United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy Street, Suite 300
Arlington, VA 22203

ALLEGHENY-BLUE RIDGE ALLIANCE,	**Docket No._____**
APPALACHIAN VOICES,	**Valid Existing Rights Determination**
WEST VIRGINIA HIGHLANDS	**South Fork Coal Co.,**
CONSERVANCY,	**Haulroad No. 2**

Appellants,

v.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT,

Respondent.

STATEMENT OF REASONS

I. Jurisdiction, Standing, and Timeliness

1. IBLA Authority and Scope

Appeals to the Board are governed by 43 C.F.R. Part 4, Subpart E. The Board decides OSMRE decisions "as fully and finally as might the Secretary," and may affirm, reverse, set aside, or remand. 43 C.F.R. § 4.413(a)–(c). Appellants, Allegheny-Blue Ridge Alliance, Appalachian Voices and West Virginia Highlands Conservancy, file and serve this Statement of Reasons ("SOR") in conformity with §§ 4.407–4.408 (filing/service, timeliness) and § 4.410 (SOR content and length).

Each Appellant is a "party to the case" and "adversely affected" within the meaning of 43 C.F.R. §§ 4.402, 4.410(b). All three organizations participated by filing joint Comments in Opposition

on April 21, 2025 with the Office of Surface Mining and Reclamation Enforcement's ("OSMRE") Charleston Field Office, thereby preserving objections. (Ex. 2 at 1–21.)

This appeal is filed under 43 C.F.R. Part 4, Subpart E (§§ 4.400–4.418) and the Administrative Procedure Act, 5 U.S.C. § 554. The Board has jurisdiction to review OSMRE's Valid Existing Rights (VER) determinations under SMCRA, as appeals involving "the conduct of surface coal mining under the Surface Mining Control and Reclamation Act of 1977" are delegated to the IBLA (43 C.F.R. § 4.1(b)(4)(i)(E); 30 C.F.R. § 761.16(f); 90 Fed. Reg. 34,005, 34,009 (July 18, 2025), Ex. 1).

2. Standing

Under 43 C.F.R. § 4.402(a), "[a]ny person or entity that is a party to the case and is adversely affected by an appealable decision" has the right to appeal. 43 C.F.R. § 4.401 defines "adversely affected" to mean a person or entity has a legally cognizable interest, and the decision has caused or is substantially likely to cause injury to that interest. Such interests include "a property or economic interest in the affected lands or resources, or a cultural, recreational, or aesthetic interest in the affected lands or resources."

Appellants, Allegheny-Blue Ridge Alliance (ABRA), West Virginia Highlands Conservancy (WVHC), and Appalachian Voices (AppVoices) participated in OSMRE's VER proceeding by submitting a joint comment letter opposing the VER request on April 21, 2025 (Ex. 2). This satisfies the definition of "party to the case" in § 4.401.

Each Appellant has members with concrete cultural, recreational, and aesthetic interests in the Monongahela National Forest, specifically the South Fork Cherry River, Fork Mountain, Briery

Knob, and North Fork Cherry River corridors accessed by FS 249. Members regularly hike, fish, observe wildlife, conduct environmental monitoring, and enjoy the quiet and scenic character of the area, particularly the public lands that they co-own. For example:

1. Rick Webb (WVHC and ABRA member) has for decades visited and worked in the Monongahela National Forest, including the FS 249 corridor, to monitor water quality, conduct aquatic surveys, and enjoy the natural setting. He describes how coal-haul truck traffic, road widening, and sediment runoff will degrade water quality, damage aquatic habitat, and impair his ability to enjoy and study the area (Ex. 7, Webb Decl. ¶¶ 4-11).
2. Willie Dodson (Appalachian Voices member) regularly visits the Monongahela National Forest, including areas along FS 249, for environmental monitoring and recreation. He attests that coal-haul use of FS 249 will generate dust, noise, and sedimentation that will diminish his ability to enjoy the area's scenery and wildlife (Ex. 8, Dodson Decl. ¶¶ 5-10).
3. Andrew Young (WVHC and ABRA member) hikes and photographs along FS 249 and the South Fork Cherry River. He explains that the increased heavy-truck traffic and road work authorized by the Decision will destroy the area's quiet character, degrade scenic views, and harm wildlife he observes (Ex. 6, Young Decl. ¶¶ 3-8).

