 permit boundary near the permit boundary with PN1101800. The mining is depicted in the operations map in revision number 1002129; the approved area is outlined in yellow.

HIGHWALL ELIMINATION: In the permit application, the operator claimed 7,340 feet of pre-existing wall. The permit states all highwalls that will be disturbed must be eliminated and the area returned to the approximate original contour. The operator appears to be reclaiming pre-existing walls as mining progresses.

OTHER: The liability insurance is current through 10/22/2024.

RECLAMATION TAX: Reclamation taxes are current at this time.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

COPY: 0261692

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		0261692 (SRM0001574)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	NOV TERMIN

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
08/06/24	06:00 AM	11:00 AM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. SM - SIGNS AND MARKERS 3. RT - RECLAMATION TAX 5. OT - OTHER	2. SD - SPOIL DOWNSLOPE 4. AO - AUTHORIZED TO OPERATE

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: 0261692
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Mined Land Repurposing Inspector, Scottie Masters, conducted a partial inspection of permit #1101918 on 08/06/2024. There is no work ongoing on this site currently (equipment, personnel, etc.). During this inspection, one NOV was terminated. Please see Authorization to Operate below for further details. If there are any questions concerning this report, please contact this inspector.

GENERAL OBLIGATION: The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, "While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events."

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is pool bonded in the amount of \$2,220,000.00.

Note: On 07/29/2024 The operator resubmitted NPDES Renewal Application #1011591 back to the Mined Land Repurposing office. Therefore, NOV SRM0001542, violation 1 of 1 is being terminated.

SIGNS AND MARKERS: All signs and markers are in place at the entrance to this permit. The operator has recently cleared the brush and debris from the front of the signage making them clearly visible from the state right-of-way.

SPOIL DOWNSLOPE: There was no indication of any spoil being downslope during this inspection.

OTHER: The liability insurance is current through 10/22/2024.

RECLAMATION TAX: The reclamation taxes are current at this time.



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

SRM0001686

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101918		SRM0001686

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-QUARTERLY COMPLETE	NOV TERMIN

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
10/08/24	7:00 AM	3:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
751.86	699.50	343.11	93.59	737.50

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	1.1 MILES SE OF ROARING FORK ON CANEPATCH CREEK

INSPECTION BY	COPY OF REPORT
SCOTTIE MASTERS	Mailed - Emailed to Justice Corp.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. SS - SEDIMENT STRUCTURES
9. EF - EFFLUENT	10. WM - WATER MONITORING
11. BZ - BUFFER ZONE	12. BL - BLASTING
13. DS - DISPOSAL OF SPOIL AND WASTE	14. BR - BACKFILLING REGRADING
15. AC - APPROXIMATE ORIGINAL CONTOUR	16. HE - HIGH WALL ELIMINATION
17. AT - ACID AND TOXIC MATERIAL	18. SD - SPOIL DOWNSLOPE
19. RV - REVEGETATION	20. HR - HAUL ROADS
21. RT - RECLAMATION TAX	22. AO - AUTHORIZED TO OPERATE
23. OT - OTHER	

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:

COMMENTS :	PERMIT: 1101918	REPORT: SRM0001686
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Mined Land Repurposing Inspector, Scottie Masters, conducted an AVS/Quarterly complete inspection of permit #1101918 on 10/08/2024. There is no work ongoing on this site currently (equipment, personnel, etc.). therefore, no AVS check is required. **During this inspection, one NOV was terminated.** Please see Authorization to Operate below for further details. If there are any questions concerning this report, please contact this inspector.

GENERAL OBLIGATION:
 Reclamation Compliance Agreement

The Reclamation Compliance Agreement that was executed on 07/17/23 states that Reclamation of Permit # 1101918 is ongoing and shall be completed by 07/01/2024. Section III, # 3 of the Reclamation Compliance Agreement that was executed on 07/17/23, states: "This Agreement does not apply to the required maintenance and monitoring that the Justice Companies must continue to conduct on each permit as set forth in the respective permit's approved plans."

According to paragraph H of the compliance agreement it states, "While these reclamation projects are being worked on, the Maintenance Unit will be used to ensure maintenance is conducted on the Southern Coal permits such as cleaning ditches, ponds, fixing drainage/stability problems that arise due to weather related events."

SMRCA PERFORMANCE STANDARDS CHECKED THIS INSPECTION:

AUTHORIZATION TO OPERATE: This permit consists of 751.86 acres. Of those, 737.50 is bonded in the amount of \$2,220,000.00.

NPDES Renewal Application 1011591 was sent to the operator on 07/31/2024 with a corrections resubmittal deadline of 08/14/2024. The operator had failed to submit the corrections back to the Mined Land Repurposing Office by the required deadline. Therefore, NOV SRM0001629, violation 1 of 1 under performance code AO was issued. This NOV was issued an abatement date of 10/07/2024.

Note: On 09/23/2024 The operator resubmitted NPDES Renewal Application #1011591 back to the Mined Land Repurposing Office and it is currently in technical review. Therefore, NOV SRM0001629, violation 1 of 1 is being terminated.

MINING 100'-300': There is no mining proposed within 300 feet of an occupied dwelling or within 100 feet of a public road. The operator was previously advised that extreme caution should be used when operating above State Route 603. The operator placed reflective signs and yellow caution ribbon along the outer berm in the areas that have been designated as a "Red Zone" area as part of the approved Ground Control Plan. This plan was approved on May 19, 2005, for this permit that is known as Strip Mine No. 12, Mine Index Number 14587AA. Red Zone areas are stable and there is no current mining.

EXCEEDING PERMIT BOUNDARY: No evidence during the inspection that the operator exceeded the permit boundary.

MINING W/O PERMIT: This operation has a valid Mined Land Repurposing permit assigned to this site.

SUBSIDENCE CONTROL: Protected structures overlying proposed auger works include power lines, line towers, and natural gas transmission lines. Any damages to these structures will be repaired as per approved plans. Auguring by highwall mining is approved for the permit for a distance of 500 feet outside the PN1101918 permit boundary near the permit boundary with PN1101800. The mining is depicted in the operations map in revision number 1002129; the approved area is outlined in yellow.

SIGNS AND MARKERS: A permit sign showing all required information has been posted at the permit entrance. The operator has recently cleared all brush from the signs making them clearly seen from the state right-of-way.

SEALING OF HOLES: The only known underground deep mines located within, or in close proximity to, the amended area (1002129) is a Kelly Seam Deep Mine. Additional details are provided in section 18.1 (MEASURES TO SEAL OR MANAGE OPENINGS) of the approved plans.

TOPSOIL: The topsoil-handling plan indicates that native soils, as well as existing mine soils, will be salvaged and placed on regraded areas or stockpiled for later use. Topsoil stockpile areas are denoted on the operations site map.

BLASTING: The Blasting Publication Notice is current through 07/07/2024.

DISPOSAL OF SPOIL: Quarterly Fill certifications were submitted on 08/03/23 by Bill Johnson (PE #62233).

MLR Fill #	Company #	Under Construction (Yes/No)	Last Quarterly Cert Date	Completion of Construction Date
F08856	HF-A	Yes	8/03/2023	1/29/2013
F08857	HF-A1	Yes	8/03/2023	1/29/2013
F09003	SHF-B	Yes	8/03/2023	7/08/2005

BACKFILLING / GRADING: Revision application 1002129 states essentially area mining operations are proposed for the permit. A minimum of two (2) production spreads will be worked at this site. A production spread is an individual fleet of equipment capable of overburden removal. One production spread will consist of a loader and truck fleet. The other production spread will consist of at least two (2) D-11 Caterpillar bulldozers or a separate loader and truck fleet. The distance limitation is based upon the following scenario. A 2,800 LFt. backfill ramp constructed on a 10 percent grade, a 300 LFt auger pit, a 300 LFt coal pit, a 300 LFt overburden removal pit and a 300 LFt shot pit or total length of exposed highwall of 4,000 LFt per coal pit being worked. Because each production spread must have two (2) coal pits per spread to efficiently operate, a total of four (4) pits or 16,000 LFt of highwall will be exposed.

Therefore, the distance limitation for rough backfilling and grading operations is 3,400 LFt from the point of coal removal. Because area mining operations were proposed, there is a time limitation of 180 days. The width of any unbackfilled coal pit shall not exceed 300 HFt. or two (2) mining cuts, whichever is less. The maximum amount of exposed highwall, at any point in the operation, shall not exceed 16,000 LFt, if two (2) production spreads are worked. If one (1) production spread is worked, then the exposed highwall limitation will be 8,000 LFt.

Operator has approval to backfill spoil into Backfill Storage Area M on PN1101800 and Backfill Storage Area B. Revision application 1101800/1005097 was approved on 4-29-09 to approve adding backfill to Fill No. 1 (F06897) and change the name to Backfill Storage Area M.

Application no. 1006223 allows Red River Coal Company to backfill approximately 790,000 cubic yards of excess spoil from PN1101760 onto Backfill Storage Area B.

APPROXIMATE ORIGINAL CONTOUR: According to the permit, all highwalls must be eliminated and the area returned to the approximate original contour.

HIGHWALL ELIMINATION: In the permit application, the operator claimed 7,340 feet of pre-existing wall. The permit states all highwalls that will be disturbed must be eliminated and the area returned to the approximate original contour. The operator appears to be reclaiming pre-existing walls as mining progresses.

ACID AND TOXIC MATERIAL: Details concerning acid/ toxic materials are provided in section 15.1 (ACID/ TOXIC MATERIALS) of the approved plans.

SPOIL DOWNSLOPE: No spoil was identified downslope off the permit during the inspection.

REVEGATATION: The proposed post mining land use is wildlife enhancement. This is part of the mitigation plan for loss of stream habitat. Sediment ponds and berms have been reseeded and mulched. The approved application outlines Forest Reclamation Approach (FRA) practices that will be applied during regrading and revegetation. During 2006, the operator planted trees on the regraded areas between Ponds 7A and 8 and also on the graded slopes above Pond A. The success rate of this tree planting activity should be monitored. It appears that Locust, Oak, and Pine are the species predominately planted in these areas. Locust and Oak are doing well on slope above Haulroad E.

During the 5-5-2011 inspection it was noted that an area had been hydro-seeded, upslope from HR-E between Pond B1 and B1A. It was noted during the 4-10-2012 inspection, that the operator had planted tree seedlings in this area.

It appears that the vegetation in the areas of Storage Area B and areas above SHF-B is progressing well.

HAULROADS: In application 1007056, the operator upgraded the primary haulroads on the permit. There are currently 5 permanent haulroads on the permit. Haulroad D is the only external haulroad. Subsequent haulroad construction certification was provided by Mark S. Wooten, P. E. #14992, dated 4-26-2011; for haulroads D, E, F, G, and H.

Haulroads G and most of E were being utilized as access to fuel storage tank and powder bins. Haulroad H had been used to access Storage Area B. The operator should monitor ditching and sumps DS-6E, DS-7E, and DS-8E on Haulroad E.

Prior to idling production activities, the operator was required to add a new red zone area located at the active pit closest to Dunbar. The operator is reminded that prior to reactivation of the mine site, the operator and mine personnel will need to familiarize themselves with this area. The operator will also need to display the proper red zone markers at this specified location.

OTHER: The liability insurance is current through 10/22/2024.

THREATENED AND ENDANGERED SPECIES:

A number of on-site assessments have been performed throughout the life of the permit. No T&E species or their critical habitats have been identified. This permit is in the Powell River drainage, a number of species and habitats are listed on the VA FWIS report within this drainage. This permit has been assembled to adequately protect downstream resources. A combination of sediment control, backfilling and grading, revegetation, and monthly/annual monitoring has been included that will protect downstream resources.

Probable Biological Consequences:

No impact to downstream biota is anticipated. An analysis of biomonitoring data will continue as well as best management practices to comply with the TMDL. Prompt revegetation and following the approved backfilling and regrading plan, mitigation plan, and sediment control plan will provide benefits for the aquatic and terrestrial habitats in the long-term.

No impacts to fish and overall stream ecology are expected as a result of the renewal of this application.

Vegetation has been established on much of the permit and the backfilling and grading of pre-law highwall should only enhance the upland corridors. The mitigation plan and sediment control plan will ensure that stream ecology is protected and improved after mining is completed. While mining is on-going, best management practices are being implemented per 4VAC25-130-780.16(b)(3).

RECLAMATION TAX: Reclamation taxes are current at this time.

NPDES INSPECTION COMPONENTS CHECKED – SS, EF, & WM:

SEDIMENT STRUCTURES: Ponds A, B, B1, B1A, B2, 7, 7A, and 8 have been constructed. Construction Certification for Pond "A" was certified by Mark S. Wooten, P.E. No. 14992, on 2-11-05. Construction Certification for Pond "B" was certified by Mark S. Wooten, No. 14992 on 2-03-05. Construction Certification for Pond B1 (application no. 1004079) was performed by Mark S. Wooten, No. 14992 on 1-27-09. Construction certification for Pond B1A was performed by Mark S. Wooten, No. 14992 on 7-28-09. Construction certification for Pond B2 was by Mark S. Wooten, No. 14992 on 5-10-06. The Construction certifications for Pond 7A and 8 were certified on 12-7-04 by Mark S. Wooten, No. 14992. The areas where ponds 7A and 8 were constructed were surface mined just prior to their construction. These ponds were constructed as soon as operations allowed. The Certification for Pond 7 was previously certified on 8-3-01 by

Mark S. Wooten, No. 14992, as part of PN 1101655. The operator submitted a written request, dated 9-1-05, to delete Pond Z (MPID # 1670032) and its associated outfall point from the monitoring of this permit. All drainage from this area is controlled by Pond B. (The operator had previously submitted an application (#1002129) to amend additional acreage and to relocate the pond ("B") from the Imboden Mine Bench down to the area of the confluence of Cane Patch Creek and Sargent Hollow. This revision was approved on November 5, 2004.

Storage capacity for ponds A, B, B1, B1A, B2, 7, 7A, and 8 appeared adequate during this inspection. Operator should monitor Pond 7 and Pond B2 for capacity. These ponds are covered in cattails; therefore, making capacity hard to determine. Pond 7A is in series with Pond 7 and a majority of the drainage area is vegetated.

Pond 003, located on PN1101554, and Ponds 1, 4, 4A, 4B, 4E, and 4F, located on PN1101800, also control drainage on this permit.

Bill Johnson (PE #62233) submitted the annual Pond Certifications on 09/23/2023.

EFFLUENT: All discharges will pass through approved sediment control structures prior to leaving the permit area. These discharging pond(s) were checked with a field HACH kit. No effluent problems were noted on this permit during this inspection. There are no outfalls being chemically treated at this time.

Please see the following results below:

MPID	FACILITY	DISCHARGE	GPM	pH	Mn	Fe
0005433	Pond A	Yes	10	8.0	<0.5	No Trace
0005578	Pond B	Yes	400	8.0	<0.5	No Trace
0005709	Pond B2	No				
0004101	Pond 7	No				
0004102	Pond 8	No				

WATER MONITORING: The operator is reminded to follow the monitoring program in accordance with the approved plans.

"Biological monitoring and ambient instream chemistry will continue to be conducted annually in the fall (September 1 – November 30) per current VDMLR policies. Results must be submitted to MLR no later than March 1 of the year following collection."

Appendix C



COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF ENERGY
 MINED LAND REPURPOSING
 3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8198

BLG0000577

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101914		BLG0000577

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL Red Zone w/DM	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
2/29/2024	10:00 AM	12:30 PM	FAIR
3/4/2024	1:30 PM	5:30 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
2,777.92	2,031.50	994.78	571.99	2,029.36

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	0.5 MILES W OF RODA ON BLACK MOUNTAIN

INSPECTION BY	COPY OF REPORT
Bruce Gardner	Mailed - Justice Corp

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. SM - SIGNS AND MARKERS	2. AC - APPROXIMATE ORIGINAL CONTOUR
3. HE - HIGH WALL ELIMINATION	4. RT - RECLAMATION TAX

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	
1. BR - BACKFILLING REGRADING	2. AO - AUTHORIZED TO OPERATE
3. OT - OTHER	

COMMENTS :	PERMIT: 1101914	REPORT: BLG0000577
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Mined Land Repurposing Inspector, Leonard Gardner, performed a partial inspection of this permit on 02/29/2024 and 03/04/2024. There was one A&G company representative, James Sexton, on the permit during this inspection. Mr. Sexton was informed that an inspection was being conducted. It was noted that the two Caterpillar 777D haulers, a Caterpillar articulating hauler, and one 992G loader remain staged at the stockpile area on McHenry Fork. There is one Caterpillar 336F excavator located at the Road Spur pit area. No work is currently taking place on the permit due to a lack of fuel.

This surface operation has two Red Zone areas, and this inspection was coordinated with the Coal Mine Safety division. Inspector Gardner and Coal Mine Safety Inspector, Kenneth Webb conducted a joint review of the approved ground control plan and red zones during the 02/29/2024 site visit. For further details, see the "Red Zone" portion of the "Signs and Markers" section of this inspection.

Mr. Sexton informed the inspectors that the plan is to highwall mine the High Splint Coal Seam, then backfill the open pit to the level of overlying seams to highwall mine these. During the previous week, a small amount of material has been removed from the pit area to expose coal for highwall mining operations. This material has been transported south of the pit area and deposited on the #13 Coal Seam bench to be used to cover exposed highwall in that area. For further details, see the "Backfilling and Regrading" section of this inspection.

There were no violations cited by the MLR Department during this inspection and a copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.



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BLG0000577

INSPECTION

See July 2023 Compliance Agreement notes at the end of this Inspection Report.

GENERAL OBLIGATIONS:

- o CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.
- o CSMO/NPDES Renewal Application #1010341 placed in Item Status on 10/17/2019. The above application remains in this status at this time.
- o CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.
- o Anniversary fees are due pending the approval of CSMO/NPDES Renewal Application #1010341.
- o Succession Application #1001763 from Permit #1101854 was approved on 06/08/2004.

Details Concerning NOV JBC0002026 and FTA/CO JBC0002051:

The operator had been notified by email that the Anniversary Report for A & G Coal Corporation (Permit #1101914), had been approved pending payment of Anniversary Fees and NPDES Outfall Fees. Anniversary Fees in the amount of \$26,416.00 and NPDES fees in the amount of \$2,400.00 were due in the DMLR Office by 03/30/2021 (Anniversary Report Form #1910). It was noted during the 06/28/2021 inspection that the operator had failed to submit the required Anniversary Fees. As a result, Notice of Violation #JBC0002026, Violation 1 of 1, under performance code AO was issued. This violation was issued an abatement date of 07/08/2021.

As of the 07/09/2021 inspection, the operator had failed to abate the above-mentioned violation. (NOV JBC0002026). Therefore, Failure to Abate Cessation Order (FTA/CO) JBC0002051 was issued.

As of the current inspection, these fees are yet to have been paid.

SMRCA PERFORMANCE STANDARDS CHECKED DURING THIS INSPECTION:

AUTHORIZATION TO OPERATE:

MSHA ID #44-06544
 State Mine Index #14617, #14634, #14935AA, #14817AA, & #14818AA

Bonding:

Permit consists of 2,777.92 acres, with 19.65 released, 2031.50 acres disturbed, 994.78 acres regraded, and 571.99 reclaimed. 2029.36 acres of the permit are pool bonded in the total amount of \$5,145,000.00.

Unbonded Areas:

Bond Increment #2 is and undisturbed area. Bond must be posted on this increment should operations progress into its boundaries.

Bond Reductions:

Application #1005666, reducing the bond amount on Increment #4 by \$894,000.00, was approved on 03/17/2009. There are no bond reductions currently pending.

This permit is incrementally bonded. See chart below for details:

Increment #	Bonded (Yes or No)	Acreage	Current Amount Per Acre	Is Amount Shown A Reduction (Yes or No)
#1	Yes	1461.36 ac.	\$3,000.00/ac.	No
#2	No	755.13 ac.	N/A	N/A
#3	Yes	43.0 ac.	\$3,000.00/ac.	No
#4	Yes	525.0 ac.	\$1,200.00/ac.	Yes



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BLG0000577

INSPECTION

Details Concerning NOV CEV0009273 and FTA/CO KXC0008977:

The permittee has not replaced the self-bond for this permit with an acceptable surety or collateral performance bond by 08/08/2014, as required by the Division's letter of 06/26/2014 (certified mail #7013 1090 0001 0523 0138).

The permittee shall submit an acceptable surety or collateral performance bond as required by 4 VAC 25-130-800.12(a) and 4 VAC 25-130-800.12(b) to the Division by the set abatement date. The permittee shall immediately cease all coal extraction operations until it has replaced the self-bond as required herein; however, it shall continue the required reclamation, maintenance, and monitoring operations under the approved detailed plans.

The operator has failed to comply with NOV CEV0009273 that directed the operator to replace the self-bond on this permit by the established abatement date of 11/13/2014.

Details Concerning NOV CEV0010710 and FTA/CO CEV0010751:

Revision Application #1009100 to provide a cost estimate for extending the Temporary Cessation period on CSMO #1101914 was approved by DMLR on 06/03/2016. There are no surface mining operations being conducted on this permit at this time and there hasn't been any mining conducted in excess of six months. The operator failed to submit to DMLR the required bond equal to the total estimated cost of reclamation as specified in Section 19.1 of Revision Application #1009100. NOV #CEV0010710 required submittal of this bond by 03/15/2018. The bond has still not been submitted to DMLR as required by the abatement date of the NOV. As a result, a Failure to Abate Cessation Order is being issued for failure to comply with the NOV by the set abatement date.

The operator is hereby instructed to comply with all remedial measures required by Notice of Violation #CEV0010710 violation #1 of 1 for the performance standard code of OT.

Liability Insurance:

The liability insurance policy is current through 10/22/2024.

AVS:

A&G Coal Corporation is the permittee, effective 06/19/2003. All reclamation and mining operations are assumed by this permittee.

Virginia Fuel Corporation was listed as a contractor on this permit on 07/10/2015.

The ownership and control information contained in the permit application is consistent with field investigation results and is in compliance with the requirements of the AVS/MOU.

SIGNS AND MARKERS:

Permit Signs:

Permit identification signs containing all the required information have been posted at the multiple job entrances.

Blasting Signs:

Blasting warning signs have been posted. This signage contains all the required information concerning the use of explosives.

There are two red zone areas on the permit:

Red Zone A: In past inspections, it has been noted that the red zone area was marked using yellow "caution" flagging above the Inmet North Fork #6 Deep Mine in the Low Splint C/D seam. The operator has constructed at least two protective berm areas above that flagged area.

Red Zone B: This area is located above State Route 160 and has reflective "Red Zone" signs and a berm to caution that the public road runs below the site.



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BLG0000577

INSPECTION

Conditions during the inspection:

It was noted during the inspection that no work was being conducted in the Red Zone areas. Both Red Zones were found to be in compliance during this inspection. Berms remain in place, and Red Zone signs are posted in Red Zone B, above State Route 160.

BACKFILLING AND REGRADING:

History:

Three major permitting actions have addressed the timing of rough backfilling and grading operations, i.e., time, distance, total cumulative amount of exposed highwall, and point of measurement. Maxim Engineering, Inc. addressed backfilling and grading operations in Application #1002027, the original application prepared for Pinnacle Resources, LLC. D.R. Allen & Associates address backfilling and grading operations in applications #1002192 and #1002952, which were significant acreage amendments. The following backfilling and grading operations limitations were approved by DMLR. All limitations were based on the number of spreads of equipment worked on the site. The limitations are summarized as follows:

Application #1002027 - Lick Branch/McHenry Fork	
Class:	Contour Mining
Time:	180 days following coal removal in the lowest seam to be mined
Distance:	2,000 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	8,000 LFt. (4,000 LFt./Spread x 2 Spreads)
PW:	Not proposed

Application #1002192 - Lick Branch/McHenry Fork	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	2,600 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	12,800 LFt. (3,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Application #1002952- Preacher Creek	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	4,600 LFt./pit; based on final highwall; at lowest seam; (400 Vft.)
Exposed Highwall:	20,800 LFt. (5,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Permit Application #1001763 states that disturbed areas will be backfilled and regraded in accordance with 4 VAC 25-130-816.100, 816.102, 816.106, and 816.107. All highwalls will be eliminated. The regraded site will reasonably conform to the post-mining configuration shown on the cross-sections to achieve the approximate original contour.

There are pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outcrops and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.



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INSPECTION

On 06/14/2007, Revision Application #1004305 was approved to clarify the contemporaneous reclamation limitations for this permit. Contemporaneous reclamation limitations have been set for each mining scenario. Exposed highwall limitations are based on the lowest seam mined at the final highwall and include the production area. Time and pit width limitations are based on the lowest seam mined, regardless of interim or final highwall. Distance limitations are based on the lowest coal seam to be mined at the final highwall. The reclamation plans approved in revision application #1004305 allow for a total highwall distance of 37,600'. Extended time of 180 days for each mining scenario was also approved in this revision.

Details Concerning NOV #CEV0008882 and FTA/CO #CEV0008995:

On 04/08/2013, this permit was placed in Temporary Cessation for a period of six months until 10/05/2013. The temporary cessation consisted of three main areas as designated by the Temporary Cessation Map. The temporary cessation expired for all three areas. There were not any spreads of mining equipment on this permit to resume mining/reclamation operations. In addition, the operator did not submit and obtain approval of a permit revision (within the six-month time frame) which addressed the estimated cost of reclamation and post the required bond equal to the total estimated cost of reclamation with the DMLR Office. As a result, contemporaneous reclamation was not current on this permit. Notice of Violation #CEV0008882 was issued 10/16/2013 instructing the operator to take all necessary measures so as to bring backfilling and regrading to a current status in accordance with the approved detailed plans and all applicable regulations. Time for abatement was 01/14/2014. There had not been any production/reclamation equipment moved on to this site to accomplish the required reclamation. There had not been any reclamation work conducted on this site since the issuance of this NOV. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0008995 was issued 01/15/2014 for failure to comply with the remedial measures stipulated in NOV #CEV0008882 by the set abatement date. The operator was reminded that a FTA/CO is assessed civil penalties at a minimum \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture.