The July 18, 2025 Decision authorizing South Fork Coal Company, LLC's ("SFCC") use of FS 249 for coal haulage will directly cause the truck traffic, road modification, sedimentation, dust, noise, and associated environmental harm described by Appellants' members. Vacating or reversing the Decision will reinstate SMCRA's prohibition on new mining-related road use across National Forest lands absent bona fide pre-SMCRA rights, preventing the activities that would injure Appellants' interests. Each Appellant meets the test for representational standing:

(1) at least one member would have standing in their own right; (2) the interests are germane to the organization's purposes; and (3) neither the claim nor the relief requested requires individual member participation.

3. Timeliness (*see* 43 C.F.R. § 4.403(c)(3))

A notice of appeal must be filed within 30 days after receiving notice of the decision. 43 C.F.R. § 4.403(c)(1). For "notice," the earliest of several dates controls, including "[t]he date of the decision's publication in the FEDERAL REGISTER." § 4.403(c)(2)(iv). A notice must also include "a statement and any corroborating documentation providing the date when the … appeal received notice of the decision" to demonstrate timeliness. § 4.403(a)(3). Here, Appellants received notice on July 18, 2025 via publication at 90 Fed. Reg. 34,005 and by same-day email from Mr. James M. Taitt (OSMRE). (Ex. 1.) This appeal is timely under § 4.403.

OSMRE's Charleston Field Office determined that SFCC "possesses VER for a haul road within the boundaries of the Monongahela National Forest," authorizing use of a 1.2-mile segment of FS 249 as a coal haul road on the theory that the road existed on August 3, 1977 and SFCC "has a legal right" to use it by virtue of a 2021 U.S. Forest Service special use permit. 90 Fed. Reg. at 34,007–08 (Ex. 1).

The 2021 USFS special use authorization (Road Use Permit FS-7700-41, Sept. 29, 2021) on which OSMRE relied is and has been subject to challenge in the C*enter for Biological Diversity v. U.S. Forest Service*, No. 5:24-cv-00274 (S.D.W. Va.) (transferred from D.D.C., June 2024), the claims in which are based off of the Forest Service's failure to perform any analysis under the National Environmental Policy Act (NEPA), and Section 7 of the Endangered Species Act (ESA). (Ex. 3 ¶¶ 6–8, 141–47.) That challenge existed when SFCC applied for the VER

determination, was not resolved before OSMRE's finding of VER, and remains unresolved in part because of delays brought on by SFCC ongoing bankruptcy proceedings.

II. Background and Regulatory Framework

SMCRA § 522(e) and VER. SMCRA § 522(e)(2) bars surface coal mining operations on National Forest lands unless the operation was "in existence" on August 3, 1977, or the operator has "valid existing rights." 30 U.S.C. § 1272(e)(2). OSMRE adopted the controlling VER definition and process in 1999. Valid Existing Rights; Final Rule, 64 Fed. Reg. 70,766 (Dec. 17, 1999) (Ex. 4).

Road-based VER (definition). For roads, 30 C.F.R. § 761.5 provides specific tests applicable only if the road falls within "surface coal mining operations" as defined in § 700.5. Two subsections matter here:

1. § 761.5(c)(1): the operator must show (i) the road existed when the land came under § 522(e) and (ii) the operator has a legal right to use the road for surface coal mining operations; and
2. § 761.5(c)(3): if the claimed right derives from a permit, a valid permit for use or construction of the road in that location existed when the land came under § 522(e).

The 1999 preamble explains the reason for adding the "legal right" requirement to (c)(1): the existence of a road in 1977 is not enough; the applicant must also demonstrate a legally cognizable entitlement to use that road for mining purposes, consistent with SMCRA's pre-SMCRA grandfathering. 64 Fed. Reg. at 70,791–92 (Ex. 4).

30 C.F.R. § 761.16 governs processing and outcomes:

1. § 761.16(d)(1)(iv): OSMRE's public notice must state that the agency will not make a merits decision if, by the close of the comment period, a person with a legal interest in the land initiates appropriate legal action in the proper venue to resolve differences concerning the validity or interpretation of the deed, lease, easement, or other documents that form the basis of the claim.
2. § 761.16(e)(3)(i): If the property-rights claims are the subject of pending litigation in a court or administrative body with jurisdiction as of the comment-period closing date, the agency must issue a determination that the applicant has not demonstrated VER, without prejudice to refiling after final adjudication.

The regulations make clear that where, like here, the claim of legal right underpinning the VER request is contested in litigation, OSMRE may not make a finding of VER but rather must dismiss the application without prejudice.