Conditions During the Inspection:

It was observed during the inspection that a small amount of backfill material has been transported to the #13 Coal Seam bench from the Road Spur pit area. Approximately eighteen articulating hauler loads have been stacked in two areas along the bench.

APPROXIMATE ORIGINAL CONTOUR:

This permit is required to be backfilled to Approximate Original Contour. There are no AOC variances approved.

HIGHWALL ELIMINATION:

There were pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community. Aside from a portion of the Upper Parsons Bench that lies north of McHenry Fork, used for pond construction and access, these areas have all been disturbed during this mining operation, and are required to be eliminated.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outcrops and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.

As of this inspection, there are multiple areas with substantial highwalls.

Roda Pit – This area lies on the spur of Black Mountain between Lick Branch and McHenry Fork. The highwall is approximately 3,000 LFt. in length, and approximately 120 VFt. in height at its apex.

Road Spur Pit – This area lies on Road Spur between McHenry Fork and Preacher Creek. The highwall is approximately 1,200 LFt. in length, and approximately 100 VFt. in height at its apex.



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High Splint, Seam #13, Seam #14 Walls – This area runs for approximately 9,200 LFt. at varying heights and elevations above the internal road from 36°55'42.62"N/082°51'16.54"W to 36°57'08.21"N/082°51'13.88"W, where the Road Spur Pit area begins.

There have not been any highwall elimination operations on this permit for an extended period of time.

RECLAMATION TAX:

No mining is being conducted at this time; therefore, no taxes are due to the reclamation fund.

OTHER:

Renewals:

CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.
CSMO/NPDES Renewal Application #1010341 placed in Item Status on 10/17/2019.
The above application remains in this status at this time.
CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.

Anniversary Reports:

Anniversary fees were due to the MLR Office 03/30/2021.
These fees are due pending the approval of the next CSMO/NPDES Renewal.

Midterm Reviews:

The last Midterm Review was completed on 01/17/2012.
The next Midterm Review will be completed after the approval of CSMO/NPDES Renewal Application #1010341; thirty months after the following CSMO/NPDES Renewal date.

HISTORY/CARRY FORWARD INFORMATION:

- The original CSMO/NPDES Application #1000238 was issued to Pinnacle Resources, LLC (Permit #1101854) on 06/19/2003.
- Pinnacle Resources, LLC (Permit #1101854) transferred to A & G Coal Corporation (Permit #1101914). Succession Application #1001763 was approved on 06/28/2004.

JULY 2023 COMPLIANCE AGREEMENT NOTES:

On 07/18/2023, The Virginia Department of Energy's Mined Land Repurposing Office (MLR) and Justice Companies entered into a compliance agreement. The Compliance Agreement was signed by MLR Director of Coal Programs, M. Randy Moore, and Justice Companies President, James C. Justice III on 07/18/2023. This Compliance Agreement became effective on 0717/2023. Justice Companies affected by this Compliance Agreement are as follows:

- A & G Coal Corporation
- Virginia Fuel Corporation
- Chestnut Land Holdings, L.L.C.
- Justice Low Seam Mining, Inc.
- Meg-Lynn Land Company. Inc.
- Black River Coal, L.L.C.
- Baden Reclamation Company, Inc.
- Southern Coal Corporation, Inc



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Various agreements between the Justice Companies (including but not limited to those listed the above) have expired milestones or will expire within the next twelve months of this effective date of this agreement. The 2014 Compliance Agreement (including its amendments and addendums) is fully replaced by this present agreement; and all terms, conditions, and obligations created by the 2014 Compliance Agreement (including its amendments and addendums) will be considered null and void and the July 2023 Compliance Agreement will now be considered an all-inclusive intelligible Agreement.

The purpose of this agreement is:

- i. To allow the Justice Companies to address certain reclamation deadlines in exchange for certain stipulations, agreements, and other terms that constitute valuable consideration.
- ii. To link together the Justice Companies reclamation obligations under each of the permits listed in this agreement, such that a failure to complete any reclamation obligation under any permit shall give Virginia Energy or MLR the right to seek permit revocation(s) or performance bond forfeiture(s) under any other permit listed in this agreement.

The Justice Companies agree that the failure to comply with any of the terms, conditions, or obligations of this Agreement may result in the suspension/revocation of permit(s) and/or forfeiture of any performance bonds associated with those permits. It is the Justice Companies' intent and purpose to enter into this agreement to address the outstanding reclamation obligations.

Pursuant to the Compliance Agreement, the Justice Company has agreed to commence Backfill/Regrade and other reclamation-related activities on A & G Coal Corporation's Permit #1101914, on or before 01/01/2024. These activities are to be completed by 12/31/2025.

Seeding and Tree Planting:

As regrading has been completed on each of these permits. seeding and tree planting must take place in the first normal period for favorable tree planting conditions per 4 VAC 25-130-816.113. In addition, at least one previously regraded permit will have trees planted during the first favorable planting season which must include ground cover seeding.

Failure to comply with the Seeding and Tree Planting requirements, may result in a penalty up to \$10,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

Equipment:

Justice Companies shall maintain sufficient resources in equipment, personnel, and materials to include but not limited to fuel, oil, and equipment parts to meet the terms of this Agreement and to immediately communicate in writing with MLR (to the attention of Program Director) regarding any deviation(s) from the agreed schedule and/or conditions of this Agreement.

In the event equipment malfunction occurs, the Justice Companies shall cause the prompt repair of said equipment necessary for compliance with this Agreement or replacement of such with equivalent functioning equipment withing fifteen working days.

Failure to comply with the Equipment Requirements, may result in a penalty up to \$25,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.



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For Further Information:

The above section of the inspection report is to serve as a summary of the Compliance Agreement; addressing actions that are required to take place on the ground. This is in no way the full scope of the agreement. Further Details of this Compliance Agreement may be found in the original document. Copies have been distributed among the signatory parties.



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INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101914		BLG0000639

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-QUARTERLY COMPLETE	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
4/15/2024	7:00 AM	5:30 PM	FAIR
4/16/2024	7:00 AM	5:30 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
2,777.92	2,031.50	994.78	571.99	2,029.36

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	0.5 MILES W OF RODA ON BLACK MOUNTAIN

INSPECTION BY	COPY OF REPORT
Bruce Gardner	Mailed - Emailed report to Justice Corporation company officials.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. EF - EFFLUENT
9. WM - WATER MONITORING	10. BZ - BUFFER ZONE
11. BL - BLASTING	12. AC - APPROXIMATE ORIGINAL CONTOUR
13. HE - HIGH WALL ELIMINATION	14. AT - ACID AND TOXIC MATERIAL
15. SD - SPOIL DOWNSLOPE	16. RT - RECLAMATION TAX

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	
1. SS - SEDIMENT STRUCTURES	2. DS - DISPOSAL OF SPOIL AND WASTE
3. BR - BACKFILLING REGRADING	4. RV - REVEGETATION
5. HR - HAUL ROADS	6. AO - AUTHORIZED TO OPERATE
7. OT - OTHER	

COMMENTS :	PERMIT: 1101914	REPORT: BLG0000639
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Mined Land Repurposing Inspector, Leonard Gardner, performed an AVS Quarterly Complete Inspection of this permit on 04/15/2024 and 04/16/2024. A&G company personnel were onsite during this inspection. Contact was made with James Sexton, the job foreman. Mr. Sexton was informed that an inspection was being conducted. It was noted that the two Caterpillar 777D haulers, one Caterpillar articulating hauler, one Caterpillar 992G loader, one Caterpillar 336F excavator, and one Caterpillar D-11 dozer staged near the Road Spur pit area.



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There are plans to highwall mine the High Splint Coal Seam, then backfill the open pit to the level of overlying seams to conduct highwall mining operations in those seams. A small amount of material was removed from the pit in March 2024 area to expose coal for development. This material has been transported south of the pit area and deposited on the #13 Coal Seam bench to be used to cover exposed highwall in that area. For further details, see the "Backfilling and Regrading" section of this inspection.

During this inspection it was noted this operation has been closed by the Virginia Department of Energy's Coal Mine Safety Department. This closure was initiated because Wise County tax affidavits have not yet been received. All material moving activities around the pit area have been temporarily halted pending payment of these taxes. A crew were onsite awaiting notification to resume operations once these are paid.

For further reference, see the conditions of the July 2023 Compliance Agreement notes at the end of this Inspection Report.

A copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

GENERAL OBLIGATIONS:

- o CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.
- o CSMO/NPDES Renewal Application #1010341 placed in Item Status on 10/17/2019.
The above application remains in this status at this time.
- o CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.
- o Anniversary fees are due pending the approval of CSMO/NPDES Renewal Application #1010341.
- o Succession Application #1001763 from Permit #1101854 was approved on 06/08/2004.

Details Concerning NOV JBC0002026 and FTA/CO JBC0002051:

The operator had been notified by email that the Anniversary Report for A & G Coal Corporation (Permit #1101914), had been approved pending payment of Anniversary Fees and NPDES Outfall Fees. Anniversary Fees in the amount of \$26,416.00 and NPDES fees in the amount of \$2,400.00 were due in the DMLR Office by 03/30/2021 (Anniversary Report Form #1910). It was noted during the 06/28/2021 inspection that the operator had failed to submit the required Anniversary Fees. As a result, Notice of Violation #JBC0002026, Violation 1 of 1, under performance code AO was issued. This violation was issued an abatement date of 07/08/2021.

As of the 07/09/2021 inspection, the operator had failed to abate the above-mentioned violation. (NOV JBC0002026). Therefore, Failure to Abate Cessation Order (FTA/CO) JBC0002051 was issued.

As of the current inspection, these fees are yet to have been paid.

SMRCA PERFORMANCE STANDARDS CHECKED DURING THIS INSPECTION:

AUTHORIZATION TO OPERATE:

MSHA ID #44-06544
State Mine Index #14617, #14634, #14935AA, #14817AA, & #14818AA

Bonding:

Permit consists of 2,777.92 acres, with 19.65 released, 2031.50 acres disturbed, 994.78 acres regraded, and 571.99 reclaimed. 2029.36 acres of the permit are pool bonded in the total amount of \$5,145,000.00.

Unbonded Areas:

Bond Increment #2 is and undisturbed area. Bond must be posted on this increment should operations progress into its boundaries.



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Bond Reductions:

Application #1005666, reducing the bond amount on Increment #4 by \$894,000.00, was approved on 03/17/2009. There are no bond reductions currently pending.

This permit is incrementally bonded. See chart below for details:

Increment #	Bonded (Yes or No)	Acreage	Current Amount Per Acre	Is Amount Shown A Reduction (Yes or No)
#1	Yes	1461.36 ac.	\$3,000.00/ac.	No
#2	No	755.13 ac.	N/A	N/A
#3	Yes	43.0 ac.	\$3,000.00/ac.	No
#4	Yes	525.0 ac.	\$1,200.00/ac.	Yes

Details Concerning NOV CEV0009273 and FTA/CO KXC0008977:

The permittee has not replaced the self-bond for this permit with an acceptable surety or collateral performance bond by 08/08/2014, as required by the Division’s letter of 06/26/2014 (certified mail #7013 1090 0001 0523 0138).

The permittee shall submit an acceptable surety or collateral performance bond as required by 4 VAC 25-130-800.12(a) and 4 VAC 25-130-800.12(b) to the Division by the set abatement date. The permittee shall immediately cease all coal extraction operations until it has replaced the self-bond as required herein; however, it shall continue the required reclamation, maintenance, and monitoring operations under the approved detailed plans.

The operator has failed to comply with NOV CEV0009273 that directed the operator to replace the self-bond on this permit by the established abatement date of 11/13/2014.

Details Concerning NOV CEV0010710 and FTA/CO CEV0010751:

Revision Application #1009100 to provide a cost estimate for extending the Temporary Cessation period on CSMO #1101914 was approved by DMLR on 06/03/2016. There are no surface mining operations being conducted on this permit at this time and there hasn’t been any mining conducted in excess of six months. The operator failed to submit to DMLR the required bond equal to the total estimated cost of reclamation as specified in Section 19.1 of Revision Application #1009100. NOV #CEV0010710 required submittal of this bond by 03/15/2018. The bond has still not been submitted to DMLR as required by the abatement date of the NOV. As a result, a Failure to Abate Cessation Order is being issued for failure to comply with the NOV by the set abatement date.

The operator is hereby instructed to comply with all remedial measures required by Notice of Violation #CEV0010710 violation #1 of 1 for the performance standard code of OT.

Liability Insurance:

The liability insurance policy is current through 10/22/2024.

AVS:

A&G Coal Corporation is the permittee, effective 06/19/2003. All reclamation and mining operations are assumed by this permittee.

Virginia Fuel Corporation was listed as a contractor on this permit on 07/10/2015.

There is no ongoing work on this permit currently (equipment, personnel etc.), therefore no AVS check is required.



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INSPECTION

MINING 100' - 300':

- There are multiple stream buffer zone variances on this permit:
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Preacher Creek and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of McHenry Fork and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Lick Branch and its unnamed ephemeral tributaries.
 - Aquatic mitigation measures consist of:
 - Restoring the stream channel at all practicable locations using sound fluvial geomorphological principles. A 100 ft. (fifty feet on either side) riparian corridor shall be constructed alongside the restored stream channel.
 - The riparian corridor will provide:
 - ❖ Vegetative cover that is suitable for moist conditions.
 - ❖ Protect the water quality of the stream.
 - ❖ Maintain bank stability.
 - ❖ And provide food and cover for wildlife.
 - Multiple sediment structures are constructed within the above-mentioned watersheds to mitigate sedimentation of jurisdictional waters. See table below:

Preacher Creek	Ponds C, C1, C2, & C3
McHenry Fork	Ponds 1A, 1B, 1C, 6, 4A, 4B, 4C, 4D, & 4E
Lick Branch	Ponds 9, 10, 11, 12, 13, & 16

- Further details about these ponds are provided below, under the Sediment Structures Performance Standard.
- Further details concerning stream buffer zones are provided in Section 8.5 (Stream Buffer Zones), the attached USACE-PCNMod in Section 8.6 (Mitigation Measures), and the attached Environmental Resources Map in Section 21.2 (Maps/Certifications).
- There is a variance approved to operate within 100 feet of a public road.
 Construction of the interim and final configuration of Haulroad C1 will be conducted within 100 feet of public right of way associated with State Route 160.
 Further details are provided in Section 10.7 (Disturbances Within Right-of-Way).
- There is a variance approved to operate within 300 feet of an occupied dwelling.
 A portion of Haulroad C2 is within 300 feet of WSI Structures 21, 22, and 23, located in the upper portion of the community of Derby.
 For further details, see Section 10.8 (Mining Within 300 Feet of Occupied Dwelling).

EXCEEDING PERMIT BOUNDARY:

There is no evidence that the operator has exceeded the permit boundaries.

MINING WITHOUT A PERMIT:

There is a valid SMCRA Permit on file at the Mined Land Repurposing Office.

SUBSIDENCE CONTROL:

- Auger mining operations have been conducted at different points along the coal seam outcrops. Auger holes penetrated to a depth of approximately 150 feet, and a stump of at least six inches was required between holes. This stump width should be sufficient to prevent subsidence of the land area overlying the auger workings. If subsidence were to occur, there are no dwellings, structures, pipelines, utility lines, or water bodies overlying the auger-mined areas. Any subsidence cracks which might develop shall be repaired as soon as practicable.



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INSPECTION

- The following information is taken from the subsidence control plan for Nehemiah Coal Company, Inc., (Permit #1201597). It is being included here because that permit has been relinquished in its entirety to Pinnacle Resources, LLC (Permit #1101854), which has been relinquished to the current A&G Coal Corporation permit. A&G has no proposed underground mining operations for this permit. Nehemiah conducted underground mining in the Morris and High Splint seams and completed operations in September of 2002.
 - Nehemiah Coal Company, Inc. utilized the room and pillar underground mining method with pillar extraction on retreat. Pillars were pulled where feasible. The only pillars that were not pulled were those that served as perimeter barriers for ventilation, those which could not be economically or safely recovered, and those left to support subsidence buffer zones, where required.
 - It is anticipated that the effect of any subsidence would not materially damage or lessen the value or potential use of surface lands. Because mining is proposed in areas where the depth of cover is less than 100 feet, sinkhole subsidence is a possibility. However, because of the competent nature of the overburden the likelihood of such subsidence is small. Overlying headwater tributaries are ephemeral in nature and there are no overlying structures to be protected from subsidence. The PMU boundaries were adjusted to allow a minimum of 100 feet of cover to protect the ephemeral headwaters of McHenry Fork from sinkhole subsidence.
 - In areas of maximum cover, surface subsidence would most likely take the form of very mild depressions. If subsidence should occur to the surface land and materially damage and lessen the value or potential use of the surface lands, then the damage will be corrected.
- **Conditions during the inspection:**
There was no evidence of subsidence noted during this inspection.
 - Details concerning subsidence control are contained in Sections 18.3 (Subsidence Control Plan) and 18.4 (Overlying, Underlying, and/or Adjacent Underground Workings) of the approved plans.

SIGNS AND MARKERS:

Permit Signs:

Permit identification signs containing all the required information have been posted at the multiple job entrances.

Blasting Signs:

Blasting warning signs have been posted. This signage contains all the required information concerning the use of explosives.

There are two red zone areas on the permit:

Red Zone A: In past inspections, it has been noted that the red zone area was marked using yellow "caution" flagging above the Inmet North Fork #6 Deep Mine in the Low Splint C/D seam. The operator has constructed at least two protective berm areas above that flagged area.

Red Zone B: This area is located above State Route 160 and has reflective "Red Zone" signs and a berm to caution that the public road runs below the site.

Conditions during the inspection:

It was noted during the inspection that no work was being conducted in the Red Zone areas. Both Red Zones were found to be in compliance during this inspection. Berms remain in place, and Red Zone signs are posted in Red Zone B, above State Route 160.



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INSPECTION

SEALING OF HOLES:

- The known abandoned underground mines located within, or near this permit are deep mines located in the Morris, High Splint, Upper Parsons, Taggart, and Taggart-Marker Seams. No mining is proposed in the Taggart or Taggart-Marker Seams. The aerial extent of the Upper Parsons Seam mines is shown on the Geology Map. Operations were conducted in close proximity to the Upper Parsons Seam mines, which had portals in the Preacher Creek Watershed Area. If economically feasible, these workings may have been mined through where solid blocks existed.
- There were no exposed underground workings or exposed auger holes noted during this inspection. It appears that all these areas have been sealed with earthen material or covered during backfilling operations.
- There are three groundwater monitoring wells constructed on this permit:
 - GW-6 (MPID #0006013)
 - VFW-1 (MPID #0006202)
 - AW-1 (MPID #0006203)There is one piezometer constructed on this permit:
 - P-12 (MPID #0004133)When approval is granted, each groundwater monitoring well and piezometer will be grouted the entire length and any casing that extends above ground will be removed.
- Further details are provided in Section 18.1 (Measures to Seal or Manage Openings) of the approved plans.

TOPSOIL HANDLING:

This site was mined extensively by previous pre-SMCRA operations when it was a general practice to cast spoil material downslope. Due to the rugged terrain and steepness of slopes, most of the remaining native soils are generally very shallow to rock. In addition, the soils have been depleted of many of the minerals essential to plant growth. The lack of sufficient amounts of native soil material at this site necessitates the use of alternate soiling material.

Composite minesoil samples were obtained from adjacent previously completed areas. These samples were analyzed to determine nutrient status by the Soil Test Laboratory at Virginia Tech. Duplicate samples were tested to determine textural classification by Maxim Engineering, Inc. Also, splits of several of these samples were sent to Standard Laboratories, Inc. of Whitesburg, Kentucky for acid/base accountability testing.

The results of tests and field investigations indicate that the alternate overburden material generated during mining along with a composite of the native soil material from previously undisturbed areas are appropriate to be utilized as soiling material at this site.

Topsoil and topsoil substitutes have been placed on some of the regraded areas.

Further details are available Sections 9.2 (Topsoil/Substitute Topsoil) and 9.3b (Soil Salvage and Redistribution Plan) of the approved plans.



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INSPECTION

**NPDES STANDARDS CHECKED DURING THIS INSPECTION:
SS, EF, & WM**

SEDIMENT/DRAINAGE CONTROL STRUCTURES:

Drainage is controlled on this permit using eight NPDES Ponds, and their associated sequence ponds.
See the chart below and subsequent information for more details:

NPDES Ponds						
Structure Number	Facility	Constructed (Yes/No)	Permanent (Yes/No)	Original Cert. Date	Recertification Date	Annual Cert. Date
P08909	1A	Yes	No	01/28/2005	N/A	07/17/2023
P09139	14	Yes	No	06/18/2005	N/A	07/17/2023
P08817	9	Yes	No	04/15/2005	N/A	07/17/2023
P08818	10	Yes	No	12/07/2004	N/A	07/17/2023
P08819	11	Yes	No	02/26/2004	N/A	07/17/2023
P09679	16	Yes	No	04/22/2002	N/A	07/17/2023
P09680	C	Yes	No	04/18/2006	N/A	07/17/2023
P09682	C2	Yes	No	02/05/2007	N/A	07/17/2023

Sequence Ponds (Constructed)						
Structure Number	Facility	Constructed (Yes/No)	Permanent (Yes/No)	Original Cert. Date	Recertification Date	Annual Cert. Date
P08820	12	Yes	No	05/19/2004	N/A	07/17/2023
P08821	13	Yes	No	01/07/2010	N/A	07/17/2023
P09398	15	Yes	No	12/22/2009	N/A	07/17/2023
P09396	1B	Yes	No	12/01/2005	N/A	07/17/2023
P09397	1C	Yes	No	12/21/2005	N/A	07/17/2023
P08814	6	Yes	Proposed Wetland	01/26/2005	N/A	07/17/2023
P09575	4A	Yes	No	Unknown	N/A	Unknown
P09576	4B	Yes	No	Unknown	N/A	Unknown
P09577	4C	Yes	No	Unknown	N/A	04/30/2014
P09578	4D	Yes	No	Unknown	N/A	Unknown
P09579	4E	Yes	No	Unknown	N/A	Unknown
P09580	4F	Yes	No	Unknown	N/A	04/21/2014
P09681	C1	Yes	No	06/18/2006	N/A	07/17/2023
P09683	C3	Yes	No	04/10/2007	N/A	07/17/2023



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Proposed/Removed Ponds						
Structure Number	Facility	Proposed or Removed	Permanent (Yes/No)	Original Cert. Date	Recertification Date	Last Annual Cert. Date
P08809	1	Removed	N/A	Unknown	Unknown	Unknown
P09393	1A	Removed	N/A	06/08/2005	N/A	06/16/2011
P08810	2	Removed	N/A	Unknown	Unknown	Unknown
P08811	3	Removed	N/A	Unknown	Unknown	Unknown
P08812	4	Removed	N/A	Unknown	Unknown	Unknown
P08813	5	Removed	N/A	Unknown	Unknown	Unknown
P08815	7	Removed	N/A	Unknown	Unknown	Unknown
P08816	8	Removed	N/A	Unknown	Unknown	Unknown
P09684	C4	Removed	N/A	Unknown	Unknown	07/17/2023
P09685	C5	Removed	N/A	Unknown	Unknown	Unknown
P10730	C6	Proposed	No	Unknown	Unknown	Unknown

Retention:

Ponds were inspected for their sediment content during this inspection. See the chart below for details:

NPDES Ponds								
Structure #	P08909	P09139	P08817	P08818	P08819	P09679	P09680	P09682
Facility	1A	14	9	10	11	16	C	C2
Sediment Volume:	60%	60%	10%	10%	60%	10%	Nearing Cleanout	Nearing Cleanout
Retention Volume:	40%	40%	90%	90%	40%	90%	Nearing Cleanout	Nearing Cleanout

Sequence Ponds														
Structure #	P08820	P08821	P09398	P09396	P09397	P08814	P09575	P09576	P09577	P09578	P09579	P09580	P09681	P09683
Facility:	12	13	15	1B	1C	6	4A	4B	4C	4D	4E	4F	C1	C3
Sediment Volume:	Nearing Cleanout	20%	30%	40%	30%	30%	30%	20%	20%	20%	20%	10%	Nearing Cleanout	Nearing Cleanout
Retention Volume:	Nearing Cleanout	80%	70%	60%	60%	60%	70%	80%	80%	80%	80%	90%	Nearing Cleanout	Nearing Cleanout

Note: Operator is reminded to monitor any beaver activity that may exist around sediment structures.



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NOTES FROM PREVIOUS INSPECTOR EDDIE VARNER PERTAINING TO POND MAINTANANCE:

Details Concerning NOV #CEV0011121 and FTA/CO #CEV0011244:

It was noted during the inspection dated 10/31/2018 that Sediment Ponds #14 and #C3 were in need of routine maintenance. The ponds must be cleaned to provide adequate sediment storage volume and adequate detention time so they will function as designed. The structures were significantly impaired with accumulated sediments/fines which was causing the ponds to short circuit during a rainfall event. As a result, Notice of Violation #CEV0011121 was issued instructing the operator to clean out and remove accumulated sediments/fines from Ponds #14 and #C3 to provide adequate detention time and sediment storage volume. All work must be done in accordance with the approved detailed plans and all applicable regulations. Time for abatement was 01/30/2019.