III. Questions Presented

1. Did OSMRE err by construing § 761.5(c)(1) to allow a post-1977 USFS special use permit to satisfy the "legal right" element, thereby nullifying § 761.5(c)(3)'s timing requirement for permit-based road claims?
2. Independently, and dispositively, did §§ 761.16(d)(1)(iv) and (e)(3)(i) require OSMRE to issue a no-VER determination (without prejudice) because qualifying litigation was pending as of the April 21, 2025 comment deadline?
3. Was OSMRE's reliance on a revocable 2021 USFS permit arbitrary and capricious, where that instrument is not a property right (36 C.F.R. § 251.51), lacks NEPA analysis and ESA § 7 consultation, and is under active reconsideration and federal litigation?

4. Did OSMRE fail to support its decision with substantial evidence of any pre-1977 easement or authorization to use FS 249 for coal haulage?

IV. Statement of Facts (*see* 43 C.F.R. § 4.403(c)(2))

1. The United States has owned the surface estate in the relevant Monongahela National Forest tract since 1934. 90 Fed. Reg. at 34,006–07 (Ex. 1). FS 249 physically existed before 1977, but no deeded easement or reserved right-of-way authorizing coal haulage over FS 249 appears in the chain of title summarized by OSMRE. *Id*. Appellants' comments identified the absence of any pre-1977 deed, easement, or contract authorizing haul-road use; SFCC provided none. (Ex. 2 at 5–6.)
2. In September 2021, the United States Forest Service ("USFS") issued a special use permit (Form FS-7700-41) to allow SFCC to use FS 249. The instrument is revocable, conditional, and non-possessory. See 36 C.F.R. § 251.51 (special use authorization conveys no possessory interest).
3. As noted in comments submitted by Appellants, in January 2025 OSMRE issued a cessation order halting road use due to the lack of a current, valid authorization and outstanding environmental requirements. In March 2025, the USFS required SFCC to submit a new application for FS 249, initiating a fresh review. (Ex. 2 at 7–8.).
4. OSMRE noticed the VER request in the Federal Register; the public comment period closed April 21, 2025. (Ex. 2 at 1.) On July 18, 2025, OSMRE issued the VER determination concluding SFCC "possesses VER" under § 761.5(c)(1). 90 Fed. Reg. 34,005, 34,007–08 (Ex. 1).
5. Since January 2024, Appellants and allied organizations have challenged the 2021 USFS authorization in *Center for Biological Diversity v. U.S. Forest Service*, No. 5:24-cv-00274

(S.D.W. Va.), alleging that the Forest Service failed to perform the necessary environmental analyses under NEPA and ESA § 7to assess the risks USFS's activities pose to endangered species and other wildlife and their habitat. (Ex. 3 ¶¶ 6–8, 84–95, 100, 141–47.)

6. FS 249 parallels the South Fork Cherry River, designated critical habitat for the candy darter (Etheostoma osburni), and the corridor supports Indiana and northern long-eared bats. (Ex. 2 at 9–11; Ex. 5.) Declarations and photographs document sedimentation, rutting, and coal dust deposition associated with heavy truck traffic and road conditions. (Ex. 6.)
7. Summary judgment briefing–which is generally determinative in such permit challenges–is scheduled to conclude on September 22, 2025.

V. Argument

A. OSMRE's reading of "legal right" under § 761.5(c)(1) is contrary to the text, structure, and history of SMCRA

OSMRE treated § 761.5(c)(1) in isolation: because FS 249 existed in 1977 and SFCC now holds a 2021 Forest Service special use permit, OSMRE reasoned that the "legal right" element was satisfied. 90 Fed. Reg. at 34,007–08 (Ex. 1). That reading collapses the statute's protective intent, disregards the rule's internal structure, and renders § 761.5(c)(3) superfluous.

The controlling statute—SMCRA § 522(e)(2), 30 U.S.C. § 1272(e)(2)—establishes a categorical prohibition on surface coal mining within National Forests "on and after the date of enactment" unless the operation was already "in existence" or the operator possessed "valid existing rights." Congress's use of the term "existing" fixes the temporal point: the right must have been legally valid and in existence as of August 3, 1977, the date the protection attached for national forest

lands. A right created decades later, whether by a new agency permit or private agreement, cannot satisfy this statutory grandfather clause. Allowing such a right would convert the narrow exception into an open-ended licensing mechanism, an outcome that contradicts both the text and purpose of § 522(e).