The inspection on 01/31/2019 noted there was no work being conducted on this job site to comply with the remedial measures required by the NOV. There was a long boom excavator parked on the Low Splint bench near Pond C3 that had been used to clean Pond C3. There was no articulated haul truck on the site during that inspection. Inspector Eddie Varner walked out to Pond C3 and observed the work accomplished since the NOV had been issued on 11/01/2018. The operator had worked on the pond, and it appeared approximately 70-75% of the accumulated sediment had been removed from the pond. There were still some sediment/fines which needed to be removed from the Northern end of the pond where drainage first enters the structure from the diversion ditch.

Pond #14 located on McHenry Fork in Roda had not been cleaned at all during the abatement period. The abatement period had run for a total of 90 days. As a result, Failure to Abate Cessation Order #CEV0011244 was issued 01/31/2019 for failure to comply with all remedial measures stipulated in Notice of Violation #CEV0011121 by the set abatement date. The operator is reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator was instructed to submit updated O/C information to the DMLR Office within thirty days of this enforcement action. The inspection today revealed that no additional cleaning on C3 had been accomplished since the issuance of the FTA/CO. As noted in past inspection reports, the operator did return a long boom excavator to Pond #14 to finish cleaning this structure. Pond C3 still requires cleaning on the upper portion of the pond down to the open channel spillway. There was no work being done on C3 during this inspection.

Locations of ponds:

NPDES Ponds:

1. Pond 1A is in the McHenry Fork near its confluence with Mudlick Creek. It is the NPDES discharge monitoring point in series with its upstream counterparts, Pond 1A, 1B, 1C, and Pond 6. It was construction certified by Mr. Timothy B. Compton, RPE (#19269) on 08/15/2002.
2. Pond 14 is located near the mouth of McHenry Fork, near its confluence with Mudlick Creek. Lying just north of the spillway of Pond 1A. It was construction certified by Mr. Timothy B. Compton, RPE (#19269) on 08/15/2002.
3. Pond 9 is located on the Lower Parsons mine bench in the McHenry Fork Watershed. It was construction certified by Mark S. Wooten, RPE (#14992) on 04/15/2005.
4. Pond 10 is located on the Lower Parsons mine bench in the Lick Branch Watershed. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/07/2004.
5. Pond 11 is located near the head of Lick Branch. It is the NPDES discharge monitoring point in series with its upstream counterpart, Pond 12. It was construction certified by Mark S. Wooten, RPE (#14992) on 02/26/2004.
6. Pond 16 is located on the High Splint mine bench in the Lick Branch Watershed.
7. Pond C is located on the Low Splint mine bench in an unnamed tributary of Preacher Creek. It is the NPDES discharge monitoring point in series with its upstream counterpart, Pond C1. It was construction certified by Mark S. Wooten, RPE (#14992) on 04/18/2006.
8. Pond C2 is located in Preacher Creek. It is the NPDES discharge monitoring point in series with its upstream counterpart, Pond C3. It was construction certified by Mark S. Wooten, RPE (#14992) on 02/05/2007.



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Sequence Ponds:

1. Pond 12 is located in Lick Branch on the High Splint coal seam bench. It is the next pond in series above NPDES Pond 11. It was construction certified by Mark S. Wooten, RPE (#14992) on 02/26/2004.
2. Pond 13 is located in Lick Branch. It is the next pond in series above Pond 12. It was construction certified by Mark S. Wooten, RPE (#14992) on 01/07/2010.
3. Pond 15 is located on the Lower Parsons mine bench in the McHenry Fork Watershed. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/22/2009.
4. Pond 1B is located in McHenry Fork. It is the next pond in series above Pond 1A. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/01/2005.
5. Pond 1C is located in McHenry Fork. It is the next pond in series above Pond 1B. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/21/2005.
6. Pond 6 is located in McHenry Fork. It is the next pond in series above pond 1C. It was construction certified by Mark S. Wooten, RPE (#14992) on 01/26/2005.
7. Pond 4A is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the lowest discharge point in a series of five ponds.
8. Pond 4B is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the next pond in series above Pond 4A.
9. Pond 4C is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the next pond in series above Pond 4B.
10. Pond 4D is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the next pond in series above Pond 4C.
11. Pond 4E is located in the McHenry Fork Watershed above the Morris coal seam bench. It is the next pond in series above Pond 4D.
12. Pond 4F is located in the McHenry Fork Watershed on the Morris coal seam bench, southwest of Pond 4C.
13. Pond C1 is located on the Low Splint mine bench in an unnamed tributary of Preacher Creek. It was construction certified by Mark S. Wooten, RPE (#14992) on 04/18/2006.
14. Pond C3 is located on the Low Splint mine bench in an unnamed tributary of Preacher Creek. It has been recertified by Mark S. Wooten, RPE (#14992).

Pond Certifications:

The last Annual Pond Certification was submitted by Bill Johnson PE (#62233) on 07/17/2023.

EFFLUENT:

No effluent problems were noted during this inspection.

There are no outfalls being chemically treated at this time.

Discharging pond(s) are checked with a field HACH kit, (where applicable).

NPDES outfall discharges were checked on 01/09/2024.

Please see the chart below for details:

MPID No.	Pond No.	Discharging	Flow/GPM	pH	Fe	Mn	TSS
0003283	1A	Yes	2500	7.5	<0.5	No Trace	N/A
0005160	9	No	0	N/A	N/A	N/A	N/A
0005161	10	No	0	N/A	N/A	N/A	N/A
0005162	11	No	0	N/A	N/A	N/A	N/A
0003285	14	Yes	50	7.5	<0.5	No Trace	N/A
0004129	16	No	0	N/A	N/A	N/A	N/A
0006208	C	Yes	50	7.5	<0.5	No Trace	N/A
0006209	C2	Yes	250	8.0	<0.5	No Trace	N/A



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WATER MONITORING:

- o December 2023 Water monitoring data was submitted on 03/08/2024.
- o Biological monitoring data for Fall, 2022 is as follows in the chart below:

MPID #	Site ID #	Approval Date:	Rejected Date:
0010154	MLC-2/Midstream	09/26/2023	N/A
0010157	PC-1/Downstream	09/26/2023	N/A
0010156	MLC-4/Upstream	09/26/2023	N/A
0010155	MLC-3/Midstream	10/13/2023	N/A
0010153	MLC-1/Instream	N/A	09/26/2023

Note: The above highlighted data was rejected needing corrections. The operator is reminded to resubmit the corrected document in a timely manner.

- o Biological monitoring data for Fall, 2023 was submitted on 03/08/2024.
- o Whole Effluent Toxicity (WET) monitoring data for the 4th Quarter of 2022 was approved on 10/18/2023.
- o Rainfall monitoring data from the Kelly View rain gauge (MPID #0002819) was last approved on 01/22/2021.
- *Operator is reminded that there is currently no rain gauge associated with this permit. This is the case on multiple Justice Corporation permits in the Appalachia area. A new rainfall monitoring site must be assigned to avoid further enforcement action.

BUFFER ZONE:

- o There are multiple stream buffer zone variances on this permit:
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Preacher Creek and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of McHenry Fork and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Lick Branch and its unnamed ephemeral tributaries.
 - Aquatic mitigation measures consist of:
 - Restoring the stream channel at all practicable locations using sound fluvial geomorphological principles. A 100 ft. (fifty feet on either side) riparian corridor shall be constructed alongside the restored stream channel.
 - The riparian corridor will provide:
 - ❖ Vegetative cover that is suitable for moist conditions.
 - ❖ Protect the water quality of the stream.
 - ❖ Maintain bank stability.
 - ❖ And provide food and cover for wildlife.
 - Multiple sediment structures are constructed within the above-mentioned watersheds to mitigate sedimentation of jurisdictional waters. See table below:

Preacher Creek	Ponds C, C1, C2, & C3
McHenry Fork	Ponds 1A, 1B, 1C, 6, 4A, 4B, 4C, 4D, 4E, 4F, & 14
Lick Branch	Ponds 9, 10, 11, 12, 13, & 16

- Further details about these ponds are provided in the Sediment Structures Performance Standard.
- Further details concerning stream buffer zones are provided in Section 8.5 (Stream Buffer Zones), the attached USACE-PCNMod in Section 8.6 (Mitigation Measures), and the attached Environmental Resources Map in Section 21.2 (Maps/Certifications).



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Threatened/Endangered Species:

- This permit lies within the Powell River watershed, a number of threatened and endangered aquatic species (mollusks) are listed on the Virginia Fish and Wildlife Information Service report within the more southerly reaches of this watershed. Specifically, they are found in the Powell River from the Tennessee/Virginia border upstream into Lee County.
- The Virginia Department of Game and Inland Fisheries, Fish and Wildlife Information Service, was queried to document the existence of any federally listed threatened or endangered species within three air miles of the permitted area. No federally listed threatened or endangered species have been documented in the area.
- A number of on-site assessments have been performed before mining began, and during the life of the permit. No threatened and endangered species, or their critical habitats, have been identified.
- In conclusion, this operation was found to have little, if any, affect the continued existence of any species listed as threatened or endangered by the United States Department of the Interior's Fish and Wildlife Service, nor would it cause destruction or adverse modification of their critical habitat. Therefore, no Protection Enhancement Plan or Species-Specific Protection Measures are required on this permit.
- For more detailed information on this subject, please see Section 8.7 (Threatened/Endangered Species) in the approved plans.

BLASTING:

- There is a variance approved to conduct blasting operations within 100 feet of public right of way. This variance is associated with grading and blasting operations for the construction of Haulroad C1 and safety berm. This operation took place adjoining with, and upslope of, State Route 160. Land Use Permit No. 101-4907 was issued to A & G Coal Corporation on November 15, 2005, by the Virginia Department of Transportation.
- There is a variance approved to conduct blasting operations within 1,000 feet of occupied dwellings. This portion of the permit is in the Derby community. This facilitated the construction of Haulroad C2. Haulroad C2 is a reclaimed haulroad previously constructed by Westmoreland Coal Company.
- **Active Underground Mines:**
 - There is a variance approved to conduct blasting operations within 500 feet of an active underground mine.
 - Inmet Mining, LLC's North Fork #6 (Permit #1202312) is currently permitted to operate a belt corridor within the Low Splint C Seam. This operation passes directly under Permit #1101914 into Kentucky.
 - MSHA and VDM concurrence will be obtained prior to surface mining operations being advanced within 500 feet of these active mine works.
 - The approved PMU for this mine and the current extent of their mining may be found on the Operations Map.
- No other known active underground mines are located within 500 feet of the permit area.
- **Abandoned Underground Mines:**
 - There is a variance approved to conduct blasting operations within 500 feet of an abandoned underground mine.
 - Ambrose Branch Coal Company, Inc. Mine #5 (Permit #1401925):
Portions of the permit boundary involving road and pond construction are located within 500 feet of this abandoned deep mine in the Wilson Seam.
 - Roda Resources, LLC (Permit #1201765):
Abandoned deep mine in the High Splint Seam.
- A&G Permit #1101914 operations mined through abandoned High Splint and Upper Parsons Seam deep mine workings. The limits of the abandoned Upper Parsons underground mine is shown on the Geology Map.
- **Public Blasting Notice:**

The blasting schedule has expired on this permit. There is no blasting being conducted on the permit at this time. Should it be required, a new public blasting notice will need to be published. This notice shall be published at least one month ahead of the resumption of blasting operations.



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INSPECTION

DISPOSAL OF SPOIL (EXCESS):

There are eight excess spoil fills constructed, and one proposed, on this permit. See chart below for details:

MLR Fill #	Company #	Construction Status:	Last Quarterly Cert. Date	Certifying Engineer:
F08910	HF-B	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09690	HF-B4	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F08911	SHF-B1	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09399	SSF-B2	Under Construction	04/05/2016	Mark S. Wooten RPE (#14992)
F09400	SSF-B3	Not Constructed	N/A	N/A
F09686	HF-C1	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09687	HF-C2	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09688	HF-C3	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09689	HF-C4	Under Construction	10/10/2023	Bill Johnson RPE (#62233)

Excess Spoil Fills B, and B-4; SSF-B1, and SSF-B2 are located in the McHenry Fork Watershed.

Excess Spoil Fill SSF-B3 is proposed to be located in the McHenry Fork Watershed.

Excess Spoil Fills C1, C2, C3, and C4 are located in the Preacher Creek Watershed.

History Pertaining to Excess Spoil:

Details Concerning NOV #CEV0008858 Violation #1 of 2 and FTA/CO #CEV0009198:

Several problems with the diversion ditches on the fills were noted in past reports. The upstream diversions for Hollow Fills C1, C2, C3, C4, Fill B, and Side Hill Fill B1 were breached allowing surface drainage to flow down the face of these fills. In addition, several diversion ditches were in need of reconstruction/repair and other noted ditches needed to be constructed to design specifications as approved in the detailed plans. As a result, Notice of Violation #CEV0008858 violation #1 of 2 was issued 09/25/2013 instructing the operator to construct and/or reconstruct all diversion ditches on the hollow fills noted in the description narrative of the NOV. All diversions must be constructed in accordance with approved designed specifications and all applicable regulations. Time for abatement was 12/24/2013.

On 12/12/2013, Mr. Les Vincent submitted a formal request to the DMLR requesting an extension of NOV #CEV0008858 violation #1 of 2 in accordance with Section 4VAC 25-130-843.12(f)(4) of VACSMRR. The letter requested an additional 90 days until 03/24/2014 to complete all remedial measures required by the NOV. The DMLR reviewed this request, considered all the facts set forth, and concurred with the request. As a result, NOV #CEV0008858, violation #1 of 2 was extended until 03/24/2014. The NOV was again extended as per written request in writing for an additional 90 days until 06/22/2014. The work required by the NOV was evaluated at a later date and there had still not been any work accomplished during the set abatement dates and the subsequent extensions.

As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0009198 was issued for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0008858 Violation #1 of 2 by the set abatement date and subsequent extensions. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator was reminded to immediately notify the inspector when the remedial work had been accomplished. No work was performed on the diversion ditches covered under the NOV and subsequent FTA/CO. The construction of these ditches has been discussed with company representatives on several occasions.

Details Concerning NOV #CEV0009498 and FTA/CO #CEV0009697:

It was observed during a previous inspection that material placed in Durable Rock Fill C4, and associated areas located above/upslope of this fill had become quite unstable as a result of heavy snowfall and rainfall. This material had been end dumped into the fill from active mining areas located above the Parsons mine bench. This material had become saturated from all the precipitation and was moving and sliding down the slope. This increased flow was carrying a concentrated flow of fines/sediments down diversion ditch D-3C and into Ponds C3 and C2 respectively. The unstable material located within and above the fill must be regraded in a manner so as to provide stability and prevent any further mass movement of material.



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As a result, Notice of Violation #CEV0009498 Violation #1 of 1 was issued requiring the operator to take all necessary measures to stabilize the material placed above and within the designated disposal area known as Durable Rock C4 Fill. This regrading/rehandling of material must be done to ensure mass stability and prevent mass movement. The work must be done in accordance with all applicable regulations and approved detailed plans. Time for abatement was 06/13/2015. Work to comply with this enforcement action was initiated on 06/10/2015. A D6 dozer, excavator and articulated truck was mobilized to the fill on 06/10/2015 and work began on the Western end of the fill on the approximate elevation of the Morris coal seam. Material had been placed against the #14 highwall to ramp up; thereby eliminating the wall behind Hollow Fill C4. This same package of equipment was being alternated back and forth working on the permanent diversion ditches on Fill B4 in McHenry Fork.

NOV #CEV0009498 expired 06/13/2015. Inspector Eddie Varner met with Mr. Robbie Burton and Mr. Roger Shortt on 06/08/2015 and discussed what remedial measures had to be accomplished in order to abate the NOV. Mr. Burton expressed the need for more time to comply the enforcement action on 06/08/2015. DMLR Inspector Eddie Varner received a letter from Mr. Burton requesting additional time to comply the NOV. Inspector Varner and Supervisor Ken Coomer evaluated the letter. All facts concerning this NOV and the scope of the work were considered. It was determined that additional time would be granted. Notice of Violation #CEV0009498 was hereby extended an additional 90 days until 09/11/2015. The operator was again reminded that failure to accomplish all work required by the new extension date of 09/11/2015 could result in the issuance of a failure to abate cessation order (FTA/CO) being issued.

DMLR Inspector Eddie Varner conducted a partial inspection on this permit on 09/14/2015 primarily to check on the status of NOV #CEV0009498. The inspection revealed the work required by the NOV and subsequent extension had not been accomplished and there was no equipment working on the area covered by the NOV. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0009697 was issued for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0009498 by the set abatement date and subsequent extension. The operator was reminded that a FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator should immediately notify the inspector when the remedial work is accomplished. The operator was instructed to submit updated O/C information to the DMLR Office within thirty days of this action. The work required by the FTA/CO has still not been completed.

At the time of this inspection, the obligations required of the above violations have not been met.



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INSPECTION

BACKFILLING AND REGRADING:

History:

Three major permitting actions have addressed the timing of rough backfilling and grading operations, i.e., time, distance, total cumulative amount of exposed highwall, and point of measurement. Maxim Engineering, Inc. addressed backfilling and grading operations in Application #1002027, the original application prepared for Pinnacle Resources, LLC. D.R. Allen & Associates address backfilling and grading operations in applications #1002192 and #1002952, which were significant acreage amendments. The following backfilling and grading operations limitations were approved by DMLR. All limitations were based on the number of spreads of equipment worked on the site. The limitations are summarized as follows:

Application #1002027 - Lick Branch/McHenry Fork	
Class:	Contour Mining
Time:	180 days following coal removal in the lowest seam to be mined
Distance:	2,000 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	8,000 LFt. (4,000 LFt./Spread x 2 Spreads)
PW:	Not proposed

Application #1002192 - Lick Branch/McHenry Fork	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	2,600 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	12,800 LFt. (3,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Application #1002952 - Preacher Creek	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	4,600 LFt./pit; based on final highwall; at lowest seam; (400 VFt.)
Exposed Highwall:	20,800 LFt. (5,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Permit Application #1001763 states that disturbed areas will be backfilled and regraded in accordance with 4 VAC 25-130-816.100, 816.102, 816.106, and 816.107. All highwalls will be eliminated. The regraded site will reasonably conform to the post-mining configuration shown on the cross-sections to achieve the approximate original contour.

There are pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outcrops and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.

On 06/14/2007, Revision Application #1004305 was approved to clarify the contemporaneous reclamation limitations for this permit. Contemporaneous reclamation limitations have been set for each mining scenario. Exposed highwall limitations are based on the lowest seam mined at the final highwall and include the production area. Time and pit width limitations are based on the lowest seam mined, regardless of interim or final highwall. Distance limitations are based on the lowest coal seam to be mined at the final highwall. The reclamation plans approved in revision application #1004305 allow for a total highwall distance of 37,600'. Extended time of 180 days for each mining scenario was also approved in this revision.



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INSPECTION

Details Concerning NOV #CEV0008882 and FTA/CO #CEV0008995:

On 04/08/2013, this permit was placed in Temporary Cessation for a period of six months until 10/05/2013. The temporary cessation consisted of three main areas as designated by the Temporary Cessation Map. The temporary cessation expired for all three areas. There were not any spreads of mining equipment on this permit to resume mining/reclamation operations. In addition, the operator did not submit and obtain approval of a permit revision (within the six-month time frame) which addressed the estimated cost of reclamation and post the required bond equal to the total estimated cost of reclamation with the DMLR Office. As a result, contemporaneous reclamation was not current on this permit. Notice of Violation #CEV0008882 was issued 10/16/2013 instructing the operator to take all necessary measures so as to bring backfilling and regrading to a current status in accordance with the approved detailed plans and all applicable regulations. Time for abatement was 01/14/2014. There had not been any production/reclamation equipment moved on to this site to accomplish the required reclamation. There had not been any reclamation work conducted on this site since the issuance of this NOV. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0008995 was issued 01/15/2014 for failure to comply with the remedial measures stipulated in NOV #CEV0008882 by the set abatement date. The operator was reminded that a FTA/CO is assessed civil penalties at a minimum \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture.

Conditions During the Inspection:

A small amount of backfill material has been transported to the #13 Coal Seam bench from the Road Spur pit area. Additional material has been transported to the topsoil storage area adjacent to the Road Spur pit.

All material moving activities around the pit area have been temporarily halted pending payment of reclamation taxes. A crew were onsite awaiting notification to resume backfilling operations once these are paid.

APPROXIMATE ORIGINAL CONTOUR:

This permit is required to be backfilled to Approximate Original Contour. There are no AOC variances approved.

HIGHWALL ELIMINATION:

There were pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community. Aside from a portion of the Upper Parsons Bench that lies north of McHenry Fork, used for pond construction and access, these areas have all been disturbed during this mining operation, and are required to be eliminated.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outcrops and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.

As of this inspection, there are multiple areas with substantial highwalls.

Roda Pit – This area lies on the spur of Black Mountain between Lick Branch and McHenry Fork. The highwall is approximately 3,000 LFt. in length, and approximately 120 VFt. in height at its apex.

Road Spur Pit – This area lies on Road Spur between McHenry Fork and Preacher Creek. The highwall is approximately 1,200 LFt. in length, and approximately 100 VFt. in height at its apex.

High Splint, Seam #13, Seam #14 Walls – This area runs for approximately 9,200 LFt. at varying heights and elevations above the internal road from 36°55'42.62"N/082°51'16.54"W to 36°57'08.21"N/082°51'13.88"W, where the Road Spur Pit area begins.

There have not been any highwall elimination operations on this permit for an extended period of time.



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INSPECTION

ACID & TOXIC MATERIAL:

Coal Wastes:

Details of encountering and remediating acidic/toxic coal and shale strata may be found in the narrative in Section 15.1 (Acid/Toxic Materials) of the approved plans. See chart below for summarization:

Acidic/Toxic Strata:	Location:	Handling Plan:
Any Coal Seams and Splits <6" in Thickness (Unrecoverable)	Entire Permit	-If encountered in a highwall, the seam will be mixed with the remaining overburden. -If encountered during coal pit cleaning operations, these seams, along with any partings cleaned, will be buried in the pit.
16.65 VFt. Shale Unit	Corehole #BS-00-10 Immediately Above the No. 13 Rider Seam	- To be blended with non-acidic/toxic overburden materials. -Care will be taken to ensure the blended material is placed as high in the pit as is economically feasible to minimize groundwater contact.
21.9 VFt. of Shale and Sandstone unit	Corehole #AG3-57-04 Underlying the Bottom Split of the No. 14 Coal Seam	To be blended with non-acidic/toxic overburden materials.
9.9 VFt. of Interbedded Shale, Sandstone, and Shale Units	Corehole #AG3-84-05 Approximately 34 VFt. above the No. 13 Coal Seam	Encapsulation: 10 VFt. above pit floor, 20 VFt. below regraded surface, Inside of 4 Ft. of impervious material.

Non-Coal Wastes:

- o Temporary storage of all non-coal wastes shall be at the temporary storage area. This area shall be located on a stable portion of the bench away from drainage ways. Non-coal wastes shall be periodically transported to a public landfill for final disposal.
- o Waste fluids and lubricants (such as oil, grease, hydraulic fluid, etc.) shall be stored in leak-proof metal or plastic containers and periodically removed from the site for final disposal at an approved facility. Care shall be taken to prevent spillage and combustion of these waste fluids.
- o Combustible wastes such as wood and paper, trash and other debris shall be disposed of at an approved public landfill.
- o Operator is reminded to maintain standards listed above and deposit any non-coal wastes in their proper areas.
- o **Conditions During the Inspection:**
Conditions of non-coal wastes were found to be in compliance during this inspection.
- o For additional details, see Section 15.1 (Acid/Toxic Materials) in the approved plans.

SPOIL DOWNSLOPE:

No spoil was observed downslope from this permit during this inspection.



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REVEGETATION:

- The proposed postmining land uses are Unmanaged Forest, Light Industrial (Natural Gas Production), and Fish and Wildlife Habitat-Wetlands. See chart below for details:

Post Mine Land Use:	Acreage:	Location:
Unmanaged Forest	1949.54 Acres	Distributed Widely Across Permit.
Fish & Wildlife Habitat- Wetlands	2.10 Acres	McHenry Fork- Pond 6 Area.
Light Industrial- Gas Wells & Pipelines	37.30 Acres	Distributed Widely Across Permit.

- The Unmanaged Forest and Fish & Wildlife Habitat land uses will provide a diversity of habitat for wildlife and provide groundcover to control erosion. This land use will be achieved by following the proposed revegetation plan contained in the approved plans.
- The Light Industrial land use will provide for extraction of natural gas, as well as providing right-of-way for the gas wells and their infrastructure.
- It has been noted in past reports that there are approximately 42 acres that still need trees planted to meet the required stocking rate prior to final bond release on this portion of the permit. These are two areas located just North of Pond #16 on the reclaimed bench areas (28 Acres) and the reclaimed out slopes above Side Hill Fill – 1 (14 Acres).
- There have been no revegetation operations on this permit for an extended period of time. There are multiple areas across the permit that are sparsely vegetated.
- See details concerning seeding and tree planting, located in the July 2023 Compliance Agreement Notes at the end of this Inspection Report.
- Further details are provided in Section 9.4 (Revegetation Plan) and shown on the Mitigation Map in Section 21.2 (Maps/Certifications) of the approved plans.

Details Concerning NOV CEV0010345 and FTA/CO CEV0010323:

Location: Reclaimed areas North of Pond #16, North of Side Hill Fill B-1, Hollow Fill B-4, Hollow Fills C2 and C3, and reclaimed areas North of Fill C3.

Description: The operator has failed to plant trees and shrubs on all regraded and seeded areas noted above in accordance with the approved detailed plans and all applicable regulations. Section 9.4 of the approved detailed plans specifies the species of trees and shrubs to be planted and the stocking rate of about 650 trees per acre.

As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0010323 was issued 04/18/2017 for failure to comply with the remedial measures stipulated in NOV #CEV0010345 by the set abatement date. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture.

The operator is hereby instructed to take all necessary measures to comply with Notice of Violation #CEV0010323 under performance standard RV in accordance with all applicable regulations.



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INSPECTION

HAULROADS:

All haulroads that have been constructed and have been certified by an RPE.

HR-A was certified by T.R. Collier, RPE (#14085)

All other haulroads were certified by Mark Wooten, RPE (#14992)

See chart below for details:

MLR Road #	Company #	Constructed (Yes or No)	Completion of Construction Date	Recertified Date	Permanent (Yes or No)	Primary or Ancillary
R11826	Cut Thru	No	N/A	N/A	No	Primary
R08823	AR-A	No	N/A	N/A	No	Ancillary
R08822	HR-A	Yes	10/31/2003	N/A	No	Primary
R08912	HR-B	Yes	12/20/2004	N/A	No	Primary
R09140	HR-C	Deleted	07/01/2005	N/A	No	Primary
R09691	HR-C1	Yes	03/08/2006	04/18/2006	No	Primary
R09692	HR-C2	Yes	05/15/2006	N/A	No	Primary
R09693	HR-D	Yes	08/08/2007	N/A	No	Primary
R10461	HR-E	No	N/A	N/A	No	Primary
R10762	HR-D1	Yes	07/11/2006	08/15/2007	No	Primary
R10763	HR-D2	Yes	08/15/2007	N/A	No	Primary

Details Concerning NOV #CEV0010750 and FTA/CO #CEV0010891:

It was noted in past inspections that routine maintenance needed to be performed on three primary haulroads on this permit. The three haulroads which are in need of maintenance are Haulroad C-1, Haulroad B, and Haulroad C2. Routine maintenance shall include repairs to the haulroad surface, blading, filling potholes, adding replacement gravel as needed, cleaning ditch lines, and cleaning any sumps which are full. As a result, Notice of Violation #CEV0010750 was issued instructing the operator to perform routine haulroad maintenance on Haulroad C-1, Haulroad B, and Haulroad C2 in accordance with all applicable regulations and approved detailed plans. Time for abatement was 05/18/2018. There had been some grading of the roadbed surface of Haulroad B and some pulling of the ditch line since the order was issued. The operator requested additional time to fully complete all the maintenance required by the NOV.

As a result, Notice of Violation #CEV0010750 was thereby extended until 06/18/2018. The inspection on 06/18/2018 revealed that Haulroad B was the only road that had been worked and there was still considerable work that needed to be done on this road before it would be satisfactory. The other two roads still needed maintenance performed on them. On 06/18/2018, Mr. Mark Wooten submitted a letter requesting additional time until 07/18/2018 to complete all work required by the NOV. The letter stated that it rained several days, and work could not be done due to the rain and weather conditions. This request was reviewed by DMLR personnel, and it was determined that due to the fact that the NOV had ran for 90 days and very little work had been accomplished in that time frame, an extension could not be granted. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0010891 was issued 06/19/2018 for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0010750 by the set abatement date and subsequent extension. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 a day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a show cause order which could result in revocation of the permit and bond forfeiture. The operator was also reminded to submit updated O/C information to DMLR within thirty days of this enforcement action. There has been work performed on the haulroad in McHenry Fork and the haulroad off of State Route #160. There is additional work that is still needed on the roads to insure they function as designed.

Conditions During the Inspection:

Equipment has been moved to this permit for reclamation purposes. Approximately one mile of haulroad HR-B and its associated berms have been repaired. A 36-inch concrete culvert has been installed downslope of the toe of Fill HF-B to facilitate a crossing for HR-B. The haulroad repair work has been done continuing out the High Splint Bench to the Road Spur pit area. Reclamation work is proposed to take place in this area.



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The operator is reminded that replacement gravel will be required on an as-needed basis on all active haulroads in the future.

RECLAMATION TAX:

No mining is being conducted at this time; therefore, no taxes are due to the reclamation fund.

OTHER:

Renewals:

CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.
CSMO/NPDES Renewal Application #1010341 placed in Item Status on 10/17/2019.
The above application remains in this status at this time.
CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.

Anniversary Reports:

Anniversary fees were due to the MLR Office 03/30/2021.
These fees are due pending the approval of the next CSMO/NPDES Renewal.

Midterm Reviews:

The last Midterm Review was completed on 01/17/2012.
The next Midterm Review will be completed after the approval of CSMO/NPDES Renewal Application #1010341; thirty months after the following CSMO/NPDES Renewal date.

HISTORY/CARRY FORWARD INFORMATION:

The original CSMO/NPDES Application #1000238 was issued to Pinnacle Resources, LLC (Permit #1101854) on 06/19/2003.

Pinnacle Resources, LLC (Permit #1101854) transferred to A & G Coal Corporation (Permit #1101914).
Succession Application #1001763 was approved on 06/28/2004.

JULY 2023 COMPLIANCE AGREEMENT NOTES:

On 07/18/2023, The Virginia Department of Energy's Mined Land Repurposing Office (MLR) and Justice Companies entered into a compliance agreement. The Compliance Agreement was signed by MLR Director of Coal Programs, M. Randy Moore, and Justice Companies President, James C. Justice III on 07/18/2023. This Compliance Agreement became effective on 07/17/2023. Justice Companies affected by this Compliance Agreement are as follows:

- o A & G Coal Corporation
- o Virginia Fuel Corporation
- o Chestnut Land Holdings, L.L.C.
- o Justice Low Seam Mining, Inc.
- o Meg-Lynn Land Company. Inc.
- o Black River Coal, L.L.C.
- o Baden Reclamation Company, Inc.
- o Southern Coal Corporation, Inc

Various agreements between the Justice Companies (including but not limited to those listed the above) have expired milestones or will expire within the next twelve months of this effective date of this agreement. The 2014 Compliance Agreement (including its amendments and addendums) is fully replaced by this present agreement; and all terms, conditions, and obligations created by the 2014 Compliance Agreement (including its amendments and addendums) will be considered null and void and the July 2023 Compliance Agreement will now be considered an all-inclusive intelligible Agreement.



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The purpose of this agreement is:

- i. To allow the Justice Companies to address certain reclamation deadlines in exchange for certain stipulations, agreements, and other terms that constitute valuable consideration.
- ii. To link together the Justice Companies reclamation obligations under each of the permits listed in this agreement, such that a failure to complete any reclamation obligation under any permit shall give Virginia Energy or MLR the right to seek permit revocation(s) or performance bond forfeiture(s) under any other permit listed in this agreement.

The Justice Companies agree that the failure to comply with any of the terms, conditions, or obligations of this Agreement may result in the suspension/revocation of permit(s) and/or forfeiture of any performance bonds associated with those permits. It is the Justice Companies' intent and purpose to enter into this agreement to address the outstanding reclamation obligations.

Pursuant to the Compliance Agreement, the Justice Company has agreed to commence Backfill/Regrade and other reclamation-related activities on A & G Coal Corporation's Permit #1101914, on or before 01/01/2024. These activities are to be completed by 12/31/2025.

Seeding and Tree Planting:

As regrading has been completed on each of these permits, seeding and tree planting must take place in the first normal period for favorable tree planting conditions per 4 VAC 25-130-816.113. In addition, at least one previously regraded permit will have trees planted during the first favorable planting season which must include ground cover seeding.

Failure to comply with the Seeding and Tree Planting requirements, may result in a penalty up to \$10,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

Equipment:

Justice Companies shall maintain sufficient resources in equipment, personnel, and materials to include but not limited to fuel, oil, and equipment parts to meet the terms of this Agreement and to immediately communicate in writing with MLR (to the attention of Program Director) regarding any deviation(s) from the agreed schedule and/or conditions of this Agreement.

In the event equipment malfunction occurs, the Justice Companies shall cause the prompt repair of said equipment necessary for compliance with this Agreement or replacement of such with equivalent functioning equipment withing fifteen working days.

Failure to comply with the Equipment Requirements, may result in a penalty up to \$25,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

For Further Information:

The above section of the inspection report is to serve as a summary of the Compliance Agreement; addressing actions that are required to take place on the ground. This is in no way the full scope of the agreement. Further Details of this Compliance Agreement may be found in the original document. Copies have been distributed among the signatory parties.



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BLG0000673

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101914		BLG0000673

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
5/9/2024	7:00 AM	1:00 PM	RAIN

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
2,777.92	2,031.50	994.78	571.99	2,029.36

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	0.5 MILES W OF RODA ON BLACK MOUNTAIN

INSPECTION BY	COPY OF REPORT
Bruce Gardner	Mailed - Emailed report to Justice Corporation company officials.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. AC - APPROXIMATE ORIGINAL CONTOUR	2. HE - HIGH WALL ELIMINATION
3. RT - RECLAMATION TAX	

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	
1. BR - BACKFILLING REGRADING	2. AO - AUTHORIZED TO OPERATE
3. OT - OTHER	

COMMENTS :	PERMIT: 1101914	REPORT: BLG0000673
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Mined Land Repurposing Inspector, Leonard Gardner, performed a partial inspection of this permit on 05/09/2024. There were no personnel onsite. Two Caterpillar 777D haulers, one Caterpillar 992G loader, and one Caterpillar D-11 dozer remain staged near the Road Spur pit area. One Caterpillar articulating hauler is staged near the mine office in McHenry Fork. The Caterpillar 336F excavator is located in Derby, as recent road work has been conducted in that location.

There are plans to highwall mine the High Splint Coal Seam, then backfill the open pit to the level of overlying seams to conduct highwall mining operations in those seams. A small amount of material was removed from the pit in March 2024 area to expose coal for development. This material has been transported south of the pit area and deposited on the #13 Coal Seam bench to be used to cover exposed highwall in that area. For further details, see the "Backfilling and Regrading" section of this inspection.

This operation remains closed by the Virginia Department of Energy's Coal Mine Safety Department. This closure was initiated because Wise County tax affidavits have not yet been received. All material moving activities around the pit area have been temporarily halted pending payment of these taxes.

For further reference, see the conditions of the July 2023 Compliance Agreement notes at the end of this Inspection Report.



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INSPECTION

A copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

GENERAL OBLIGATIONS:

- Succession Application #1001763 from Permit #1101854 was approved on 06/08/2004.
- CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.
- CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.
- As of 04/11/2024, CSMO/NPDES Renewal Application #1010341 is on hold with U.S. Fish and Wildlife Service.
- Anniversary fees are due pending the approval of CSMO/NPDES Renewal Application #1010341.

Details Concerning NOV JBC0002026 and FTA/CO JBC0002051:

The operator had been notified by email that the Anniversary Report for A & G Coal Corporation (Permit #1101914), had been approved pending payment of Anniversary Fees and NPDES Outfall Fees. Anniversary Fees in the amount of \$26,416.00 and NPDES fees in the amount of \$2,400.00 were due in the DMLR Office by 03/30/2021 (Anniversary Report Form #1910). It was noted during the 06/28/2021 inspection that the operator had failed to submit the required Anniversary Fees. As a result, Notice of Violation #JBC0002026, Violation 1 of 1, under performance code AO was issued. This violation was issued an abatement date of 07/08/2021.

As of the 07/09/2021 inspection, the operator had failed to abate the above-mentioned violation. (NOV JBC0002026). Therefore, Failure to Abate Cessation Order (FTA/CO) JBC0002051 was issued.

As of the current inspection, these fees are yet to have been paid.

**SMRCA PERFORMANCE STANDARDS CHECKED DURING THIS INSPECTION:
 AO, BR, AC, HE, RT, & OT**

AUTHORIZATION TO OPERATE:

MSHA ID #44-06544
 State Mine Index #14617, #14634, #14935AA, #14817AA, & #14818AA

Bonding:

Permit consists of 2,777.92 acres, with 19.65 released, 2031.50 acres disturbed, 994.78 acres regraded, and 571.99 reclaimed. 2029.36 acres of the permit are pool bonded in the total amount of \$5,145,000.00.

Unbonded Areas:

Bond Increment #2 is and undisturbed area. Bond must be posted on this increment should operations progress into its boundaries.

Bond Reductions:

Application #1005666, reducing the bond amount on Increment #4 by \$894,000.00, was approved on 03/17/2009. There are no bond reductions currently pending.

This permit is incrementally bonded. See chart below for details:

Increment #	Bonded (Yes or No)	Acreage	Current Amount Per Acre	Is Amount Shown A Reduction (Yes or No)
#1	Yes	1461.36 ac.	\$3,000.00/ac.	No
#2	No	755.13 ac.	N/A	N/A
#3	Yes	43.0 ac.	\$3,000.00/ac.	No
#4	Yes	525.0 ac.	\$1,200.00/ac.	Yes



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INSPECTION

Details Concerning NOV CEV0009273 and FTA/CO KXC0008977:

The permittee has not replaced the self-bond for this permit with an acceptable surety or collateral performance bond by 08/08/2014, as required by the Division's letter of 06/26/2014 (certified mail #7013 1090 0001 0523 0138).

The permittee shall submit an acceptable surety or collateral performance bond as required by 4 VAC 25-130-800.12(a) and 4 VAC 25-130-800.12(b) to the Division by the set abatement date. The permittee shall immediately cease all coal extraction operations until it has replaced the self-bond as required herein; however, it shall continue the required reclamation, maintenance, and monitoring operations under the approved detailed plans.

The operator has failed to comply with NOV CEV0009273 that directed the operator to replace the self-bond on this permit by the established abatement date of 11/13/2014.

Details Concerning NOV CEV0010710 and FTA/CO CEV0010751:

Revision Application #1009100 to provide a cost estimate for extending the Temporary Cessation period on CSMO #1101914 was approved by DMLR on 06/03/2016. There are no surface mining operations being conducted on this permit at this time and there hasn't been any mining conducted in excess of six months. The operator failed to submit to DMLR the required bond equal to the total estimated cost of reclamation as specified in Section 19.1 of Revision Application #1009100. NOV #CEV0010710 required submittal of this bond by 03/15/2018. The bond has still not been submitted to DMLR as required by the abatement date of the NOV. As a result, a Failure to Abate Cessation Order is being issued for failure to comply with the NOV by the set abatement date.

The operator is hereby instructed to comply with all remedial measures required by Notice of Violation #CEV0010710 violation #1 of 1 for the performance standard code of OT.

Liability Insurance:

The liability insurance policy is current through 10/22/2024.

AVS:

A&G Coal Corporation is the permittee, effective 06/19/2003. All reclamation and mining operations are assumed by this permittee.

Virginia Fuel Corporation was listed as a contractor on this permit on 07/10/2015.

There is no ongoing work on this permit currently (equipment, personnel etc.), therefore no AVS check is required.

BACKFILLING AND REGRADING:

History:

Three major permitting actions have addressed the timing of rough backfilling and grading operations, i.e., time, distance, total cumulative amount of exposed highwall, and point of measurement. Maxim Engineering, Inc. addressed backfilling and grading operations in Application #1002027, the original application prepared for Pinnacle Resources, LLC. D.R. Allen & Associates address backfilling and grading operations in applications #1002192 and #1002952, which were significant acreage amendments. The following backfilling and grading operations limitations were approved by DMLR. All limitations were based on the number of spreads of equipment worked on the site. The limitations are summarized as follows:

Application #1002027 - Lick Branch/McHenry Fork	
Class:	Contour Mining
Time:	180 days following coal removal in the lowest seam to be mined
Distance:	2,000 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	8,000 LFt. (4,000 LFt./Spread x 2 Spreads)
PW:	Not proposed



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INSPECTION

Application #1002192 - Lick Branch/McHenry Fork	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	2,600 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	12,800 LFt. (3,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Application #1002952 - Preacher Creek	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	4,600 LFt./pit; based on final highwall; at lowest seam; (400 VFt.)
Exposed Highwall:	20,800 LFt. (5,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Permit Application #1001763 states that disturbed areas will be backfilled and regraded in accordance with 4 VAC 25-130-816.100, 816.102, 816.106, and 816.107. All highwalls will be eliminated. The regraded site will reasonably conform to the post-mining configuration shown on the cross-sections to achieve the approximate original contour.

There are pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outcrops and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.

On 06/14/2007, Revision Application #1004305 was approved to clarify the contemporaneous reclamation limitations for this permit. Contemporaneous reclamation limitations have been set for each mining scenario. Exposed highwall limitations are based on the lowest seam mined at the final highwall and include the production area. Time and pit width limitations are based on the lowest seam mined, regardless of interim or final highwall. Distance limitations are based on the lowest coal seam to be mined at the final highwall. The reclamation plans approved in revision application #1004305 allow for a total highwall distance of 37,600'. Extended time of 180 days for each mining scenario was also approved in this revision.

Details Concerning NOV #CEV0008882 and FTA/CO #CEV0008995:

On 04/08/2013, this permit was placed in Temporary Cessation for a period of six months until 10/05/2013. The temporary cessation consisted of three main areas as designated by the Temporary Cessation Map. The temporary cessation expired for all three areas. There were not any spreads of mining equipment on this permit to resume mining/reclamation operations. In addition, the operator did not submit and obtain approval of a permit revision (within the six-month time frame) which addressed the estimated cost of reclamation and post the required bond equal to the total estimated cost of reclamation with the DMLR Office. As a result, contemporaneous reclamation was not current on this permit. Notice of Violation #CEV0008882 was issued 10/16/2013 instructing the operator to take all necessary measures so as to bring backfilling and regrading to a current status in accordance with the approved detailed plans and all applicable regulations. Time for abatement was 01/14/2014. There had not been any production/reclamation equipment moved on to this site to accomplish the required reclamation. There had not been any reclamation work conducted on this site since the issuance of this NOV. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0008995 was issued 01/15/2014 for failure to comply with the remedial measures stipulated in NOV #CEV0008882 by the set abatement date. The operator was reminded that a FTA/CO is assessed civil penalties at a minimum \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture.



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Conditions During the Inspection:

A small amount of backfill material has been transported to the #13 Coal Seam bench from the Road Spur pit area. Additional material has been transported to the topsoil storage area adjacent to the Road Spur pit.

All material moving activities around the pit area have been temporarily halted pending submittal of Wise County tax affidavits.

APPROXIMATE ORIGINAL CONTOUR:

This permit is required to be backfilled to Approximate Original Contour. There are no AOC variances approved.

HIGHWALL ELIMINATION:

There were pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community. Aside from a portion of the Upper Parsons Bench that lies north of McHenry Fork, used for pond construction and access, these areas have all been disturbed during this mining operation, and are required to be eliminated.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outcrops and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.

As of this inspection, there are multiple areas with substantial highwalls.

Roda Pit – This area lies on the spur of Black Mountain between Lick Branch and McHenry Fork. The highwall is approximately 3,000 LFt. in length, and approximately 120 VFt. in height at its apex.

Road Spur Pit – This area lies on Road Spur between McHenry Fork and Preacher Creek. The highwall is approximately 1,200 LFt. in length, and approximately 100 VFt. in height at its apex.

High Splint, Seam #13, Seam #14 Walls – This area runs for approximately 9,200 LFt. at varying heights and elevations above the internal road from 36°55'42.62"N/082°51'16.54"W to 36°57'08.21"N/082°51'13.88"W, where the Road Spur Pit area begins.

There have not been any highwall elimination operations on this permit for an extended period of time.

RECLAMATION TAX:

No mining is being conducted at this time; therefore, no taxes are due to the reclamation fund.

OTHER:

Renewals:

CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.

CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.

As of 04/11/2024, CSMO/NPDES Renewal Application #1010341 is on hold with U.S. Fish and Wildlife Service.

Anniversary Reports:

Anniversary fees were due to the MLR Office 03/30/2021.

These fees are due pending the approval of the next CSMO/NPDES Renewal.

Midterm Reviews:

The last Midterm Review was completed on 01/17/2012.

The next Midterm Review will be completed after the approval of CSMO/NPDES Renewal Application #1010341; thirty months after the following CSMO/NPDES Renewal date.



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HISTORY/CARRY FORWARD INFORMATION:

The original CSMO/NPDES Application #1000238 was issued to Pinnacle Resources, LLC (Permit #1101854) on 06/19/2003.

Pinnacle Resources, LLC (Permit #1101854) transferred to A & G Coal Corporation (Permit #1101914). Succession Application #1001763 was approved on 06/28/2004.

JULY 2023 COMPLIANCE AGREEMENT NOTES:

On 07/18/2023, The Virginia Department of Energy’s Mined Land Repurposing Office (MLR) and Justice Companies entered into a compliance agreement. The Compliance Agreement was signed by MLR Director of Coal Programs, M. Randy Moore, and Justice Companies President, James C. Justice III on 07/18/2023. This Compliance Agreement became effective on 07/17/2023. Justice Companies affected by this Compliance Agreement are as follows:

- o A & G Coal Corporation
- o Virginia Fuel Corporation
- o Chestnut Land Holdings, L.L.C.
- o Justice Low Seam Mining, Inc.
- o Meg-Lynn Land Company. Inc.
- o Black River Coal, L.L.C.
- o Baden Reclamation Company, Inc.
- o Southern Coal Corporation, Inc

Various agreements between the Justice Companies (including but not limited to those listed the above) have expired milestones or will expire within the next twelve months of this effective date of this agreement. The 2014 Compliance Agreement (including its amendments and addendums) is fully replaced by this present agreement; and all terms, conditions, and obligations created by the 2014 Compliance Agreement (including its amendments and addendums) will be considered null and void and the July 2023 Compliance Agreement will now be considered an all-inclusive intelligible Agreement.

The purpose of this agreement is:

- i. To allow the Justice Companies to address certain reclamation deadlines in exchange for certain stipulations, agreements, and other terms that constitute valuable consideration.
- ii. To link together the Justice Companies reclamation obligations under each of the permits listed in this agreement, such that a failure to complete any reclamation obligation under any permit shall give Virginia Energy or MLR the right to seek permit revocation(s) or performance bond forfeiture(s) under any other permit listed in this agreement.

The Justice Companies agree that the failure to comply with any of the terms, conditions, or obligations of this Agreement may result in the suspension/revocation of permit(s) and/or forfeiture of any performance bonds associated with those permits. It is the Justice Companies' intent and purpose to enter into this agreement to address the outstanding reclamation obligations.

Pursuant to the Compliance Agreement, the Justice Company has agreed to commence Backfill/Regrade and other reclamation-related activities on A & G Coal Corporation’s Permit #1101914, on or before 01/01/2024. These activities are to be completed by 12/31/2025.



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Seeding and Tree Planting:

As regrading has been completed on each of these permits. seeding and tree planting must take place in the first normal period for favorable tree planting conditions per 4 VAC 25-130-816.113. In addition, at least one previously regraded permit will have trees planted during the first favorable planting season which must include ground cover seeding.

Failure to comply with the Seeding and Tree Planting requirements, may result in a penalty up to \$10,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

Equipment:

Justice Companies shall maintain sufficient resources in equipment, personnel, and materials to include but not limited to fuel, oil, and equipment parts to meet the terms of this Agreement and to immediately communicate in writing with MLR (to the attention of Program Director) regarding any deviation(s) from the agreed schedule and/or conditions of this Agreement.

In the event equipment malfunction occurs, the Justice Companies shall cause the prompt repair of said equipment necessary for compliance with this Agreement or replacement of such with equivalent functioning equipment within fifteen working days.

Failure to comply with the Equipment Requirements, may result in a penalty up to \$25,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

For Further Information:

The above section of the inspection report is to serve as a summary of the Compliance Agreement; addressing actions that are required to take place on the ground. This is in no way the full scope of the agreement. Further Details of this Compliance Agreement may be found in the original document. Copies have been distributed among the signatory parties.



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INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101914		BLG0000755

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	AVS-QUARTERLY COMPLETE	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
7/3/2024	3:30 PM	5:30 PM	FAIR
7/8/2024	7:00 AM	2:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
2,777.92	2,031.50	994.78	571.99	2,029.36

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	0.5 MILES W OF RODA ON BLACK MOUNTAIN

INSPECTION BY	COPY OF REPORT
Bruce Gardner	Mailed - Emailed report to Justice Corporation company officials.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. MN - MINING 100'-300'	2. EP - EXCEEDED PERMIT
3. MP - MINING W/O PERMIT	4. SC - SUBSIDENCE CONTROL
5. SM - SIGNS AND MARKERS	6. SL - SEALING OF HOLES
7. TS - TOPSOIL	8. EF - EFFLUENT
9. WM - WATER MONITORING	10. BZ - BUFFER ZONE
11. BL - BLASTING	12. AC - APPROXIMATE ORIGINAL CONTOUR
13. HE - HIGH WALL ELIMINATION	14. AT - ACID AND TOXIC MATERIAL
15. SD - SPOIL DOWNSLOPE	16. RT - RECLAMATION TAX

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	
1. SS - SEDIMENT STRUCTURES	2. DS - DISPOSAL OF SPOIL AND WASTE
3. BR - BACKFILLING REGRADING	4. RV - REVEGETATION
5. HR - HAUL ROADS	6. AO - AUTHORIZED TO OPERATE
7. OT - OTHER	

COMMENTS :	PERMIT: 1101914	REPORT: BLG0000755
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Mined Land Repurposing Inspector, Leonard Gardner, performed an AVS Quarterly Complete Inspection of this permit on 07/03/2024 and 07/08/2024. There were no company personnel onsite during this inspection. Two Caterpillar 777D haulers, one Caterpillar articulating hauler, one Caterpillar 992G loader, and one Caterpillar D-11 dozer remain staged near the Road Spur pit area. It appeared that no work had taken place since the last visit to the site.