The statute leaves no room for a regulatory carve-out that would allow post-1977 permits to serve as the legal right demonstrating valid *existing* rights. To the extent OSMRE's reading of § 761.5(c)(1) would authorize that result, it is inconsistent with the plain language of § 522(e) and therefore invalid. See *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 328 (2014) (agencies may not rewrite clear statutory terms). The Board's review of legal questions is de novo, 43 C.F.R. § 4.413(c)(2), and should be guided first by the statute's command.

Even under OSMRE's regulations, the result should be the same. Section 761.5(c)(3) specifically governs permit-based claims to use a road for surface coal mining operations and requires that the permit have existed when the land came under SMCRA's protection. This structure reflects the statutory timing requirement. By treating the 2021 special use permit as a sufficient "legal right" under (c)(1) instead, OSMRE nullified (c)(3) and sidestepped its temporal limit. The preamble to the 1999 VER rule confirms that a pre-1977 road, without a contemporaneous legal authorization for mining use, is not enough. 64 Fed. Reg. at 70,791–92 (Ex. 4).

The record here contains no evidence of any deeded right-of-way, easement, or permit authorizing coal haulage on FS 249 as of August 3, 1977. The United States has owned the surface estate in the Monongahela National Forest since 1934. OSMRE's chain-of-title summary contains no reservation of a road right for mining purposes, and SFCC has produced none. Indeed, SFCC's own 2013 SMCRA permit application, certified by its licensed professional

engineer, affirmatively stated that "no portion of the proposed/existing haul road is within the boundary of the Monongahela National Forest"—an admission wholly at odds with the claim now advanced. The only "right" SFCC points to is a revocable, discretionary special use permit issued in 2021, decades after SMCRA's prohibitions attached.

The distinction between what we have here–merely the existence of some sort of road at the time of statutory protection and a later-issued permit–and the existence of a road authorized for coal haulage at the time of statutory protection is not one without a difference. In this case, SFCC was required to perform significant road construction, with attendant environmental impacts, to be able to use the road for its oversized coal trucks. See Ex. 6, Young Decl. Exs. 1-31; Ex. 7, Webb Decl. Exs. 1-11; Ex. 9, W. Va. Dep't of Env't Prot., Notice of Violation, Permit No. O302211 (Aug. 6, 2025) and W. Va. Dep't of Env't Prot., Notice of Violation, Permit No. O302211 (June 5, 2025). Neither it nor any other relevant party was authorized to conduct those surface mining activities at the time of statutory protection. Accordingly, OSMRE's determination that SFCC's legal rights were "existing" at the time of statutory protection is arbitrary, capricious, and contrary to law.

In short, the statute requires that a "valid existing right" have been both valid and in existence on the date the prohibition took effect; § 761.5(c)(3) implements that requirement for permit-based road claims. OSMRE's contrary interpretation allows precisely the sort of post-enactment creation of rights that § 522(e) was designed to foreclose. The Board should reject it on statutory and regulatory grounds.

B. A 2021 USFS special use permit is a revocable license, not a vested property right contemplated by § 761.5(c)(1); no pre-1977 right exists.

A USFS special use authorization "conveys no possessory interest." 36 C.F.R. § 251.51. It is revocable, conditional, and time-limited—not a deed, easement, or reserved right-of-way. Treating a late-arising, easily revocable permission as a "valid existing right" inverts SMCRA's grandfathering concept.

Further, the record identifies no pre-1977 easement or authorization to use FS 249 for coal haulage. 90 Fed. Reg. at 34,006–07 (Ex. 1). Appellants' comments challenged SFCC to provide any pre-1977 deed/easement/contract authorizing haul-road use; none was produced. (Ex. 2 at 5–6.) If such a right existed, SFCC would not have needed a discretionary special use permit in 2021. Because SFCC's asserted right derives from a permit, § 761.5(c)(3) governs—and SFCC cannot satisfy it because no permit existed in 1977. § 761.5(c)(3); *see* 90 Fed. Reg. at 34,007 (Ex. 1).

C. Sections 761.16(d)(1)(iv) and (e)(3)(i) required a no-VER (without prejudice) determination because qualifying litigation was pending by comment close.

OSMRE's public notice process culminated in a comment deadline of April 21, 2025. (Ex. 2 at 1.) By then, the federal litigation discussed above was already pending (filed Jan. 2024), directly contesting the legality and validity of the USFS authorization SFCC relies upon. (Ex. 3 ¶¶ 6–8, 141–47.)