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There are plans to highwall mine the High Splint Coal Seam, then backfill the open pit to the level of overlying seams to conduct highwall mining operations in those seams. A small amount of material was removed from the pit in March 2024 area to expose coal for development. This material has been transported south of the pit area and deposited on the #13 Coal Seam bench to be used to cover exposed highwall in that area. For further details, see the "Backfilling and Regrading" section of this inspection.

This operation remains closed by the Virginia Department of Energy's Coal Mine Safety Department. This closure was initiated because Wise County tax affidavits have not yet been received. All material moving activities around the pit area have been temporarily halted pending payment of these taxes.

For further reference, see the conditions of the July 2023 Compliance Agreement notes at the end of this Inspection Report.

A copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.

GENERAL OBLIGATIONS:

- o Succession Application #1001763 from Permit #1101854 was approved on 06/08/2004.
- o CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.
- o CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.
- o As of 04/11/2024, CSMO/NPDES Renewal Application #1010341 is on hold with US Fish and Wildlife.

Details Concerning NOV JBC0002026 and FTA/CO JBC0002051:

The operator had been notified by email that the Anniversary Report for A & G Coal Corporation (Permit #1101914), had been approved pending payment of Anniversary Fees and NPDES Outfall Fees. Anniversary Fees in the amount of \$26,416.00 and NPDES fees in the amount of \$2,400.00 were due in the DMLR Office by 03/30/2021 (Anniversary Report Form #1910). It was noted during the 06/28/2021 inspection that the operator had failed to submit the required Anniversary Fees. As a result, Notice of Violation #JBC0002026, Violation 1 of 1, under performance code AO was issued. This violation was issued an abatement date of 07/08/2021.

As of the 07/09/2021 inspection, the operator had failed to abate the above-mentioned violation. (NOV JBC0002026). Therefore, Failure to Abate Cessation Order (FTA/CO) JBC0002051 was issued.

As of the current inspection, these fees are yet to have been paid.

SMRCA PERFORMANCE STANDARDS CHECKED DURING THIS INSPECTION:

AUTHORIZATION TO OPERATE:

MSHA ID #44-06544
State Mine Index #14617, #14634, #14935AA, #14817AA, & #14818AA

Bonding:

Permit consists of 2,777.92 acres, with 19.65 released, 2031.50 acres disturbed, 994.78 acres regraded, and 571.99 reclaimed. 2029.36 acres of the permit are pool bonded in the total amount of \$5,145,000.00.

Bonded Areas:

Bond Increment #2 is an undisturbed area. Bond must be posted on this increment should operations progress into its boundaries.

Bond Reductions:

Application #1005666, reducing the bond amount on Increment #4 by \$894,000.00, was approved on 03/17/2009. There are no bond reductions currently pending.



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This permit is incrementally bonded. See chart below for details:

Increment #	Bonded (Yes or No)	Acreage	Current Amount Per Acre	Is Amount Shown A Reduction (Yes or No)
#1	Yes	1461.36 ac.	\$3,000.00/ac.	No
#2	No	755.13 ac.	N/A	N/A
#3	Yes	43.0 ac.	\$3,000.00/ac.	No
#4	Yes	525.0 ac.	\$1,200.00/ac.	Yes

Details Concerning NOV CEV0009273 and FTA/CO KXC0008977:

The permittee has not replaced the self-bond for this permit with an acceptable surety or collateral performance bond by 08/08/2014, as required by the Division’s letter of 06/26/2014 (certified mail #7013 1090 0001 0523 0138).

The permittee shall submit an acceptable surety or collateral performance bond as required by 4 VAC 25-130-800.12(a) and 4 VAC 25-130-800.12(b) to the Division by the set abatement date. The permittee shall immediately cease all coal extraction operations until it has replaced the self-bond as required herein; however, it shall continue the required reclamation, maintenance, and monitoring operations under the approved detailed plans.

The operator has failed to comply with NOV CEV0009273 that directed the operator to replace the self-bond on this permit by the established abatement date of 11/13/2014.

Details Concerning NOV CEV0010710 and FTA/CO CEV0010751:

Revision Application #1009100 to provide a cost estimate for extending the Temporary Cessation period on CSMO #1101914 was approved by DMLR on 06/03/2016. There are no surface mining operations being conducted on this permit at this time and there hasn’t been any mining conducted in excess of six months. The operator failed to submit to DMLR the required bond equal to the total estimated cost of reclamation as specified in Section 19.1 of Revision Application #1009100. NOV #CEV0010710 required submittal of this bond by 03/15/2018. The bond has still not been submitted to DMLR as required by the abatement date of the NOV. As a result, a Failure to Abate Cessation Order is being issued for failure to comply with the NOV by the set abatement date.

The operator is hereby instructed to comply with all remedial measures required by Notice of Violation #CEV0010710 violation #1 of 1 for the performance standard code of OT.

Liability Insurance:

The liability insurance policy is current through 10/22/2024.

AVS:

A&G Coal Corporation is the permittee, effective 06/19/2003. All reclamation and mining operations are assumed by this permittee.

Virginia Fuel Corporation was listed as a contractor on this permit on 07/10/2015.

There is no ongoing work on this permit currently (equipment, personnel etc.), therefore no AVS check is required.



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INSPECTION

MINING 100' - 300':

- There are multiple stream buffer zone variances on this permit:
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Preacher Creek and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of McHenry Fork and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Lick Branch and its unnamed ephemeral tributaries.
 - Aquatic mitigation measures consist of:
 - Restoring the stream channel at all practicable locations using sound fluvial geomorphological principles. A 100 ft. (fifty feet on either side) riparian corridor shall be constructed alongside the restored stream channel.
 - The riparian corridor will provide:
 - ❖ Vegetative cover that is suitable for moist conditions.
 - ❖ Protect the water quality of the stream.
 - ❖ Maintain bank stability.
 - ❖ And provide food and cover for wildlife.
 - Multiple sediment structures are constructed within the above-mentioned watersheds to mitigate sedimentation of jurisdictional waters. See table below:

Preacher Creek	Ponds C, C1, C2, & C3
McHenry Fork	Ponds 1A, 1B, 1C, 6, 4A, 4B, 4C, 4D, & 4E
Lick Branch	Ponds 9, 10, 11, 12, 13, & 16

- Further details about these ponds are provided below, under the Sediment Structures Performance Standard.
- Further details concerning stream buffer zones are provided in Section 8.5 (Stream Buffer Zones), the attached USACE-PCNMod in Section 8.6 (Mitigation Measures), and the attached Environmental Resources Map in Section 21.2 (Maps/Certifications).
- There is a variance approved to operate within 100 feet of a public road.
 Construction of the interim and final configuration of Haulroad C1 will be conducted within 100 feet of public right of way associated with State Route 160.
 Further details are provided in Section 10.7 (Disturbances Within Right-of-Way).
- There is a variance approved to operate within 300 feet of an occupied dwelling.
 A portion of Haulroad C2 is within 300 feet of WSI Structures 21, 22, and 23, located in the upper portion of the community of Derby.
 For further details, see Section 10.8 (Mining Within 300 Feet of Occupied Dwelling).

EXCEEDING PERMIT BOUNDARY:

There is no evidence that the operator has exceeded the permit boundaries.

MINING WITHOUT A PERMIT:

There is a valid SMCRA Permit on file at the Mined Land Repurposing Office.

SUBSIDENCE CONTROL:

- Auger mining operations have been conducted at different points along the coal seam outcrops. Auger holes penetrated to a depth of approximately 150 feet, and a stump of at least six inches was required between holes. This stump width should be sufficient to prevent subsidence of the land area overlying the auger workings. If subsidence were to occur, there are no dwellings, structures, pipelines, utility lines, or water bodies overlying the auger-mined areas. Any subsidence cracks which might develop shall be repaired as soon as practicable.



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INSPECTION

- The following information is taken from the subsidence control plan for Nehemiah Coal Company, Inc., (Permit #1201597). It is being included here because that permit has been relinquished in its entirety to Pinnacle Resources, LLC (Permit #1101854), which has been relinquished to the current A&G Coal Corporation permit. A&G has no proposed underground mining operations for this permit. Nehemiah conducted underground mining in the Morris and High Splint seams and completed operations in September of 2002.
 - Nehemiah Coal Company, Inc. utilized the room and pillar underground mining method with pillar extraction on retreat. Pillars were pulled where feasible. The only pillars that were not pulled were those that served as perimeter barriers for ventilation, those which could not be economically or safely recovered, and those left to support subsidence buffer zones, where required.
 - It is anticipated that the effect of any subsidence would not materially damage or lessen the value or potential use of surface lands. Because mining is proposed in areas where the depth of cover is less than 100 feet, sinkhole subsidence is a possibility. However, because of the competent nature of the overburden the likelihood of such subsidence is small. Overlying headwater tributaries are ephemeral in nature and there are no overlying structures to be protected from subsidence. The PMU boundaries were adjusted to allow a minimum of 100 feet of cover to protect the ephemeral headwaters of McHenry Fork from sinkhole subsidence.
 - In areas of maximum cover, surface subsidence would most likely take the form of very mild depressions. If subsidence should occur to the surface land and materially damage and lessen the value or potential use of the surface lands, then the damage will be corrected.
- **Conditions during the inspection:**
There was no evidence of subsidence noted during this inspection.
 - Details concerning subsidence control are contained in Sections 18.3 (Subsidence Control Plan) and 18.4 (Overlying, Underlying, and/or Adjacent Underground Workings) of the approved plans.

SIGNS AND MARKERS:

Permit Signs:

Permit identification signs containing all the required information have been posted at the multiple job entrances.

Blasting Signs:

Blasting warning signs have been posted. This signage contains all the required information concerning the use of explosives.

There are two red zone areas on the permit:

Red Zone A: In past inspections, it has been noted that the red zone area was marked using yellow “caution” flagging above the Inmet North Fork #6 Deep Mine in the Low Splint C/D seam. The operator has constructed at least two protective berm areas above that flagged area.

Red Zone B: This area is located above State Route 160 and has reflective “Red Zone” signs and a berm to caution that the public road runs below the site.

Conditions during the inspection:

It was noted during the inspection that no work was being conducted in the Red Zone areas. Both Red Zones were found to be in compliance during this inspection. Berms remain in place, and Red Zone signs are posted in Red Zone B, above State Route 160.



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SEALING OF HOLES:

- The known abandoned underground mines located within, or near this permit are deep mines located in the Morris, High Splint, Upper Parsons, Taggart, and Taggart-Marker Seams. No mining is proposed in the Taggart or Taggart-Marker Seams. The aerial extent of the Upper Parsons Seam mines is shown on the Geology Map. Operations were conducted in close proximity to the Upper Parsons Seam mines, which had portals in the Preacher Creek Watershed Area. If economically feasible, these workings may have been mined through where solid blocks existed.
- There were no exposed underground workings or exposed auger holes noted during this inspection. It appears that all these areas have been sealed with earthen material or covered during backfilling operations.
- There are three groundwater monitoring wells constructed on this permit:
 - GW-6 (MPID #0006013)
 - VFW-1 (MPID #0006202)
 - AW-1 (MPID #0006203)
 There is one piezometer constructed on this permit:
 - P-12 (MPID #0004133)
 When approval is granted, each groundwater monitoring well and piezometer will be grouted the entire length and any casing that extends above ground will be removed.
- Further details are provided in Section 18.1 (Measures to Seal or Manage Openings) of the approved plans.

TOPSOIL HANDLING:

This site was mined extensively by previous pre-SMCRA operations when it was a general practice to cast spoil material downslope. Due to the rugged terrain and steepness of slopes, most of the remaining native soils are generally very shallow to rock. In addition, the soils have been depleted of many of the minerals essential to plant growth. The lack of sufficient amounts of native soil material at this site necessitates the use of alternate soiling material.

Composite minesoil samples were obtained from adjacent previously completed areas. These samples were analyzed to determine nutrient status by the Soil Test Laboratory at Virginia Tech. Duplicate samples were tested to determine textural classification by Maxim Engineering, Inc. Also, splits of several of these samples were sent to Standard Laboratories, Inc. of Whitesburg, Kentucky for acid/base accountability testing.

The results of tests and field investigations indicate that the alternate overburden material generated during mining along with a composite of the native soil material from previously undisturbed areas are appropriate to be utilized as soiling material at this site.

Topsoil and topsoil substitutes have been placed on some of the regraded areas.

Further details are available Sections 9.2 (Topsoil/Substitute Topsoil) and 9.3b (Soil Salvage and Redistribution Plan) of the approved plans.



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INSPECTION

NPDES STANDARDS CHECKED DURING THIS INSPECTION:
 SS, EF, & WM

SEDIMENT/DRAINAGE CONTROL STRUCTURES:

Drainage is controlled on this permit using eight NPDES Ponds, and their associated sequence ponds.
 See the chart below and subsequent information for more details:

NPDES Ponds						
Structure Number	Facility	Constructed (Yes/No)	Permanent (Yes/No)	Original Cert. Date	Recertification Date	Annual Cert. Date
P08909	1A	Yes	No	01/28/2005	N/A	07/17/2023
P09139	14	Yes	No	06/18/2005	N/A	07/17/2023
P08817	9	Yes	No	04/15/2005	N/A	07/17/2023
P08818	10	Yes	No	12/07/2004	N/A	07/17/2023
P08819	11	Yes	No	02/26/2004	N/A	07/17/2023
P09679	16	Yes	No	04/22/2002	N/A	07/17/2023
P09680	C	Yes	No	04/18/2006	N/A	07/17/2023
P09682	C2	Yes	No	02/05/2007	N/A	07/17/2023

Sequence Ponds (Constructed)						
Structure Number	Facility	Constructed (Yes/No)	Permanent (Yes/No)	Original Cert. Date	Recertification Date	Annual Cert. Date
P08820	12	Yes	No	05/19/2004	N/A	07/17/2023
P08821	13	Yes	No	01/07/2010	N/A	07/17/2023
P09398	15	Yes	No	12/22/2009	N/A	07/17/2023
P09396	1B	Yes	No	12/01/2005	N/A	07/17/2023
P09397	1C	Yes	No	12/21/2005	N/A	07/17/2023
P08814	6	Yes	Proposed Wetland	01/26/2005	N/A	07/17/2023
P09575	4A	Yes	No	Unknown	N/A	Unknown
P09576	4B	Yes	No	Unknown	N/A	Unknown
P09577	4C	Yes	No	Unknown	N/A	04/30/2014
P09578	4D	Yes	No	Unknown	N/A	Unknown
P09579	4E	Yes	No	Unknown	N/A	Unknown
P09580	4F	Yes	No	Unknown	N/A	04/21/2014
P09681	C1	Yes	No	06/18/2006	N/A	07/17/2023
P09683	C3	Yes	No	04/10/2007	N/A	07/17/2023



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Proposed/Removed Ponds						
Structure Number	Facility	Proposed or Removed	Permanent (Yes/No)	Original Cert. Date	Recertification Date	Last Annual Cert. Date
P08809	1	Removed	N/A	Unknown	Unknown	Unknown
P09393	1A	Removed	N/A	06/08/2005	N/A	06/16/2011
P08810	2	Removed	N/A	Unknown	Unknown	Unknown
P08811	3	Removed	N/A	Unknown	Unknown	Unknown
P08812	4	Removed	N/A	Unknown	Unknown	Unknown
P08813	5	Removed	N/A	Unknown	Unknown	Unknown
P08815	7	Removed	N/A	Unknown	Unknown	Unknown
P08816	8	Removed	N/A	Unknown	Unknown	Unknown
P09684	C4	Removed	N/A	Unknown	Unknown	07/17/2023
P09685	C5	Removed	N/A	Unknown	Unknown	Unknown
P10730	C6	Proposed	No	Unknown	Unknown	Unknown

Retention:

Ponds were inspected for their sediment content during this inspection. See the chart below for details:

NPDES Ponds								
Structure #	P08909	P09139	P08817	P08818	P08819	P09679	P09680	P09682
Facility	1A	14	9	10	11	16	C	C2
Sediment Volume:	60%	60%	10%	10%	60%	10%	Nearing Cleanout	Nearing Cleanout
Retention Volume:	40%	40%	90%	90%	40%	90%	Nearing Cleanout	Nearing Cleanout

Sequence Ponds														
Structure #	P08820	P08821	P09398	P09396	P09397	P08814	P09575	P09576	P09577	P09578	P09579	P09580	P09681	P09683
Facility:	12	13	15	1B	1C	6	4A	4B	4C	4D	4E	4F	C1	C3
Sediment Volume:	Nearing Cleanout	20%	30%	40%	30%	30%	30%	20%	20%	20%	20%	10%	Nearing Cleanout	Nearing Cleanout
Retention Volume:	Nearing Cleanout	80%	70%	60%	60%	60%	70%	80%	80%	80%	80%	90%	Nearing Cleanout	Nearing Cleanout

Note: Operator is reminded to monitor any beaver activity that may exist around sediment structures.



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NOTES FROM PREVIOUS INSPECTOR EDDIE VARNER PERTAINING TO POND MAINTANANCE:

Details Concerning NOV #CEV0011121 and FTA/CO #CEV0011244:

It was noted during the inspection dated 10/31/2018 that Sediment Ponds #14 and #C3 were in need of routine maintenance. The ponds must be cleaned to provide adequate sediment storage volume and adequate detention time so they will function as designed. The structures were significantly impaired with accumulated sediments/fines which was causing the ponds to short circuit during a rainfall event. As a result, Notice of Violation #CEV0011121 was issued instructing the operator to clean out and remove accumulated sediments/fines from Ponds #14 and #C3 to provide adequate detention time and sediment storage volume. All work must be done in accordance with the approved detailed plans and all applicable regulations. Time for abatement was 01/30/2019.

The inspection on 01/31/2019 noted there was no work being conducted on this job site to comply with the remedial measures required by the NOV. There was a long boom excavator parked on the Low Splint bench near Pond C3 that had been used to clean Pond C3. There was no articulated haul truck on the site during that inspection. Inspector Eddie Varner walked out to Pond C3 and observed the work accomplished since the NOV had been issued on 11/01/2018. The operator had worked on the pond, and it appeared approximately 70-75% of the accumulated sediment had been removed from the pond. There were still some sediment/fines which needed to be removed from the Northern end of the pond where drainage first enters the structure from the diversion ditch.

Pond #14 located on McHenry Fork in Roda had not been cleaned at all during the abatement period. The abatement period had run for a total of 90 days. As a result, Failure to Abate Cessation Order #CEV0011244 was issued 01/31/2019 for failure to comply with all remedial measures stipulated in Notice of Violation #CEV0011121 by the set abatement date. The operator is reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator was instructed to submit updated O/C information to the DMLR Office within thirty days of this enforcement action. The inspection today revealed that no additional cleaning on C3 had been accomplished since the issuance of the FTA/CO. As noted in past inspection reports, the operator did return a long boom excavator to Pond #14 to finish cleaning this structure. Pond C3 still requires cleaning on the upper portion of the pond down to the open channel spillway. There was no work being done on C3 during this inspection.

Locations of ponds:

NPDES Ponds:

1. Pond 1A is in the McHenry Fork near its confluence with Mudlick Creek. It is the NPDES discharge monitoring point in series with its upstream counterparts, Pond 1A, 1B, 1C, and Pond 6. It was construction certified by Mr. Timothy B. Compton, RPE (#19269) on 08/15/2002.
2. Pond 14 is located near the mouth of McHenry Fork, near its confluence with Mudlick Creek. Lying just north of the spillway of Pond 1A. It was construction certified by Mr. Timothy B. Compton, RPE (#19269) on 08/15/2002.
3. Pond 9 is located on the Lower Parsons mine bench in the McHenry Fork Watershed. It was construction certified by Mark S. Wooten, RPE (#14992) on 04/15/2005.
4. Pond 10 is located on the Lower Parsons mine bench in the Lick Branch Watershed. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/07/2004.
5. Pond 11 is located near the head of Lick Branch. It is the NPDES discharge monitoring point in series with its upstream counterpart, Pond 12. It was construction certified by Mark S. Wooten, RPE (#14992) on 02/26/2004.
6. Pond 16 is located on the High Splint mine bench in the Lick Branch Watershed.
7. Pond C is located on the Low Splint mine bench in an unnamed tributary of Preacher Creek. It is the NPDES discharge monitoring point in series with its upstream counterpart, Pond C1. It was construction certified by Mark S. Wooten, RPE (#14992) on 04/18/2006.
8. Pond C2 is located in Preacher Creek. It is the NPDES discharge monitoring point in series with its upstream counterpart, Pond C3. It was construction certified by Mark S. Wooten, RPE (#14992) on 02/05/2007.



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Sequence Ponds:

1. Pond 12 is located in Lick Branch on the High Splint coal seam bench. It is the next pond in series above NPDES Pond 11. It was construction certified by Mark S. Wooten, RPE (#14992) on 02/26/2004.
2. Pond 13 is located in Lick Branch. It is the next pond in series above Pond 12. It was construction certified by Mark S. Wooten, RPE (#14992) on 01/07/2010.
3. Pond 15 is located on the Lower Parsons mine bench in the McHenry Fork Watershed. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/22/2009.
4. Pond 1B is located in McHenry Fork. It is the next pond in series above Pond 1A. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/01/2005.
5. Pond 1C is located in McHenry Fork. It is the next pond in series above Pond 1B. It was construction certified by Mark S. Wooten, RPE (#14992) on 12/21/2005.
6. Pond 6 is located in McHenry Fork. It is the next pond in series above pond 1C. It was construction certified by Mark S. Wooten, RPE (#14992) on 01/26/2005.
7. Pond 4A is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the lowest discharge point in a series of five ponds.
8. Pond 4B is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the next pond in series above Pond 4A.
9. Pond 4C is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the next pond in series above Pond 4B.
10. Pond 4D is located in the McHenry Fork Watershed on the Morris coal seam bench. It is the next pond in series above Pond 4C.
11. Pond 4E is located in the McHenry Fork Watershed above the Morris coal seam bench. It is the next pond in series above Pond 4D.
12. Pond 4F is located in the McHenry Fork Watershed on the Morris coal seam bench, southwest of Pond 4C.
13. Pond C1 is located on the Low Splint mine bench in an unnamed tributary of Preacher Creek. It was construction certified by Mark S. Wooten, RPE (#14992) on 04/18/2006.
14. Pond C3 is located on the Low Splint mine bench in an unnamed tributary of Preacher Creek. It has been recertified by Mark S. Wooten, RPE (#14992).

Pond Certifications:

The last Annual Pond Certification was submitted by Bill Johnson PE (#62233) on 07/17/2023.

EFFLUENT:

No effluent problems were noted during this inspection.

There are no outfalls being chemically treated at this time.

Discharging pond(s) are checked with a field HACH kit, (where applicable).

Please see the chart below for details:

MPID No.	Pond No.	Discharging	Flow/GPM	pH	Fe	Mn	TSS
0003283	1A	Yes	200	8.0	0.5	No Trace	N/A
0005160	9	No	0	N/A	N/A	N/A	N/A
0005161	10	No	0	N/A	N/A	N/A	N/A
0005162	11	No	0	N/A	N/A	N/A	N/A
0003285	14	Yes	10	7.5	<0.5	No Trace	N/A
0004129	16	No	0	N/A	N/A	N/A	N/A
0006208	C	No	0	N/A	N/A	N/A	N/A
0006209	C2	No	0	N/A	N/A	N/A	N/A



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WATER MONITORING:

- Water monitoring data for the 1st Quarter of 2024 was approved on 05/21/2024.
- Biological monitoring data for Fall, 2022 is as follows in the chart below:

MPID #	Site ID #	Approval Date:	Submittal Date:
0010154	MLC-2/Midstream	09/26/2023	
0010157	PC-1/Downstream	09/26/2023	
0010156	MLC-4/Upstream	09/26/2023	
0010155	MLC-3/Midstream	10/13/2023	
0010153	MLC-1/Instream		05/15/2024

- Biological monitoring data for Fall, 2023 was submitted on 03/08/2024.
- Whole Effluent Toxicity (WET) monitoring data for the 4th Quarter of 2022 was approved on 10/18/2023.
- Rainfall monitoring data from the Kelly View rain gauge (MPID #0002819) was last approved on 01/22/2021.
- *Operator is reminded that there is currently no rain gauge associated with this permit. This is the case on multiple Justice Corporation permits in the Appalachia area. A new rainfall monitoring site must be assigned to this and other permits in order to have Alternate Effluent Limit (AEL) variances on NPDES Outfalls during rain events.

BUFFER ZONE:

- There are multiple stream buffer zone variances on this permit:
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Preacher Creek and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of McHenry Fork and its unnamed ephemeral tributaries.
 - There is a buffer zone variance approved to conduct operations within 100 Feet of Lick Branch and its unnamed ephemeral tributaries.
 - Aquatic mitigation measures consist of:
 - Restoring the stream channel at all practicable locations using sound fluvial geomorphological principles. A 100 ft. (fifty feet on either side) riparian corridor shall be constructed alongside the restored stream channel.
 - The riparian corridor will provide:
 - ❖ Vegetative cover that is suitable for moist conditions.
 - ❖ Protect the water quality of the stream.
 - ❖ Maintain bank stability.
 - ❖ And provide food and cover for wildlife.
 - Multiple sediment structures are constructed within the above-mentioned watersheds to mitigate sedimentation of jurisdictional waters. See table below:

Preacher Creek	Ponds C, C1, C2, & C3
McHenry Fork	Ponds 1A, 1B, 1C, 6, 4A, 4B, 4C, 4D, 4E, 4F, & 14
Lick Branch	Ponds 9, 10, 11, 12, 13, & 16

- Further details about these ponds are provided in the Sediment Structures Performance Standard.
- Further details concerning stream buffer zones are provided in Section 8.5 (Stream Buffer Zones), the attached USACE-PCNMod in Section 8.6 (Mitigation Measures), and the attached Environmental Resources Map in Section 21.2 (Maps/Certifications).



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Threatened/Endangered Species:

- This permit lies within the Powell River watershed, a number of threatened and endangered aquatic species (mollusks) are listed on the Virginia Fish and Wildlife Information Service report within the more southerly reaches of this watershed. Specifically, they are found in the Powell River from the Tennessee/Virginia border upstream into Lee County.
- The Virginia Department of Game and Inland Fisheries, Fish and Wildlife Information Service, was queried to document the existence of any federally listed threatened or endangered species within three air miles of the permitted area. No federally listed threatened or endangered species have been documented in the area.
- A number of on-site assessments have been performed before mining began, and during the life of the permit. No threatened and endangered species, or their critical habitats, have been identified.
- In conclusion, this operation was found to have little, if any, affect the continued existence of any species listed as threatened or endangered by the United States Department of the Interior's Fish and Wildlife Service, nor would it cause destruction or adverse modification of their critical habitat. Therefore, no Protection Enhancement Plan or Species-Specific Protection Measures are required on this permit.
- For more detailed information on this subject, please see Section 8.7 (Threatened/Endangered Species) in the approved plans.

BLASTING:

- There is a variance approved to conduct blasting operations within 100 feet of public right of way. This variance is associated with grading and blasting operations for the construction of Haulroad C1 and safety berm. This operation took place adjoining with, and upslope of, State Route 160. Land Use Permit No. 101-4907 was issued to A & G Coal Corporation on November 15, 2005, by the Virginia Department of Transportation.
- There is a variance approved to conduct blasting operations within 1,000 feet of occupied dwellings. This portion of the permit is in the Derby community. This facilitated the construction of Haulroad C2. Haulroad C2 is a reclaimed haulroad previously constructed by Westmoreland Coal Company.
- **Active Underground Mines:**
 - There is a variance approved to conduct blasting operations within 500 feet of an active underground mine.
 - Inmet Mining, LLC's North Fork #6 (Permit #1202312) is currently permitted to operate a belt corridor within the Low Splint C Seam. This operation passes directly under Permit #1101914 into Kentucky.
 - MSHA and VDM concurrence will be obtained prior to surface mining operations being advanced within 500 feet of these active mine works.
 - The approved PMU for this mine and the current extent of their mining may be found on the Operations Map.
- No other known active underground mines are located within 500 feet of the permit area.
- **Abandoned Underground Mines:**
 - There is a variance approved to conduct blasting operations within 500 feet of an abandoned underground mine.
 - Ambrose Branch Coal Company, Inc. Mine #5 (Permit #1401925):
Portions of the permit boundary involving road and pond construction are located within 500 feet of this abandoned deep mine in the Wilson Seam.
 - Roda Resources, LLC (Permit #1201765):
Abandoned deep mine in the High Splint Seam.
- A&G Permit #1101914 operations mined through abandoned High Splint and Upper Parsons Seam deep mine workings. The limits of the abandoned Upper Parsons underground mine is shown on the Geology Map.
- **Public Blasting Notice:**
The blasting schedule has expired on this permit. There is no blasting being conducted on the permit at this time. Should it be required, a new public blasting notice will need to be published. This notice shall be published at least one month ahead of the resumption of blasting operations.



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DISPOSAL OF SPOIL (EXCESS):

There are eight excess spoil fills constructed, and one proposed, on this permit. See chart below for details:

MLR Fill #	Company #	Construction Status:	Last Quarterly Cert. Date	Certifying Engineer:
F08910	HF-B	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09690	HF-B4	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F08911	SHF-B1	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09399	SSF-B2	Under Construction	04/05/2016	Mark S. Wooten RPE (#14992)
F09400	SSF-B3	Not Constructed	N/A	N/A
F09686	HF-C1	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09687	HF-C2	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09688	HF-C3	Under Construction	10/10/2023	Bill Johnson RPE (#62233)
F09689	HF-C4	Under Construction	10/10/2023	Bill Johnson RPE (#62233)

Excess Spoil Fills B, and B-4; SSF-B1, and SSF-B2 are located in the McHenry Fork Watershed.

Excess Spoil Fill SSF-B3 is proposed to be located in the McHenry Fork Watershed.

Excess Spoil Fills C1, C2, C3, and C4 are located in the Preacher Creek Watershed.

History Pertaining to Excess Spoil:

Details Concerning NOV #CEV0008858 Violation #1 of 2 and FTA/CO #CEV0009198:

Several problems with the diversion ditches on the fills were noted in past reports. The upstream diversions for Hollow Fills C1, C2, C3, C4, Fill B, and Side Hill Fill B1 were breached allowing surface drainage to flow down the face of these fills. In addition, several diversion ditches were in need of reconstruction/repair and other noted ditches needed to be constructed to design specifications as approved in the detailed plans. As a result, Notice of Violation #CEV0008858 violation #1 of 2 was issued 09/25/2013 instructing the operator to construct and/or reconstruct all diversion ditches on the hollow fills noted in the description narrative of the NOV. All diversions must be constructed in accordance with approved designed specifications and all applicable regulations. Time for abatement was 12/24/2013.

On 12/12/2013, Mr. Les Vincent submitted a formal request to the DMLR requesting an extension of NOV #CEV0008858 violation #1 of 2 in accordance with Section 4VAC 25-130-843.12(f)(4) of VACSMRR. The letter requested an additional 90 days until 03/24/2014 to complete all remedial measures required by the NOV. The DMLR reviewed this request, considered all the facts set forth, and concurred with the request. As a result, NOV #CEV0008858, violation #1 of 2 was extended until 03/24/2014. The NOV was again extended as per written request in writing for an additional 90 days until 06/22/2014. The work required by the NOV was evaluated at a later date and there had still not been any work accomplished during the set abatement dates and the subsequent extensions.

As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0009198 was issued for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0008858 Violation #1 of 2 by the set abatement date and subsequent extensions. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator was reminded to immediately notify the inspector when the remedial work had been accomplished. No work was performed on the diversion ditches covered under the NOV and subsequent FTA/CO. The construction of these ditches has been discussed with company representatives on several occasions.

Details Concerning NOV #CEV0009498 and FTA/CO #CEV0009697:

It was observed during a previous inspection that material placed in Durable Rock Fill C4, and associated areas located above/upslope of this fill had become quite unstable as a result of heavy snowfall and rainfall. This material had been end dumped into the fill from active mining areas located above the Parsons mine bench. This material had become saturated from all the precipitation and was moving and sliding down the slope. This increased flow was carrying a concentrated flow of fines/sediments down diversion ditch D-3C and into Ponds C3 and C2 respectively. The unstable material located within and above the fill must be regraded in a manner so as to provide stability and prevent any further mass movement of material.



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As a result, Notice of Violation #CEV0009498 Violation #1 of 1 was issued requiring the operator to take all necessary measures to stabilize the material placed above and within the designated disposal area known as Durable Rock C4 Fill. This regrading/rehandling of material must be done to ensure mass stability and prevent mass movement. The work must be done in accordance with all applicable regulations and approved detailed plans. Time for abatement was 06/13/2015. Work to comply with this enforcement action was initiated on 06/10/2015. A D6 dozer, excavator and articulated truck was mobilized to the fill on 06/10/2015 and work began on the Western end of the fill on the approximate elevation of the Morris coal seam. Material had been placed against the #14 highwall to ramp up; thereby eliminating the wall behind Hollow Fill C4. This same package of equipment was being alternated back and forth working on the permanent diversion ditches on Fill B4 in McHenry Fork.

NOV #CEV0009498 expired 06/13/2015. Inspector Eddie Varner met with Mr. Robbie Burton and Mr. Roger Shortt on 06/08/2015 and discussed what remedial measures had to be accomplished in order to abate the NOV. Mr. Burton expressed the need for more time to comply the enforcement action on 06/08/2015. DMLR Inspector Eddie Varner received a letter from Mr. Burton requesting additional time to comply the NOV. Inspector Varner and Supervisor Ken Coomer evaluated the letter. All facts concerning this NOV and the scope of the work were considered. It was determined that additional time would be granted. Notice of Violation #CEV0009498 was hereby extended an additional 90 days until 09/11/2015. The operator was again reminded that failure to accomplish all work required by the new extension date of 09/11/2015 could result in the issuance of a failure to abate cessation order (FTA/CO) being issued.

DMLR Inspector Eddie Varner conducted a partial inspection on this permit on 09/14/2015 primarily to check on the status of NOV #CEV0009498. The inspection revealed the work required by the NOV and subsequent extension had not been accomplished and there was no equipment working on the area covered by the NOV. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0009697 was issued for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0009498 by the set abatement date and subsequent extension. The operator was reminded that a FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator should immediately notify the inspector when the remedial work is accomplished. The operator was instructed to submit updated O/C information to the DMLR Office within thirty days of this action. The work required by the FTA/CO has still not been completed.

At the time of this inspection, the obligations required of the above violations have not been met.



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BACKFILLING AND REGRADING:

History:

Three major permitting actions have addressed the timing of rough backfilling and grading operations, i.e., time, distance, total cumulative amount of exposed highwall, and point of measurement. Maxim Engineering, Inc. addressed backfilling and grading operations in Application #1002027, the original application prepared for Pinnacle Resources, LLC. D.R. Allen & Associates address backfilling and grading operations in applications #1002192 and #1002952, which were significant acreage amendments. The following backfilling and grading operations limitations were approved by DMLR. All limitations were based on the number of spreads of equipment worked on the site. The limitations are summarized as follows:

Application #1002027 - Lick Branch/McHenry Fork	
Class:	Contour Mining
Time:	180 days following coal removal in the lowest seam to be mined
Distance:	2,000 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	8,000 LFt. (4,000 LFt./Spread x 2 Spreads)
PW:	Not proposed

Application #1002192 - Lick Branch/McHenry Fork	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	2,600 LFt./Spread; based on final highwall at lowest seam; (200 Vft.)
Exposed Highwall:	12,800 LFt. (3,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Application #1002952 - Preacher Creek	
Class:	Contour Area Mining
Time:	180 days following coal removal
Distance:	4,600 LFt./pit; based on final highwall; at lowest seam; (400 VFt.)
Exposed Highwall:	20,800 LFt. (5,200 LFt./pit x 2 pits/Spread x 2 Spreads)
PW:	300 HFt. or 2 mining cuts; whichever is less; any non-backfilled pit

Permit Application #1001763 states that disturbed areas will be backfilled and regraded in accordance with 4 VAC 25-130-816.100, 816.102, 816.106, and 816.107. All highwalls will be eliminated. The regraded site will reasonably conform to the post-mining configuration shown on the cross-sections to achieve the approximate original contour.

There are pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outcrops and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.

On 06/14/2007, Revision Application #1004305 was approved to clarify the contemporaneous reclamation limitations for this permit. Contemporaneous reclamation limitations have been set for each mining scenario. Exposed highwall limitations are based on the lowest seam mined at the final highwall and include the production area. Time and pit width limitations are based on the lowest seam mined, regardless of interim or final highwall. Distance limitations are based on the lowest coal seam to be mined at the final highwall. The reclamation plans approved in revision application #1004305 allow for a total highwall distance of 37,600'. Extended time of 180 days for each mining scenario was also approved in this revision.



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VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING
3405 MOUNTAIN EMPIRE ROAD, BIG STONE GAP, VA 24219
TELEPHONE: (276) 523-8198

BLG0000755

INSPECTION

Details Concerning NOV #CEV0008882 and FTA/CO #CEV0008995:

On 04/08/2013, this permit was placed in Temporary Cessation for a period of six months until 10/05/2013. The temporary cessation consisted of three main areas as designated by the Temporary Cessation Map. The temporary cessation expired for all three areas. There were not any spreads of mining equipment on this permit to resume mining/reclamation operations. In addition, the operator did not submit and obtain approval of a permit revision (within the six-month time frame) which addressed the estimated cost of reclamation and post the required bond equal to the total estimated cost of reclamation with the DMLR Office. As a result, contemporaneous reclamation was not current on this permit. Notice of Violation #CEV0008882 was issued 10/16/2013 instructing the operator to take all necessary measures so as to bring backfilling and regrading to a current status in accordance with the approved detailed plans and all applicable regulations. Time for abatement was 01/14/2014. There had not been any production/reclamation equipment moved on to this site to accomplish the required reclamation. There had not been any reclamation work conducted on this site since the issuance of this NOV. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0008995 was issued 01/15/2014 for failure to comply with the remedial measures stipulated in NOV #CEV0008882 by the set abatement date. The operator was reminded that a FTA/CO is assessed civil penalties at a minimum \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture.

Conditions During the Inspection:

A small amount of backfill material has been transported to the #13 Coal Seam bench from the Road Spur pit area. Additional material has been transported to the topsoil storage area adjacent to the Road Spur pit.

All material moving activities around the pit area have been temporarily halted pending submittal of Wise County tax affidavits.

APPROXIMATE ORIGINAL CONTOUR:

This permit is required to be backfilled to Approximate Original Contour. There are no AOC variances approved.

HIGHWALL ELIMINATION:

There were pre-SMCRA highwalls existing on this permit on the #13, High Splint, Morris, Upper Parsons, and Low Splint C Coal Seam benches. There is also a small section of permitted pre-SMCRA area at the entrance of Haulroad C2 near the Derby community. Aside from a portion of the Upper Parsons Bench that lies north of McHenry Fork, used for pond construction and access, these areas have all been disturbed during this mining operation, and are required to be eliminated.

Permit Application #1002952 states that approximately 370.3 acres have been impacted by pre-SMCRA surface mining operations. This area encompasses existing highwalls, mine benches and outlopes and includes pre-SMCRA highwall. The existing highwalls that are re-affected by this operation will be totally eliminated.

As of this inspection, there are multiple areas with substantial highwalls.

Roda Pit – This area lies on the spur of Black Mountain between Lick Branch and McHenry Fork. The highwall is approximately 3,000 LFt. in length, and approximately 120 VFt. in height at its apex.

Road Spur Pit – This area lies on Road Spur between McHenry Fork and Preacher Creek. The highwall is approximately 1,200 LFt. in length, and approximately 100 VFt. in height at its apex.

High Splint, Seam #13, Seam #14 Walls – This area runs for approximately 9,200 LFt. at varying heights and elevations above the internal road from 36°55'42.62"N/082°51'16.54"W to 36°57'08.21"N/082°51'13.88"W, where the Road Spur Pit area begins.

There have not been any highwall elimination operations on this permit for an extended period of time.



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BLG0000755

INSPECTION

ACID & TOXIC MATERIAL:

Coal Wastes:

Details of encountering and remediating acidic/toxic coal and shale strata may be found in the narrative in Section 15.1 (Acid/Toxic Materials) of the approved plans. See chart below for summarization:

Acidic/Toxic Strata:	Location:	Handling Plan:
Any Coal Seams and Splits <6" in Thickness (Unrecoverable)	Entire Permit	-If encountered in a highwall, the seam will be mixed with the remaining overburden. -If encountered during coal pit cleaning operations, these seams, along with any partings cleaned, will be buried in the pit.
16.65 VFt. Shale Unit	Corehole #BS-00-10 Immediately Above the No. 13 Rider Seam	- To be blended with non-acidic/toxic overburden materials. -Care will be taken to ensure the blended material is placed as high in the pit as is economically feasible to minimize groundwater contact.
21.9 VFt. of Shale and Sandstone unit	Corehole #AG3-57-04 Underlying the Bottom Split of the No. 14 Coal Seam	To be blended with non-acidic/toxic overburden materials.
9.9 VFt. of Interbedded Shale, Sandstone, and Shale Units	Corehole #AG3-84-05 Approximately 34 VFt. above the No. 13 Coal Seam	Encapsulation: 10 VFt. above pit floor, 20 VFt. below regraded surface, Inside of 4 Ft. of impervious material.

Non-Coal Wastes:

- o Temporary storage of all non-coal wastes shall be at the temporary storage area. This area shall be located on a stable portion of the bench away from drainage ways. Non-coal wastes shall be periodically transported to a public landfill for final disposal.
- o Waste fluids and lubricants (such as oil, grease, hydraulic fluid, etc.) shall be stored in leak-proof metal or plastic containers and periodically removed from the site for final disposal at an approved facility. Care shall be taken to prevent spillage and combustion of these waste fluids.
- o Combustible wastes such as wood and paper, trash and other debris shall be disposed of at an approved public landfill.
- o Operator is reminded to maintain standards listed above and deposit any non-coal wastes in their proper areas.
- o **Conditions During the Inspection:**
Conditions of non-coal wastes were found to be in compliance during this inspection.
- o For additional details, see Section 15.1 (Acid/Toxic Materials) in the approved plans.

SPOIL DOWNSLOPE:

No spoil was observed downslope from this permit during this inspection.



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INSPECTION

REVEGETATION:

- The proposed postmining land uses are Unmanaged Forest, Light Industrial (Natural Gas Production), and Fish and Wildlife Habitat-Wetlands. See chart below for details:

Post Mine Land Use:	Acreage:	Location:
Unmanaged Forest	1949.54 Acres	Distributed Widely Across Permit.
Fish & Wildlife Habitat- Wetlands	2.10 Acres	McHenry Fork- Pond 6 Area.
Light Industrial- Gas Wells & Pipelines	37.30 Acres	Distributed Widely Across Permit.

- The Unmanaged Forest and Fish & Wildlife Habitat land uses will provide a diversity of habitat for wildlife and provide groundcover to control erosion. This land use will be achieved by following the proposed revegetation plan contained in the approved plans.
- The Light Industrial land use will provide for extraction of natural gas, as well as providing right-of-way for the gas wells and their infrastructure.
- It has been noted in past reports that there are approximately 42 acres that still need trees planted to meet the required stocking rate prior to final bond release on this portion of the permit. These are two areas located just North of Pond #16 on the reclaimed bench areas (28 Acres) and the reclaimed out slopes above Side Hill Fill – 1 (14 Acres).
- There have been no revegetation operations on this permit for an extended period of time. There are multiple areas across the permit that are sparsely vegetated.
- See details concerning seeding and tree planting, located in the July 2023 Compliance Agreement Notes at the end of this Inspection Report.
- Further details are provided in Section 9.4 (Revegetation Plan) and shown on the Mitigation Map in Section 21.2 (Maps/Certifications) of the approved plans.

Details Concerning NOV CEV0010345 and FTA/CO CEV0010323:

Location: Reclaimed areas North of Pond #16, North of Side Hill Fill B-1, Hollow Fill B-4, Hollow Fills C2 and C3, and reclaimed areas North of Fill C3.

Description: The operator has failed to plant trees and shrubs on all regraded and seeded areas noted above in accordance with the approved detailed plans and all applicable regulations. Section 9.4 of the approved detailed plans specifies the species of trees and shrubs to be planted and the stocking rate of about 650 trees per acre.

As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0010323 was issued 04/18/2017 for failure to comply with the remedial measures stipulated in NOV #CEV0010345 by the set abatement date. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture.

The operator is hereby instructed to take all necessary measures to comply with Notice of Violation #CEV0010323 under performance standard RV in accordance with all applicable regulations.



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INSPECTION

HAULROADS:

All haulroads that have been constructed and have been certified by an RPE.

HR-A was certified by T.R. Collier, RPE (#14085)

All other haulroads were certified by Mark Wooten, RPE (#14992)

See chart below for details:

MLR Road #	Company #	Constructed (Yes or No)	Completion of Construction Date	Recertified Date	Permanent (Yes or No)	Primary or Ancillary
R11826	Cut Thru	No	N/A	N/A	No	Primary
R08823	AR-A	No	N/A	N/A	No	Ancillary
R08822	HR-A	Yes	10/31/2003	N/A	No	Primary
R08912	HR-B	Yes	12/20/2004	N/A	No	Primary
R09140	HR-C	Deleted	07/01/2005	N/A	No	Primary
R09691	HR-C1	Yes	03/08/2006	04/18/2006	No	Primary
R09692	HR-C2	Yes	05/15/2006	N/A	No	Primary
R09693	HR-D	Yes	08/08/2007	N/A	No	Primary
R10461	HR-E	No	N/A	N/A	No	Primary
R10762	HR-D1	Yes	07/11/2006	08/15/2007	No	Primary
R10763	HR-D2	Yes	08/15/2007	N/A	No	Primary

Details Concerning NOV #CEV0010750 and FTA/CO #CEV0010891:

It was noted in past inspections that routine maintenance needed to be performed on three primary haulroads on this permit. The three haulroads which are in need of maintenance are Haulroad C-1, Haulroad B, and Haulroad C2. Routine maintenance shall include repairs to the haulroad surface, blading, filling potholes, adding replacement gravel as needed, cleaning ditch lines, and cleaning any sumps which are full. As a result, Notice of Violation #CEV0010750 was issued instructing the operator to perform routine haulroad maintenance on Haulroad C-1, Haulroad B, and Haulroad C2 in accordance with all applicable regulations and approved detailed plans. Time for abatement was 05/18/2018. There had been some grading of the roadbed surface of Haulroad B and some pulling of the ditch line since the order was issued. The operator requested additional time to fully complete all the maintenance required by the NOV.

As a result, Notice of Violation #CEV0010750 was thereby extended until 06/18/2018. The inspection on 06/18/2018 revealed that Haulroad B was the only road that had been worked and there was still considerable work that needed to be done on this road before it would be satisfactory. The other two roads still needed maintenance performed on them. On 06/18/2018, Mr. Mark Wooten submitted a letter requesting additional time until 07/18/2018 to complete all work required by the NOV. The letter stated that it rained several days, and work could not be done due to the rain and weather conditions. This request was reviewed by DMLR personnel, and it was determined that due to the fact that the NOV had ran for 90 days and very little work had been accomplished in that time frame, an extension could not be granted. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0010891 was issued 06/19/2018 for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0010750 by the set abatement date and subsequent extension. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 a day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a show cause order which could result in revocation of the permit and bond forfeiture. The operator was also reminded to submit updated O/C information to DMLR within thirty days of this enforcement action. There has been work performed on the haulroad in McHenry Fork and the haulroad off of State Route #160. There is additional work that is still needed on the roads to insure they function as designed.

Conditions During the Inspection:

Equipment has been moved to this permit for reclamation purposes. Approximately one mile of haulroad HR-B and its associated berms have been repaired. A 36-inch concrete culvert has been installed downslope of the toe of Fill HF-B to facilitate a crossing for HR-B. The haulroad repair work has been done continuing out the High Splint Bench to the Road Spur pit area. Reclamation work is proposed to take place in this area.



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INSPECTION

The operator is reminded that replacement gravel will be required on an as-needed basis on all active haulroads in the future.

RECLAMATION TAX:

No mining is being conducted at this time; therefore, no taxes are due to the reclamation fund.

OTHER:

Renewals:

CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.

CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.

As of 04/11/2024, CSMO/NPDES Renewal Application #1010341 is on hold with U.S. Fish and Wildlife Service.

Anniversary Reports:

Anniversary fees were due to the MLR Office 03/30/2021.

These fees are due pending the approval of the next CSMO/NPDES Renewal.

Midterm Reviews:

The last Midterm Review was completed on 01/17/2012.

The next Midterm Review will be completed after the approval of CSMO/NPDES Renewal Application #1010341; thirty months after the following CSMO/NPDES Renewal date.

HISTORY/CARRY FORWARD INFORMATION:

The original CSMO/NPDES Application #1000238 was issued to Pinnacle Resources, LLC (Permit #1101854) on 06/19/2003.

Pinnacle Resources, LLC (Permit #1101854) transferred to A & G Coal Corporation (Permit #1101914). Succession Application #1001763 was approved on 06/28/2004.

JULY 2023 COMPLIANCE AGREEMENT NOTES:

On 07/18/2023, The Virginia Department of Energy's Mined Land Repurposing Office (MLR) and Justice Companies entered into a compliance agreement. The Compliance Agreement was signed by MLR Director of Coal Programs, M. Randy Moore, and Justice Companies President, James C. Justice III on 07/18/2023. This Compliance Agreement became effective on 07/17/2023. Justice Companies affected by this Compliance Agreement are as follows:

- A & G Coal Corporation
- Virginia Fuel Corporation
- Chestnut Land Holdings, L.L.C.
- Justice Low Seam Mining, Inc.
- Meg-Lynn Land Company. Inc.
- Black River Coal, L.L.C.
- Baden Reclamation Company, Inc.
- Southern Coal Corporation, Inc

Various agreements between the Justice Companies (including but not limited to those listed the above) have expired milestones or will expire within the next twelve months of this effective date of this agreement. The 2014 Compliance Agreement (including its amendments and addendums) is fully replaced by this present agreement; and all terms, conditions, and obligations created by the 2014 Compliance Agreement (including its amendments and addendums) will be considered null and void and the July 2023 Compliance Agreement will now be considered an all-inclusive intelligible Agreement.