Two rules control the outcome:

1. § 761.16(d)(1)(iv) required notice that OSMRE would not decide the merits if, by comment close, a person with a legal interest in the land initiated appropriate legal action to resolve disputes concerning "the deed, lease, easement, or other documents that form the basis" of the claim of VER; and

2. § 761.16(e)(3)(i) states that, where the claim of VER relies on "the standards in paragraphs (b), (c)(1), and (c)(2) of the definition," "The agency must issue a determination that you have not demonstrated valid existing rights if your property rights claims are the subject of pending litigation in a court or administrative body with jurisdiction over the property rights in question. The agency will make this determination without prejudice, meaning that you may refile the request once the property rights dispute is finally adjudicated. This paragraph applies only to situations in which legal action has been initiated as of the closing date of the comment period under paragraph (d)(1) or (d)(3) of this section."

In its 1999 preamble to the VER regulation, OSMRE explained that these provisions are required in part because

> section 507(b)(9) of SMCRA provides that "nothing in this Act shall be construed as vesting in the regulatory authority the jurisdiction to adjudicate property title disputes." Similarly, in setting forth the findings that the regulatory authority must make before approving a permit application, section 510(b)(6)(C) of SMCRA provides that "nothing in this Act shall be construed to authorize the regulatory authority to adjudicate property rights disputes."
>
> … In addition, deferral of a decision in situations involving property rights disputes is consistent with section 102(b) of SMCRA, which states that one of the Act's purposes is to "assure that the rights of surface landowners and other persons with a legal interest in the land or appurtenances thereto are fully protected from [surface coal mining] operations.

64 Fed. Reg. at 70,806. *See also id.* at 70,809 ("Section 102(m), which states that another purpose of SMCRA is "protection of the public interest," provides further support for this rule.").

OSMRE made clear that the "legal right" it relied on to find that SFCC possesses VER is the USFS permit that has been the subject of federal litigation since January 2024. 90 Fed. Reg. at

34,007–08. That is the only "document[] that form[s] the basis" of SFCC's claim of a legal right to use the road. *See* 30 C.F.R. § 761.16(d)(1)(iv).

Appellants pointed out that the litigation over the USFS permit necessitated denial of SFCC's VER application. In response, OSMRE refused to acknowledge the impact of the existence of legal dispute over SFCC's permit, stating that "Nothing in the record indicates that the permit has been revoked by the USFS or its validity otherwise enjoined by a court of competent jurisdiction. Absent evidence of those events, we must accept the permit as lawfully issued. One commenter noted that the Road Use Permit is currently subject to legal challenge in the United States District Court, District of Columbia (Civil Action No. 1:24-cv-00087) based on alleged noncompliance with Federal laws. While the current litigation could impact the validity of the permit, our determination is based on the present validity and only extends so long as the permit remains valid. " 90 Fed. Reg. 34,008. But that stance is plainly contrary to OSMRE's regulations, which require OSMRE to deny a request for VER determination under 30 C.F.R. § 761.5(c)(1) where the basis of the legal right asserted is subject to litigation. By effectively determining the ongoing dispute over SFCC's right to use FS 249 in favor of SFCC, OSMRE violated § 761.16 and SMCRA's statutory prohibitions on the agency resolving property rights disputes.

D. OSMRE arbitrarily grounded VER on a defective permit lacking NEPA review and ESA § 7 consultation and subject to ongoing reconsideration and litigation.

The litigation against the Forest Service alleges that the agency failed to perform any analysis under NEPA or consultation under ESA § 7 to assess the impacts of SFCC's activities to the candy darter and its designated critical habitat, and endangered bats. (Ex. 3 ¶¶ 6, 84–95, 100, 142–47.) Appellants raised these defects during the VER process and warned that relying on such an authorization would short-circuit environmental safeguards. (Ex. 2 at 8–11.) USFS's

March 2025 direction that SFCC reapply for FS 249, coupled with the January 2025 cessation of road use noted in comments, underscores the permit's tenuous and contested status. (Ex. 2 at 7–8.) OSMRE's choice to premise VER on a revocable, legally infirm, and actively litigated authorization was arbitrary and capricious. If the 2021 permit is vacated, the Decision's foundation collapses.

E. OSMRE failed to support its findings with substantial evidence and failed to respond to significant comments.

OSMRE never identified any pre‑1977 easement/permit authorizing coal haul use of FS 249. (Ex. 1 at 34,006–07.) Appellants raised the (c)(1)/(c)(3) distinction and explained why permit‑based claims must satisfy (c)(3)'s pre‑SMCRA timing; OSMRE did not grapple with this controlling constraint. (Ex. 2 at 3–7.) Failing to respond to significant comments and ignoring a dispositive rule are classic APA errors warranting reversal or remand.