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BLG0000755

INSPECTION

The purpose of this agreement is:

- i. To allow the Justice Companies to address certain reclamation deadlines in exchange for certain stipulations, agreements, and other terms that constitute valuable consideration.
- ii. To link together the Justice Companies reclamation obligations under each of the permits listed in this agreement, such that a failure to complete any reclamation obligation under any permit shall give Virginia Energy or MLR the right to seek permit revocation(s) or performance bond forfeiture(s) under any other permit listed in this agreement.

The Justice Companies agree that the failure to comply with any of the terms, conditions, or obligations of this Agreement may result in the suspension/revocation of permit(s) and/or forfeiture of any performance bonds associated with those permits. It is the Justice Companies' intent and purpose to enter into this agreement to address the outstanding reclamation obligations.

Pursuant to the Compliance Agreement, the Justice Company has agreed to commence Backfill/Regrade and other reclamation-related activities on A & G Coal Corporation's Permit #1101914, on or before 01/01/2024. These activities are to be completed by 12/31/2025.

Seeding and Tree Planting:

As regrading has been completed on each of these permits. seeding and tree planting must take place in the first normal period for favorable tree planting conditions per 4 VAC 25-130-816.113. In addition, at least one previously regraded permit will have trees planted during the first favorable planting season which must include ground cover seeding.

Failure to comply with the Seeding and Tree Planting requirements, may result in a penalty up to \$10,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

Equipment:

Justice Companies shall maintain sufficient resources in equipment, personnel, and materials to include but not limited to fuel, oil, and equipment parts to meet the terms of this Agreement and to immediately communicate in writing with MLR (to the attention of Program Director) regarding any deviation(s) from the agreed schedule and/or conditions of this Agreement.

In the event equipment malfunction occurs, the Justice Companies shall cause the prompt repair of said equipment necessary for compliance with this Agreement or replacement of such with equivalent functioning equipment withing fifteen working days.

Failure to comply with the Equipment Requirements, may result in a penalty up to \$25,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

For Further Information:

The above section of the inspection report is to serve as a summary of the Compliance Agreement; addressing actions that are required to take place on the ground. This is in no way the full scope of the agreement. Further Details of this Compliance Agreement may be found in the original document. Copies have been distributed among the signatory parties.



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COPY: 0261783

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101914		0261783 (JBC0003118)

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	NOV ISSUED NOV REPORT

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
08/16/24	09:00 AM	11:00 AM	CLOUDY

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
2777.92	2031.50	994.78	571.99	2029.36

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	0.5 MILES W OF RODA ON BLACK MOUNTAIN

INSPECTION BY	COPY OF REPORT
JODY COLLINS	Mailed - Justice Corp

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:	
1. EP - EXCEEDED PERMIT	2. MP - MINING W/O PERMIT
3. SM - SIGNS AND MARKERS	4. OT - OTHER

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	
1. WM - WATER MONITORING	

COMMENTS :	PERMIT: 1101914	REPORT: 0261783
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Mined Land Repurposing Supervisor, Jody Collins, performed a partial inspection of this permit on 08/16/2024. There were no company personnel onsite during this inspection. Two Caterpillar 777D haulers, one Caterpillar articulating hauler, one Caterpillar 992G loader, and one Caterpillar D-11 dozer remain staged near the Road Spur pit area. It appeared that no work had taken place since the last visit to the site.

There was 1 NOV issued during this inspection. The NOV (JBC0003119) was related to Biological Water monitoring and details are noted below under "Water Monitoring".

SMRCA PERFORMANCE STANDARDS CHECKED DURING THIS INSPECTION:

Liability Insurance:
 The liability insurance policy is current through 10/22/2024.

EXCEEDING PERMIT BOUNDARY:
 There is no evidence that the operator has exceeded the permit boundaries.

MINING WITHOUT A PERMIT:
 There is a valid SMCRA Permit on file at the Mined Land Repurposing Office.

SIGNS AND MARKERS:
 Permit Signs:

DMLR-ENF-044S
REV. 10/2021

Printed: 09/04/24



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COPY: 0261783

INSPECTION

Permit identification signs containing all the required information have been posted at the multiple job entrances.

NPDES STANDARDS CHECKED DURING THIS INSPECTION:

WM

WATER MONITORING:

NOTE:

It was noted in the fall 2023 Biological Monitoring reports, that were submitted on 03/08/2024, that the benthic data and corresponding VASCI was not calculated, and the raw data was not reported. Therefore, NOV JBC0003119, violation 1 of 1, under performance code WM is being issued.

This violation is being issued as non-remedial, however, the operator should still submit the performed samples from the fall of 2023, to avoid further enforcement action.

The MPID associated with this monitoring is: 0010153, 0010154, 0010155, 0010156 & 0010157



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BLG0000824

INSPECTION

COMPANY NAME	PERMIT	COMPLAINT	REPORT NUMBER
A & G COAL CORPORATION	1101914		BLG0000824

NAME AND BUSINESS ADDRESS OF PERMITTEE	TYPE OF INSPECTION	REPORT TYPE
JAMES C. JUSTICE, III 302 SOUTH JEFFERSON STREET ROANOKE, VA 24011	PARTIAL	ROUTINE

INSPECTION DATE	ARRIVAL	DEPARTURE	WEATHER
09/10/24	7:00 AM	12:00 PM	FAIR

ACREAGE				
PERMITTED	DISTURBED	REGRADED	RECLAIMED	BONDED
2,777.92	2,031.50	994.78	571.99	2,029.36

COUNTY	OPERATION STATUS	LOCATION
WISE	ACT/NOT PRDCNG	0.5 MILES W OF RODA ON BLACK MOUNTAIN

INSPECTION BY	COPY OF REPORT
Bruce Gardner	Mailed - Emailed report to Justice Corporation company officials.

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN COMPLIANCE:
1. RT - RECLAMATION TAX

THE FOLLOWING PERFORMANCE STANDARD(S) WERE IN VIOLATION OR HAVE A PERMIT DEFECT:	
1. DS - DISPOSAL OF SPOIL AND WASTE 3. HR - HAUL ROADS 5. OT - OTHER	2. RV - REVEGETATION 4. AO - AUTHORIZED TO OPERATE

COMMENTS :	PERMIT: 1101914	REPORT: BLG0000824
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Mined Land Repurposing Inspector, Leonard Gardner, performed a partial inspection of this permit on 09/10/2024. There were no company personnel onsite during this inspection. Two Caterpillar 777D haulers, one Caterpillar articulating hauler, one Caterpillar 992G loader, and one Caterpillar D-11 dozer remain staged near the Road Spur pit area. It appeared that no work had taken place since this inspector's last visit to the site.

This operation remains closed by the Virginia Department of Energy's Coal Mine Safety Department. This closure was initiated because Wise County tax affidavits have not yet been received. All material moving activities around the pit area have been temporarily halted pending payment of these taxes.

For further reference, see the conditions of the July 2023 Compliance Agreement notes at the end of this Inspection Report.

A copy of this inspection report was emailed to company officials. If there are any questions concerning this report, please contact this inspector.



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BLG0000824

INSPECTION

GENERAL OBLIGATIONS:

- o Succession Application #1001763 from Permit #1101854 was approved on 06/08/2004.
- o CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.
- o CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.
- o As of 04/11/2024, CSMO/NPDES Renewal Application #1010341 is on hold with US Fish and Wildlife.

Details Concerning NOV JBC0002026 and FTA/CO JBC0002051:

The operator had been notified by email that the Anniversary Report for A & G Coal Corporation (Permit #1101914), had been approved pending payment of Anniversary Fees and NPDES Outfall Fees. Anniversary Fees in the amount of \$26,416.00 and NPDES fees in the amount of \$2,400.00 were due in the DMLR Office by 03/30/2021 (Anniversary Report Form #1910). It was noted during the 06/28/2021 inspection that the operator had failed to submit the required Anniversary Fees. As a result, Notice of Violation #JBC0002026, Violation 1 of 1, under performance code AO was issued. This violation was issued an abatement date of 07/08/2021.

As of the 07/09/2021 inspection, the operator had failed to abate the above-mentioned violation. (NOV JBC0002026). Therefore, Failure to Abate Cessation Order (FTA/CO) JBC0002051 was issued.

As of the current inspection, these fees are yet to have been paid.

**SMRCA PERFORMANCE STANDARDS CHECKED DURING THIS INSPECTION:
 AO, DS, RV, HR, RT, & OT**

AUTHORIZATION TO OPERATE:

MSHA ID #44-06544
 State Mine Index #14617, #14634, #14935AA, #14817AA, & #14818AA

Bonding:

Permit consists of 2,777.92 acres, with 19.65 released, 2031.50 acres disturbed, 994.78 acres regraded, and 571.99 reclaimed. 2029.36 acres of the permit are pool bonded in the total amount of \$5,145,000.00.

Unbonded Areas:

Bond Increment #2 is an undisturbed area. Bond must be posted on this increment should operations progress into its boundaries.

Bond Reductions:

Application #1005666, reducing the bond amount on Increment #4 by \$894,000.00, was approved on 03/17/2009. There are no bond reductions currently pending.

This permit is incrementally bonded. See chart below for details:

Increment #	Bonded (Yes or No)	Acreage	Current Amount Per Acre	Is Amount Shown A Reduction (Yes or No)
#1	Yes	1461.36 ac.	\$3,000.00/ac.	No
#2	No	755.13 ac.	N/A	N/A
#3	Yes	43.0 ac.	\$3,000.00/ac.	No
#4	Yes	525.0 ac.	\$1,200.00/ac.	Yes



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Details Concerning NOV CEV0009273 and FTA/CO KXC0008977:

The permittee has not replaced the self-bond for this permit with an acceptable surety or collateral performance bond by 08/08/2014, as required by the Division’s letter of 06/26/2014 (certified mail #7013 1090 0001 0523 0138).

The permittee shall submit an acceptable surety or collateral performance bond as required by 4 VAC 25-130-800.12(a) and 4 VAC 25-130-800.12(b) to the Division by the set abatement date. The permittee shall immediately cease all coal extraction operations until it has replaced the self-bond as required herein; however, it shall continue the required reclamation, maintenance, and monitoring operations under the approved detailed plans.

The operator has failed to comply with NOV CEV0009273 that directed the operator to replace the self-bond on this permit by the established abatement date of 11/13/2014.

Details Concerning NOV CEV0010710 and FTA/CO CEV0010751:

Revision Application #1009100 to provide a cost estimate for extending the Temporary Cessation period on CSMO #1101914 was approved by DMLR on 06/03/2016. There are no surface mining operations being conducted on this permit at this time and there hasn’t been any mining conducted in excess of six months. The operator failed to submit to DMLR the required bond equal to the total estimated cost of reclamation as specified in Section 19.1 of Revision Application #1009100. NOV #CEV0010710 required submittal of this bond by 03/15/2018. The bond has still not been submitted to DMLR as required by the abatement date of the NOV. As a result, a Failure to Abate Cessation Order is being issued for failure to comply with the NOV by the set abatement date.

The operator is hereby instructed to comply with all remedial measures required by Notice of Violation #CEV0010710 violation #1 of 1 for the performance standard code of OT.

Liability Insurance:

The liability insurance policy is current through 10/22/2024.

AVS:

A&G Coal Corporation is the permittee, effective 06/19/2003. All reclamation and mining operations are assumed by this permittee.

Virginia Fuel Corporation was listed as a contractor on this permit on 07/10/2015.

There is no ongoing work on this permit currently (equipment, personnel etc.), therefore no AVS check is required.

DISPOSAL OF SPOIL (EXCESS):

There are eight excess spoil fills constructed, and one proposed, on this permit. See chart below for details:

MLR Fill #	Company #	Construction Status:	Last Quarterly Cert. Date	Certifying Engineer:
F08910	HF-B	Under Construction	07/24/2024	Bill Johnson RPE (#62233)
F09690	HF-B4	Under Construction	07/24/2024	Bill Johnson RPE (#62233)
F08911	SHF-B1	Under Construction	07/24/2024	Bill Johnson RPE (#62233)
F09399	SSF-B2	Under Construction	04/05/2016	Mark S. Wooten RPE (#14992)
F09400	SSF-B3	Not Constructed	N/A	N/A
F09686	HF-C1	Under Construction	07/24/2024	Bill Johnson RPE (#62233)
F09687	HF-C2	Under Construction	07/24/2024	Bill Johnson RPE (#62233)
F09688	HF-C3	Under Construction	07/24/2024	Bill Johnson RPE (#62233)
F09689	HF-C4	Under Construction	07/24/2024	Bill Johnson RPE (#62233)

Excess Spoil Fills B, and B-4; SSF-B1, and SSF-B2 are located in the McHenry Fork Watershed.

Excess Spoil Fill SSF-B3 is proposed to be located in the McHenry Fork Watershed.

Excess Spoil Fills C1, C2, C3, and C4 are located in the Preacher Creek Watershed.



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History Pertaining to Excess Spoil:

Details Concerning NOV #CEV0008858 Violation #1 of 2 and FTA/CO #CEV0009198:

Several problems with the diversion ditches on the fills were noted in past reports. The upstream diversions for Hollow Fills C1, C2, C3, C4, Fill B, and Side Hill Fill B1 were breached allowing surface drainage to flow down the face of these fills. In addition, several diversion ditches were in need of reconstruction/repair and other noted ditches needed to be constructed to design specifications as approved in the detailed plans. As a result, Notice of Violation #CEV0008858 violation #1 of 2 was issued 09/25/2013 instructing the operator to construct and/or reconstruct all diversion ditches on the hollow fills noted in the description narrative of the NOV. All diversions must be constructed in accordance with approved designed specifications and all applicable regulations. Time for abatement was 12/24/2013.

On 12/12/2013, Mr. Les Vincent submitted a formal request to the DMLR requesting an extension of NOV #CEV0008858 violation #1 of 2 in accordance with Section 4VAC 25-130-843.12(f)(4) of VACSMRR. The letter requested an additional 90 days until 03/24/2014 to complete all remedial measures required by the NOV. The DMLR reviewed this request, considered all the facts set forth, and concurred with the request. As a result, NOV #CEV0008858, violation #1 of 2 was extended until 03/24/2014. The NOV was again extended as per written request in writing for an additional 90 days until 06/22/2014. The work required by the NOV was evaluated at a later date and there had still not been any work accomplished during the set abatement dates and the subsequent extensions.

As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0009198 was issued for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0008858 Violation #1 of 2 by the set abatement date and subsequent extensions. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator was reminded to immediately notify the inspector when the remedial work had been accomplished. No work was performed on the diversion ditches covered under the NOV and subsequent FTA/CO. The construction of these ditches has been discussed with company representatives on several occasions.

Details Concerning NOV #CEV0009498 and FTA/CO #CEV0009697:

It was observed during a previous inspection that material placed in Durable Rock Fill C4, and associated areas located above/upslope of this fill had become quite unstable as a result of heavy snowfall and rainfall. This material had been end dumped into the fill from active mining areas located above the Parsons mine bench. This material had become saturated from all the precipitation and was moving and sliding down the slope. This increased flow was carrying a concentrated flow of fines/sediments down diversion ditch D-3C and into Ponds C3 and C2 respectively. The unstable material located within and above the fill must be regraded in a manner so as to provide stability and prevent any further mass movement of material.

As a result, Notice of Violation #CEV0009498 Violation #1 of 1 was issued requiring the operator to take all necessary measures to stabilize the material placed above and within the designated disposal area known as Durable Rock C4 Fill. This regrading/rehandling of material must be done to ensure mass stability and prevent mass movement. The work must be done in accordance with all applicable regulations and approved detailed plans. Time for abatement was 06/13/2015. Work to comply with this enforcement action was initiated on 06/10/2015. A D6 dozer, excavator and articulated truck was mobilized to the fill on 06/10/2015 and work began on the Western end of the fill on the approximate elevation of the Morris coal seam. Material had been placed against the #14 highwall to ramp up; thereby eliminating the wall behind Hollow Fill C4. This same package of equipment was being alternated back and forth working on the permanent diversion ditches on Fill B4 in McHenry Fork.

NOV #CEV0009498 expired 06/13/2015. Inspector Eddie Varner met with Mr. Robbie Burton and Mr. Roger Shortt on 06/08/2015 and discussed what remedial measures had to be accomplished in order to abate the NOV. Mr. Burton expressed the need for more time to comply the enforcement action on 06/08/2015. DMLR Inspector Eddie Varner received a letter from Mr. Burton requesting additional time to comply the NOV. Inspector Varner and Supervisor Ken Coomer evaluated the letter. All facts concerning this NOV and the scope of the work were considered. It was determined that additional time would be granted. Notice of Violation #CEV0009498 was hereby extended an additional 90 days until 09/11/2015. The operator was again reminded that failure to accomplish all work required by the new extension date of 09/11/2015 could result in the issuance of a failure to abate cessation order (FTA/CO) being issued.



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DMLR Inspector Eddie Varner conducted a partial inspection on this permit on 09/14/2015 primarily to check on the status of NOV #CEV0009498. The inspection revealed the work required by the NOV and subsequent extension had not been accomplished and there was no equipment working on the area covered by the NOV. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0009697 was issued for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0009498 by the set abatement date and subsequent extension. The operator was reminded that a FTA/CO is assessed civil penalties at a minimum of \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture. The operator should immediately notify the inspector when the remedial work is accomplished. The operator was instructed to submit updated O/C information to the DMLR Office within thirty days of this action. The work required by the FTA/CO has still not been completed.

At the time of this inspection, the obligations required of the above violations have not been met.

REVEGETATION:

- The proposed postmining land uses are Unmanaged Forest, Light Industrial (Natural Gas Production), and Fish and Wildlife Habitat-Wetlands. See chart below for details:

Post Mine Land Use:	Acreage:	Location:
Unmanaged Forest	1949.54 Acres	Distributed Widely Across Permit.
Fish & Wildlife Habitat- Wetlands	2.10 Acres	McHenry Fork- Pond 6 Area.
Light Industrial- Gas Wells & Pipelines	37.30 Acres	Distributed Widely Across Permit.

- The Unmanaged Forest and Fish & Wildlife Habitat land uses will provide a diversity of habitat for wildlife and provide groundcover to control erosion. This land use will be achieved by following the proposed revegetation plan contained in the approved plans.
- The Light Industrial land use will provide for extraction of natural gas, as well as providing right-of-way for the gas wells and their infrastructure.
- It has been noted in past reports that there are approximately 42 acres that still need trees planted to meet the required stocking rate prior to final bond release on this portion of the permit. These are two areas located just North of Pond #16 on the reclaimed bench areas (28 Acres) and the reclaimed out slopes above Side Hill Fill – 1 (14 Acres).
- **There have been no revegetation operations on this permit for an extended period of time. There are multiple areas across the permit that are sparsely vegetated.**
- **See details concerning seeding and tree planting, located in the July 2023 Compliance Agreement Notes at the end of this Inspection Report.**
- Further details are provided in Section 9.4 (Revegetation Plan) and shown on the Mitigation Map in Section 21.2 (Maps/Certifications) of the approved plans.

Details Concerning NOV CEV0010345 and FTA/CO CEV0010323:

Location: Reclaimed areas North of Pond #16, North of Side Hill Fill B-1, Hollow Fill B-4, Hollow Fills C2 and C3, and reclaimed areas North of Fill C3.

Description: The operator has failed to plant trees and shrubs on all regraded and seeded areas noted above in accordance with the approved detailed plans and all applicable regulations. Section 9.4 of the approved detailed plans specifies the species of trees and shrubs to be planted and the stocking rate of about 650 trees per acre.

As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0010323 was issued 04/18/2017 for failure to comply with the remedial measures stipulated in NOV #CEV0010345 by the set abatement date. The operator was reminded that an



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FTA/CO is assessed civil penalties at a minimum \$750.00 per day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a Show Cause Order which could result in revocation of the permit and bond forfeiture.

The operator is hereby instructed to take all necessary measures to comply with Notice of Violation #CEV0010323 under performance standard RV in accordance with all applicable regulations.

HAULROADS:

All haulroads that have been constructed and have been certified by an RPE.

HR-A was certified by T.R. Collier, RPE (#14085)

All other haulroads were certified by Mark Wooten, RPE (#14992)

See chart below for details:

MLR Road #	Company #	Constructed (Yes or No)	Completion of Construction Date	Recertified Date	Permanent (Yes or No)	Primary or Ancillary
R11826	Cut Thru	No	N/A	N/A	No	Primary
R08823	AR-A	No	N/A	N/A	No	Ancillary
R08822	HR-A	Yes	10/31/2003	N/A	No	Primary
R08912	HR-B	Yes	12/20/2004	N/A	No	Primary
R09140	HR-C	Deleted	07/01/2005	N/A	No	Primary
R09691	HR-C1	Yes	03/08/2006	04/18/2006	No	Primary
R09692	HR-C2	Yes	05/15/2006	N/A	No	Primary
R09693	HR-D	Yes	08/08/2007	N/A	No	Primary
R10461	HR-E	No	N/A	N/A	No	Primary
R10762	HR-D1	Yes	07/11/2006	08/15/2007	No	Primary
R10763	HR-D2	Yes	08/15/2007	N/A	No	Primary

Details Concerning NOV #CEV0010750 and FTA/CO #CEV0010891:

It was noted in past inspections that routine maintenance needed to be performed on three primary haulroads on this permit. The three haulroads which are in need of maintenance are Haulroad C-1, Haulroad B, and Haulroad C2. Routine maintenance shall include repairs to the haulroad surface, blading, filling potholes, adding replacement gravel as needed, cleaning ditch lines, and cleaning any sumps which are full. As a result, Notice of Violation #CEV0010750 was issued instructing the operator to perform routine haulroad maintenance on Haulroad C-1, Haulroad B, and Haulroad C2 in accordance with all applicable regulations and approved detailed plans. Time for abatement was 05/18/2018. There had been some grading of the roadbed surface of Haulroad B and some pulling of the ditch line since the order was issued. The operator requested additional time to fully complete all the maintenance required by the NOV.

As a result, Notice of Violation #CEV0010750 was thereby extended until 06/18/2018. The inspection on 06/18/2018 revealed that Haulroad B was the only road that had been worked and there was still considerable work that needed to be done on this road before it would be satisfactory. The other two roads still needed maintenance performed on them. On 06/18/2018, Mr. Mark Wooten submitted a letter requesting additional time until 07/18/2018 to complete all work required by the NOV. The letter stated that it rained several days, and work could not be done due to the rain and weather conditions. This request was reviewed by DMLR personnel, and it was determined that due to the fact that the NOV had ran for 90 days and very little work had been accomplished in that time frame, an extension could not be granted. As a result, a Failure to Abate Cessation Order (FTA/CO) #CEV0010891 was issued 06/19/2018 for failure to comply with the remedial measures stipulated in Notice of Violation #CEV0010750 by the set abatement date and subsequent extension. The operator was reminded that an FTA/CO is assessed civil penalties at a minimum of \$750.00 a day up to thirty days. Failure to abate the FTA/CO could result in the issuance of a show cause order which could result in revocation of the permit and bond forfeiture. The operator was also reminded to submit updated O/C information to DMLR within thirty days of this enforcement action. There has been work performed on the haulroad in McHenry Fork and the haulroad off State Route #160. There is additional work that is still needed on the roads to insure they function as designed.



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Conditions During the Inspection:

Equipment has been moved to this permit for reclamation purposes. Approximately one mile of haulroad HR-B and its associated berms have been repaired. A 36-inch concrete culvert has been installed downslope of the toe of Fill HF-B to facilitate a crossing for HR-B. The haulroad repair work has been done continuing out the High Splint Bench to the Road Spur pit area. Reclamation work is proposed to take place in this area.

The operator is reminded that replacement gravel will be required on an as-needed basis on all active haulroads in the future.

RECLAMATION TAX:

No mining is being conducted at this time; therefore, no taxes are due to the reclamation fund.

OTHER:

Renewals:

CSMO/NPDES Renewal Application #1008626 was approved on 09/18/2017.

CSMO/NPDES Renewal Application #1010341 was submitted on 02/19/2018.

As of 04/11/2024, CSMO/NPDES Renewal Application #1010341 is on hold with U.S. Fish and Wildlife Service.

Anniversary Reports:

Anniversary fees were due to the MLR Office 03/30/2021.

As of 03/16/2021, mapping was approved, but fees are yet to be paid.

Midterm Reviews:

The last Midterm Review was completed on 01/17/2012.

The next Midterm Review will be completed after the approval of CSMO/NPDES Renewal Application #1010341; thirty months after the following CSMO/NPDES Renewal date.

HISTORY/CARRY FORWARD INFORMATION:

The original CSMO/NPDES Application #1000238 was issued to Pinnacle Resources, LLC (Permit #1101854) on 06/19/2003.

Pinnacle Resources, LLC (Permit #1101854) transferred to A & G Coal Corporation (Permit #1101914). Succession Application #1001763 was approved on 06/28/2004.

JULY 2023 COMPLIANCE AGREEMENT NOTES:

On 07/18/2023, The Virginia Department of Energy's Mined Land Repurposing Office (MLR) and Justice Companies entered into a compliance agreement. The Compliance Agreement was signed by MLR Director of Coal Programs, M. Randy Moore, and Justice Companies President, James C. Justice III on 07/18/2023. This Compliance Agreement became effective on 07/17/2023. Justice Companies affected by this Compliance Agreement are as follows:

- o A & G Coal Corporation
- o Virginia Fuel Corporation
- o Chestnut Land Holdings, L.L.C.
- o Justice Low Seam Mining, Inc.
- o Meg-Lynn Land Company. Inc.
- o Black River Coal, L.L.C.
- o Baden Reclamation Company, Inc.
- o Southern Coal Corporation, Inc



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Various agreements between the Justice Companies (including but not limited to those listed the above) have expired milestones or will expire within the next twelve months of this effective date of this agreement. The 2014 Compliance Agreement (including its amendments and addendums) is fully replaced by this present agreement; and all terms, conditions, and obligations created by the 2014 Compliance Agreement (including its amendments and addendums) will be considered null and void and the July 2023 Compliance Agreement will now be considered an all-inclusive intelligible Agreement.

The purpose of this agreement is:

- i. To allow the Justice Companies to address certain reclamation deadlines in exchange for certain stipulations, agreements, and other terms that constitute valuable consideration.
- ii. To link together the Justice Companies reclamation obligations under each of the permits listed in this agreement, such that a failure to complete any reclamation obligation under any permit shall give Virginia Energy or MLR the right to seek permit revocation(s) or performance bond forfeiture(s) under any other permit listed in this agreement.

The Justice Companies agree that the failure to comply with any of the terms, conditions, or obligations of this Agreement may result in the suspension/revocation of permit(s) and/or forfeiture of any performance bonds associated with those permits. It is the Justice Companies' intent and purpose to enter into this agreement to address the outstanding reclamation obligations.

Pursuant to the Compliance Agreement, the Justice Company has agreed to commence Backfill/Regrade and other reclamation-related activities on A & G Coal Corporation's Permit #1101914, on or before 01/01/2024. These activities are to be completed by 12/31/2025.

Seeding and Tree Planting:

As regrading has been completed on each of these permits. seeding and tree planting must take place in the first normal period for favorable tree planting conditions per 4 VAC 25-130-816.113. In addition, at least one previously regraded permit will have trees planted during the first favorable planting season which must include ground cover seeding.

Failure to comply with the Seeding and Tree Planting requirements, may result in a penalty up to \$10,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.

Equipment:

Justice Companies shall maintain sufficient resources in equipment, personnel, and materials to include but not limited to fuel, oil, and equipment parts to meet the terms of this Agreement and to immediately communicate in writing with MLR (to the attention of Program Director) regarding any deviation(s) from the agreed schedule and/or conditions of this Agreement.

In the event equipment malfunction occurs, the Justice Companies shall cause the prompt repair of said equipment necessary for compliance with this Agreement or replacement of such with equivalent functioning equipment withing fifteen working days.

Failure to comply with the Equipment Requirements, may result in a penalty up to \$25,000 due and payable within ten days from the date the non-compliance occurs. Failure to submit payment by the due date will result in an additional \$1,000 per day until payment is received.



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For Further Information:

The above section of the inspection report is to serve as a summary of the Compliance Agreement; addressing actions that are required to take place on the ground. This is in no way the full scope of the agreement. Further Details of this Compliance Agreement may be found in the original document. Copies have been distributed among the signatory parties.

Appendix D



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STEVEN R. RUBY // sruby@cdkrlaw.com

October 23, 2024

Isak Howell
Attorney
Appalachian Mountain Advocates
250 West Main Street
Suite 201
Charlottesville, VA 22902
Via Email: ihowell@appalmad.org

RE: Sawmill Hollow Reclamation Project

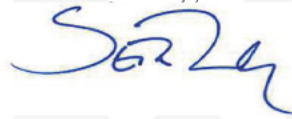
Dear Isaac:

A&G Coal Corporation is prepared to begin the reclamation of approximately 1800 linear feet of highwall at the Sawmill Hollow Mine. The highwall, however, still contains mineable coal in its two lower seams; that coal would be sterilized if the site were reclaimed without first mining it. The landowner will not approve that approach, so to obtain the landowner's consent to reclaim, the remaining coal must first be recovered.

A&G proposes to allow a contractor to highwall mine that coal. As the coal is being mined, A&G will follow immediately behind the mining and backfill the exposed highwall. Notably, the reclamation will involve no additional land disturbance. A&G would use revenue from the recovered coal to fully fund the \$600,000 escrow to which the parties previously agreed and to fund further reclamation at the Sawmill site and the Cane Patch and Looney Ridge sites. The Virginia Department of Mines, Minerals and Energy (DMME) supports this proposal and will oversee both the mining and the reclamation. DMME will halt the highwall-mining component of the project if the reclamation component falls behind at any time.

This project will make substantial progress toward the complete reclamation of the Sawmill site, which is the goal that you, we, and DMME all share. A&G therefore proposes that the parties, along with DMME, enter into a letter agreement that would specify the terms for the reclamation project. It is important to take advantage of this reclamation opportunity while it is available. We look forward to discussing this with you further and to beginning reclamation of the Sawmill highwall.

Sincerely,



Steven R. Ruby

CC: Marshall Moore, VADMME
Matt Hepler, Appalachian Voices
Jay Justice, A&G Coal



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October 6, 2023

Sent via U.S. Mail and Electronic Mail

Mike Carey
Carey Douglas Kessler & Ruby PLLC
708 Virginia Street East
901 Chase Tower
Charleston, WV 25301
mwcarey@csdlawfirm.com

Re: *Southern Appalachian Mountain Stewards et al. v. A&G Coal Corp.*, Civ. No. 2:23-cv-00002 (W.D. Va.)

Dear Mike:

Without conceding its application to the present facts, I write to you under Paragraph 17 of the January 26, 2023 Consent Decree entered by the United States District Court for the Western District of Virginia in *Southern Appalachian Mountain Stewards et al. v. A&G Coal Corporation*, Civ. No. 2:23-CV-00002, to provide A&G Coal Corporation (“A&G”) with notice of its breach of its obligation to diligently pursue bond release at the Looney Ridge Surface Mine #1 (Mining Permit No. 1101905) (hereinafter, “Looney Ridge”). This notice is provided on behalf of all three plaintiffs in the relevant civil action—Southern Appalachian Mountain Stewards, Appalachian Voices, and Sierra Club.

Paragraph 16 of the Consent Decree requires A&G to have “achieve[d] Completion of Reclamation” at Looney Ridge by August 31, 2023. It is clear from a September 26, 2023 site visit that A&G has failed to meet that deadline. Because “Completion of Reclamation” is defined to mean approval of an application for Phase II bond release (Consent Decree, ¶11.c), we provide this notice of a failure to diligently pursue bond release under Paragraph 17 without conceding that those notice provisions apply to violations of Paragraph 16. It is clear from the present conditions at Looney Ridge that A&G has not conducted the reclamation activities that would be required to meet the criteria for Phase II bond release, and that as a result no such Phase II bond release could be granted at this time. Moreover, because conditions at Looney Ridge do not meet the current minimum criteria for Phase II bond release, A&G is in breach of the Consent Decree irrespective of its failure to diligently pursue such a release. Nor are we aware of any payment by A&G of the stipulated penalties required under Paragraph 19.iii.

Accordingly, pursuant to Paragraph 17, A&G has thirty days from the date of this notice to cure its failure to diligently pursue bond release. To be clear, A&G cannot cure this default simply by

applying for bond release unless it also brings the Looney Ridge permit area into such a condition as would satisfy the minimum criteria for Phase II bond release. And even then, compliance with Paragraph 17 would not confer compliance with any other portion of the Consent Decree, including the August 31, 2023 deadline for completion of reclamation provided in Paragraph 16. If A&G fails to *both* bring the Looney Ridge permit area into such a condition *and* apply for Phase II bond release by November 6, 2023, we reserve the right to seek all available forms of relief from the United States District Court for the Western District of Virginia. We also believe A&G to be in ongoing violation of additional requirements of the Consent Decree for which there are no applicable notice provisions. We expressly reserve our rights to seek all available forms of relief from the United States District Court for the Western District of Virginia for those additional violations.

Although we stand ready to engage in good faith negotiations with A&G on these issues, we expressly reserve our rights to seek judicial relief when appropriate. Please do not hesitate to contact me with any questions or to discuss these issues further.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Isak Howell", written over a horizontal line.

Isak Howell
Counsel for Southern Appalachian Mountain Stewards,
Appalachian Voices, and Sierra Club



Appalachian Mountain Advocates

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March 14, 2024

Sent via U.S. Mail and Electronic Mail

Mike Carey
Carey Douglas Kessler & Ruby PLLC
708 Virginia Street East
901 Chase Tower
Charleston, WV 25301
mwcarey@csdlawfirm.com

Re: Southern Appalachian Mountain Stewards et al. v. A&G Coal Corp., Civ.
No. 2:23-cv-00002 (W.D. Va.)

Dear Mike:

Without conceding its application to the present facts, I write to you under Paragraph 17 of the January 26, 2023 Consent Decree entered by the United States District Court for the Western District of Virginia in *Southern Appalachian Mountain Stewards et al. v. A&G Coal Corporation*, Civ. No. 2:23-CV-00002, to provide A&G Coal Corporation (“A&G”) with notice of its breach of its obligation to diligently pursue bond release at the Canepatch Surface Mine (sometimes referred to as “Job 21” or “A&G #21”) (Mining Permit No. 1101918) (hereinafter, “Canepatch”). This notice is provided on behalf of all three plaintiffs in the relevant civil action—Southern Appalachian Mountain Stewards, Appalachian Voices, and Sierra Club.

Paragraph 16 of the Consent Decree requires A&G to have “achieve[d] Completion of Reclamation” at Canepatch by February 29, 2024. It is clear from a February 6, 2024 site visit that A&G cannot have met that deadline. Because “Completion of Reclamation” is defined to mean approval of an application for Phase II bond release (Consent Decree, ¶11.c), we provide this notice of a failure to diligently pursue bond release under Paragraph 17 without conceding that those notice provisions apply to violations of Paragraph 16. It is clear from the conditions at Canepatch on February 6, 2024, that A&G has not conducted the reclamation activities that would be required to meet the criteria for Phase II bond release, and that as a result no such Phase II bond release could be granted at this time. Moreover, because conditions at Canepatch do not meet the current minimum criteria for Phase II bond release, A&G is in breach of the Consent Decree irrespective of its failure to diligently pursue such a release. Nor are we aware of any payment by A&G of the stipulated penalties required under Paragraph 19.iii.

Accordingly, pursuant to Paragraph 17, A&G has thirty days from the date of this notice to cure its failure to diligently pursue bond release. To be clear, A&G cannot cure this default simply by applying for bond release unless it also brings the Canepatch permit area into such a condition as would satisfy the minimum criteria for Phase II bond release. And even then, compliance with Paragraph 17 would not confer compliance with any other portion of the Consent Decree, including the February 29, 2024 deadline for completion of reclamation provided in Paragraph 16. If A&G fails to both bring the Canepatch permit area into such a condition *and* apply for Phase II bond release by April 13, 2024, we reserve the right to seek all available forms of relief from the United States District Court for the Western District of Virginia.

We previously provided A&G with notice, by letter addressed to you and dated October 6, 2023, of its breach of its obligation to diligently pursue bond release at the Looney Ridge Surface Mine #1 (Mining Permit No. 1101905) (hereinafter, “Looney Ridge”), as Paragraph 16 of the Consent Decree requires A&G to have “achieve[d] Completion of Reclamation” at Looney Ridge by August 31, 2023. A&G’s violations at Looney Ridge persist to this day.

A&G is also in ongoing violation of additional requirements of the Consent Decree for which there are no applicable notice provisions. We expressly reserve our rights to seek all available forms of relief from the United States District Court for the Western District of Virginia for all of A&G’s violations, which may include, but are not limited to, violations of the requirements of Paragraph 14 to maintain reclamation equipment on the Looney Ridge and Canepatch sites “until the Completion of Reclamation at each Mine Site”; violations of the requirements of Paragraph 15 to maintain a sufficient number of workers on site at each Mine Site to operate the reclamation equipment in a manner that will allow A&G to meet the reclamation deadlines; and violations of the requirements of Paragraph 22 to provide status reports to us every two months until all three sites have been reclaimed (at least since the last report was provided on August 8, 2023 covering the period of June and July 2023).¹ We expect that A&G can expeditiously remedy the Paragraph 22 violations by providing a status report detailing the information that would have been required for the missing bimonthly reports.

But most concerningly, A&G either intends to violate or is violating Paragraph 26 of the Consent Decree at the Sawmill Hollow #3 Mine (sometimes referred to as “Job 2” or “A&G #2”) (Mining Permit 1101914), which prohibits A&G from conducting coal removal at any of the Mine Sites that are subject to the Consent Decree if A&G is in violation of any of the requirements of Section V of the Consent Decree. Because A&G is in violation of the requirements of the Consent Decree to complete reclamation at the

¹ Our identification of these specific violations should not be considered to be a complete list of all of A&G’s violations, or a waiver of our rights to enforce any and all violations of the Consent Decree. Moreover, our identification of these violations in this letter should not be considered to be a concession that notice of those violations is required prior to seeking judicial enforcement. The notice requirements apply only to certain violations of the Consent Decree, and these violations are not among them.

Looney Ridge Surface Mine # 1 by August 31, 2023, and at the Canepatch site by February 29, 2024 (in addition to its numerous other violations), Paragraph 26's prohibition on coal removal has been triggered.

But, according to a Virginia Energy Inspection Report from February 29, 2024, and March 4, 2024, A&G's representative James Sexton communicated to Virginia Energy inspectors that A&G plans "to highwall mine the High Splint Coal Seam, then backfill the open pit to the level of the overlying seams to highwall mine these" at the Sawmill Hollow #3 Mine. Mr. Sexton also informed the inspectors that, in the last week of February 2024, A&G removed a small amount of material from the pit area to expose coal for highwall mining operations.

If A&G removes a single ounce of coal from the Sawmill Hollow #3 Mine, it will be in blatant contempt of Judge Jones's order, and we will not hesitate to ask the Court to enforce its Consent Decree. We respectfully request that A&G respond to this letter by Wednesday, March 20, 2024, and immediately commit to delay any coal removal at the Sawmill Hollow #3 Mine until A&G comes into compliance with the other requirements of the Consent Decree, as required by Paragraph 26.

Although we stand ready to engage in good faith negotiations with A&G on these issues, we expressly reserve our rights to seek judicial relief when appropriate. Please do not hesitate to contact me with any questions or to discuss these issues further.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Isak Howell", written over a horizontal line.

Isak Howell
Counsel for Southern Appalachian Mountain Stewards,
Appalachian Voices, and Sierra Club

Looney Ridge

1101905	Q1	Q2	Q3	Q4	Total
Tons	5,499.22	2,592.11	-	-	8,091.33
Fee	\$ 1,231.82	\$ 580.63	\$ -	\$ -	1,812.45

Cane Patch

1101918	Q1	Q2	Q3	Q4	Total
Tons	-	4,703.97	6,296.68	5,838.36	16,839.01
Fee	\$ -	\$ 1,053.69	\$ 1,410.46	\$ 1,307.79	3,771.94

Sawmill Hollow

1101914	Q1	Q2	Q3	Q4	Total
Tons	-	-	-	-	-
Fee	\$ -	\$ -	\$ -	\$ -	-

Total Tons	5,499.22	7,296.08	6,296.68	5,838.36	24,930.34
Total Fees	\$ 1,231.82	\$ 1,634.32	\$ 1,410.46	\$ 1,307.79	\$ 5,584.39

AMENDED

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023100078 - 0

OSM-1 Form
Coal Reclamation Fee Report

A & G COAL CORP
302 S. JEFFERSON ST
ROANOKE, VA 24011

Part 1

1. Reporting for First Quarter, 2023

This certification covers the following permit number(s):

- 1101953
- 1101905

2. I consider the User ID and Password that I used to access this site to be my electronic signature on this document, as acknowledged under signature option previously.

3. Contract Name: VALERIE L. HAMLET
Telephone: (540) 310-4302
Reporting Entity: 119030
Email: VALERIE.HAMLET@BLUESTONE-COAL.COM

4. Total Calculated Fee for All Permits: \$ 4436.91

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023100078 - 0

Permit Number: 1101905
Mine Name: AG JOB 23
State: VA
MSHA Number: 4406869
County: WISE
Tribe:
Permittee Name: A & G COAL CORP
Permittee Address: 302 S. JEFFERSON ST., ROANOKE, VA 24011
Permittee Taxpayer ID: 541557615
Operator Name: A & G COAL CORP
Operator Address: 302 S. JEFFERSON ST. ROANOKE, VA 24011
Operator Taxpayer ID: 541557615
Operator Name: NINE MILE MINING INC
Operator Address: 302 S. JEFFERSON ST ROANOKE, VA 24011
Operator Taxpayer ID: 800351568
Mine Type: S
Gross Tons: 5499.2
Total Moisture: 0.0000 %
Inherent Moisture: 0.0000 %
Excess Moisture: 0.0000 %
Reduced Tons: 0.00
Net Tons: 5,499.20
Mine Rate: 0.2240
Total Calculated Fee: **\$1,231.82**
Mineral Owners: PENN VIRGINIA COAL CO
2550 EAST STONE DRIVE KINGSPOUR, TN 37660
Purchasers of Coal: AEP
1 RIVERSIDE PLAZA COLUMBUS, OH 43215
Coal Delivered To: A&G'S PARAGON LOADOUT
P O BOX 1010 WISE, VA 24293

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023200075 - 0

OSM-1 Form
Coal Reclamation Fee Report

A & G COAL CORP
302 S. JEFFERSON ST
ROANOKE, VA 24011

Part 1

1. Reporting for Second Quarter, 2023

This certification covers the following permit number(s):

- 1101953
- 1101918
- 1101905

2. I consider the User ID and Password that I used to access this site to be my electronic signature on this document, as acknowledged under signature option previously.

3. Contract Name: VALERIE L. HAMLET
Telephone: (540) 310-4302
Reporting Entity: 119030
Email: VALERIE.HAMLET@BLUESTONE-COAL.COM

4. Total Calculated Fee for All Permits: \$ 1634.32

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023200075 - 0

Permit Number:	1101918
Mine Name:	STRIP #12
State:	VA
MSHA Number:	4406992
County:	WISE
Tribe:	
Permittee Name:	A&G COAL CORP
Permittee Address:	302 S JEFFERSON ST, ROANOKE, VA 24011
Permittee Taxpayer ID:	541557615
Operator Name:	A & G COAL CORP
Operator Address:	302 S. JEFFERSON ST. ROANOKE, VA 24011
Operator Taxpayer ID:	541557615
Mine Type:	S
Gross Tons:	4703.97
Total Moisture:	0.0000 %
Inherent Moisture:	0.0000 %
Excess Moisture:	0.0000 %
Reduced Tons:	0.00
Net Tons:	4,703.97
Mine Rate:	0.2240
Total Calculated Fee:	\$1,053.69
Mineral Owners:	PENN VIRGINIA COAL CO 2550 EAST STONE DRIVE KINGSPORT, TN 37660
Purchasers of Coal:	AEP 1 RIVERSIDE PLAZA COLUMBUS, OH 43215
Coal Delivered To:	A&G'S PARAGON LOADOUT P O BOX 1010 WISE, VA 24293

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023200075 - 0

Permit Number: 1101905
Mine Name: AG JOB 23
State: VA
MSHA Number: 4406869
County: WISE
Tribe:
Permittee Name: A & G COAL CORP
Permittee Address: 302 S. JEFFERSON ST., ROANOKE, VA 24011
Permittee Taxpayer ID: 541557615
Operator Name: NINE MILE MINING INC
Operator Address: 302 S. JEFFERSON ST ROANOKE, VA 24011
Operator Taxpayer ID: 800351568

Mine Type: U
Gross Tons: 0
Total Moisture: 0.0000 %
Inherent Moisture: 0.0000 %
Excess Moisture: 0.0000 %
Reduced Tons: 0.00
Net Tons: 0.00
Mine Rate: 0.0960

Mine Type: S
Gross Tons: 2592.11
Total Moisture: 0.0000 %
Inherent Moisture: 0.0000 %
Excess Moisture: 0.0000 %
Reduced Tons: 0.00
Net Tons: 2,592.11
Mine Rate: 0.2240
Total Calculated Fee: **\$580.63**

Mineral Owners: PENN VIRGINIA COAL CO
2550 EAST STONE DRIVE KINGSPORT, TN 37660

Purchasers of Coal: AEP
1 RIVERSIDE PLAZA COLUMBUS, OH 43215

Coal Delivered To: A&G'S PARAGON LOADOUT
P O BOX 1010 WISE, VA 24293

Amended

**U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023300073 - 0**

**OSM-1 Form
Coal Reclamation Fee Report**

**A & G COAL CORP
302 S. JEFFERSON ST
ROANOKE, VA 24011**

Part 1

1. Reporting for Third Quarter, 2023

This certification covers the following permit number(s):

- 1101918
- 1101905

2. I consider the User ID and Password that I used to access this site to be my electronic signature on this document, as acknowledged under signature option previously.

3. Contract Name: VALERIE L. HAMLET

Telephone: (540) 310-4302

Reporting Entity: 119030

Email: VALERIE.HAMLET@BLUESTONE-COAL.COM

4. Total Calculated Fee for All Permits: **\$ 1410.46**

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023300073 - 0

Permit Number:	1101918
Mine Name:	STRIP #12
State:	VA
MSHA Number:	4406992
County:	WISE
Tribe:	
Permittee Name:	A & G COAL CORP
Permittee Address:	302 S. JEFFERSON ST., ROANOKE, VA 24011
Permittee Taxpayer ID:	541557615
Operator Name:	A & G COAL CORP
Operator Address:	302 S. JEFFERSON ST. ROANOKE, VA 24011
Operator Taxpayer ID:	541557615
Mine Type:	S
Gross Tons:	6296.68
Total Moisture:	0.0000 %
Inherent Moisture:	0.0000 %
Excess Moisture:	0.0000 %
Reduced Tons:	0.00
Net Tons:	6,296.68
Mine Rate:	0.2240
Total Calculated Fee:	\$1,410.46
Mineral Owners:	PENN VIRGINIA COAL CO 2550 EAST STONE DRIVE KINGSPORT, TN 37660
Purchasers of Coal:	AEP 1 RIVERSIDE PLAZA COLUMBUS, OH 43215
Coal Delivered To:	A&G'S PARAGON LOADOUT P O BOX 1010 WISE, VA 24293

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023300073 - 0

Permit Number: 1101905
Mine Name: AG JOB 23
State: VA
MSHA Number: 4406869
County: WISE
Tribe:
Permittee Name: A & G COAL CORP
Permittee Address: 302 S. JEFFERSON ST., ROANOKE, VA 24011
Permittee Taxpayer ID: 541557615
Operator Name: A & G COAL CORP
Operator Address: 302 S. JEFFERSON ST. ROANOKE, VA 24011
Operator Taxpayer ID: 541557615
Operator Name: NINE MILE MINING INC
Operator Address: 302 S. JEFFERSON ST ROANOKE, VA 24011
Operator Taxpayer ID: 800351568

Mine Type: U
Gross Tons: 0
Total Moisture: 0.0000 %
Inherent Moisture: 0.0000 %
Excess Moisture: 0.0000 %
Reduced Tons: 0.00
Net Tons: 0.00
Mine Rate: 0.0960

Mine Type: S
Gross Tons: 0
Total Moisture: 0.0000 %
Inherent Moisture: 0.0000 %
Excess Moisture: 0.0000 %
Reduced Tons: 0.00
Net Tons: 0.00
Mine Rate: 0.2240
Total Calculated Fee: **\$0.00**

Mineral Owners: PENN VIRGINIA COAL CO
2550 EAST STONE DRIVE KINGSPORT, TN 37660

Purchasers of Coal:

Coal Delivered To:

**U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023400073 - 0**

**OSM-1 Form
Coal Reclamation Fee Report**

**A & G COAL CORP
302 S. JEFFERSON ST
ROANOKE, VA 24011**

Part 1

1. Reporting for Fourth Quarter, 2023

This certification covers the following permit number(s):

- 1101918

2. I consider the User ID and Password that I used to access this site to be my electronic signature on this document, as acknowledged under signature option previously.

3. Contract Name: VALERIE L. HAMLET
Telephone: (540) 310-4302
Reporting Entity: 119030
Email: VALERIE.HAMLET@BLUESTONE-COAL.COM

4. Total Calculated Fee for All Permits: **\$ 1307.79**
-

U.S. Department of the Interior
Office of Surface Mining Reclamation & Enforcement OS2023400073 - 0

Permit Number:	1101918
Mine Name:	STRIP #12
State:	VA
MSHA Number:	4406992
County:	WISE
Tribe:	
Permittee Name:	A & G COAL CORP
Permittee Address:	302 S. JEFFERSON ST., ROANOKE, VA 24011
Permittee Taxpayer ID:	541557615
Operator Name:	A & G COAL CORP
Operator Address:	302 S. JEFFERSON ST. ROANOKE, VA 24011
Operator Taxpayer ID:	541557615
Mine Type:	S
Gross Tons:	5838.36
Total Moisture:	0.0000%
Inherent Moisture:	0.0000%
Excess Moisture:	0.0000%
Reduced Tons:	0.00
Net Tons:	5,838.36
Mine Rate:	0.2240
Total Calculated Fee:	\$1,307.79
Mineral Owners:	PENN VIRGINIA COAL CO 2550 EAST STONE DRIVE KINGSPORT, TN 37660
Purchasers of Coal:	AEP 1 RIVERSIDE PLAZA COLUMBUS, OH 43215
Coal Delivered To:	A&G'S PARAGON LOADOUT P O BOX 1010 WISE, VA 24293