F. Environmental context underscores the error and confirms the need to apply the VER rule as written.

FS 249 parallels the South Fork Cherry River (candy darter critical habitat) and traverses habitat used by endangered bats. Converting FS 249 to an industrial haul road (widening, regrading, culverts, heavy truck traffic) will increase sedimentation, degrade stream substrates critical to candy darter spawning/feeding, and elevate dust/noise while removing roadside vegetation and roost candidates. (Ex. 2 at 9–11; Ex. 3 ¶¶ 84–95, 123–27; Ex. 5; Ex. 6.) SMCRA § 522(e) was crafted to prevent such new intrusions on National Forest lands absent bona fide pre‑SMCRA rights. Correct application of §§ 761.5 and 761.16 avoids these harms.

VI. Relief Requested

Appellants respectfully request that the Board:

1. Vacate OSMRE's determination that SFCC "possesses VER" for FS 249 and hold that a post-1977 USFS special use permit cannot satisfy § 761.5(c)(1)'s "legal right" element in light of § 761.5(c)(3);
2. Alternatively, remand with instructions that OSMRE issue a determination of "not demonstrated" VER (without prejudice) under § 761.16(e)(3)(i) because the underlying authorization was the subject of pending litigation as of the April 21, 2025 comment deadline; and
3. Grant such other relief as is just and proper to ensure that surface coal mining operations do not proceed across National Forest lands absent genuine pre-SMCRA rights and full compliance with applicable environmental laws.

Dated: August 15, 2025

Respectfully submitted,

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Exhibits

Ex. 1: OSMRE Decision Notice: Determination of Valid Existing Rights within the Monongahela National Forest, WV, 90 Fed. Reg. 34,005 (July 18, 2025) (including pp. 34,006–08). (Pursuant to 43 CFR §4.403(a)(1), this serves as a copy of the decision being appealed).

Ex. 2: Comments in Opposition (Allegheny-Blue Ridge Alliance et al., Apr. 21, 2025) and attachments.

Ex. 3: *Complaint*, *Center for Biological Diversity v. U.S. Forest Serv.*, No. 5:24-cv-00274 (S.D.W. Va.) (transferred from No. 1:24-cv-00087 (D.D.C.), June 2024).

Ex. 4: OSMRE, Valid Existing Rights; Final Rule, 64 Fed. Reg. 70,766 (Dec. 17, 1999) (preamble excerpts incl. 70,791–92).

Ex. 5: Declaration of Curtis Bradley, Center for Biological Diversity (November 20, 2024), Exs. 1-2, *Ctr. for Biological Diversity v. U.S. Forest Serv.*, No. 1:24-cv-87 (S.D.W. Va. filed Jan. 15, 2024)

Ex. 6: Declaration of Andrew Young, WVHC and ABRA (November 21, 2024, *Ctr. for Biological Diversity v. U.S. Forest Serv.*, No. 1:24-cv-87 (S.D.W. Va. filed Jan. 15, 2024).

Ex. 7:Declaration of James R. Webb, WVHC and ABRA (November 21, 2024). *Ctr. for Biological Diversity v. U.S. Forest Serv.*, No. 1:24-cv-87 (S.D.W. Va. filed Jan. 15, 2024).

Ex. 8: Declaration of Willie Dodson, Appalachian Voices (November 26, 2024), *Ctr. for Biological Diversity v. U.S. Forest Serv.*, No. 1:24-cv-87 (S.D.W. Va. filed Jan. 15, 2024).

Ex. 9: W. Va. Dep't of Env't Prot., Notice of Violation, Permit No. O302211 (Aug. 6, 2025) and W. Va. Dep't of Env't Prot., Notice of Violation, Permit No. O302211 (June 5, 2025).

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Haulroad No. 2

CERTIFICATE OF SERVICE

As counsel for the Appellants, Allegheny-Blue Ridge Alliance, Appalachian Voices, and West Virginia Highlands Conservancy, I do hereby certify that on the 15th day of August, 2025, I served a true and exact copy of the foregoing STATEMENT OF REASONS on the following counsel, in compliance with 43 CFR § 4.407, via e-mail and Federal Express Overnight Delivery at the below addresses:

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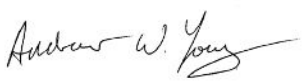

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