

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**In re:**

**PATRIOT COAL CORPORATION, *et al.*,**

**Debtors.**

**Chapter 11**

**Case No. 12-51502-659**

**(Jointly Administered)**

Hearing Date: November 19, 2013

Hearing Time: 10:00 a.m. Central

Location: Courtroom 7-N, St. Louis

**DEBTORS' TWENTY-FIRST OMNIBUS OBJECTION TO CLAIMS**

**(Clear Fork Water Supply Claims)**

Patriot Coal Corporation and its affiliated debtors (the "Debtors"), pursuant to 11 U.S.C. § 502 and Fed. R. Bankr. P. 3007, respectfully file this Twenty-First Omnibus Objection to Claims (the "Objection"). In support of this Objection, the Debtors show the Court as follows:

**Relief Requested**

1. By this Objection, the Debtors object to certain claims listed on Exhibit A attached hereto (the "Claims") because the Claims are not supported by the underlying facts, as confirmed by an investigation by the West Virginia Department of Environmental Protection (the "WVDEP"). The Debtors request entry of an order, pursuant to Section 502 of the Bankruptcy Code and Fed. R. Bankr. P. 3007, disallowing the Claims.

2. **Parties receiving this Objection should locate their names on the attached exhibit.** Any response to this Objection should include, among other things, (i) an appropriate caption, including the title and date of this Objection; (ii) the name of the claimant, both the EDMO and GCG claim numbers of the claim that the Debtors are seeking to disallow or modify, and a description of the basis for the amount claimed; (iii) a concise statement setting forth the

reasons why the Court should not sustain this Objection, including, but not limited to, the specific factual and legal bases upon which the claimant relies in opposing this Objection; (iv) copies of any documentation and other evidence which the claimant will rely upon in opposing this Objection at a hearing; and (v) the name, address, telephone number and facsimile number of a person authorized to reconcile, settle or otherwise resolve the claim on the claimant's behalf. A claimant that cannot timely provide such documentation and other evidence should provide a detailed explanation as to why it is not possible to timely provide such documentation and other evidence.

### **Jurisdiction**

3. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. Venue of this proceeding is proper pursuant to 28 U.S.C. § 1409.

4. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2) to the extent that the Claims involve matters other than personal injuries. This is a non-core proceeding to the extent that the Claims allege personal injuries.

5. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Background**

6. Ninety-nine of the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on July 9, 2012 in the United States Bankruptcy Court for the Southern District of New York.

7. On December 19, 2012, these Debtors' cases were transferred to the United States Bankruptcy Court for the Eastern District of Missouri [Dkt. No. 1789].

8. The bar date for filing proofs of claim against these Debtors was December 14, 2012 [Dkt. No. 1388].

9. On March 1, 2013, the Court entered its Order Establishing Procedures for Claims Objections [Dkt. No. 3021].

10. Debtors Brody Mining, LLC and Patriot Ventures LLC filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on September 23, 2013 in this Court. The bar date for filing proofs of claim against these Debtors is October 24, 2013.

### **Objection and Argument**

11. Each of the Claims listed on Exhibit A relates to a complaint filed with the WVDEP on November 14, 2011 pursuant to West Virginia's Surface Coal Mining and Reclamation Act, W. Va. Code §§ 22-3-1 *et seq.* In that complaint, the claimants, through counsel, alleged that water supplies on their properties along or near Clear Fork Road in Clear Fork, Wyoming County, West Virginia, had been adversely affected by mining activities of Debtor Eastern Associated Coal Corporation ("Eastern"). Among other things, the claimants requested that the area be designated "unsuitable for surface-mining operations" under W. Va. Code § 22-3-22(b) and that Eastern be required to provide a replacement water supply under § 22-3-24(b).

12. The liquidated amounts sought in the Claims total \$7,000,000.

13. The WVDEP investigated the claimants' allegations. Among other things, the agency tested local wells on two occasions; examined other sources of possible contamination, including recent gas development and an un-reclaimed mining site upstream from Eastern's

operations; and considered the long history of water-quality test results in compliance with the requirements of Eastern's mining permit.

14. The WVDEP summarized its findings in a report dated April 4, 2013, concluding that "there is a lack of evidence that water emanating from the O001983 [Eastern] permit is causing detrimental environmental damage to the hydrologic balance in which the alleged groundwater contaminated wells are located." A copy of the report, excluding voluminous technical attachments, is attached hereto as Exhibit B.

15. As a result of its investigation, the WVDEP terminated the claimants' complaint on May 22, 2013. A copy of the termination notice, excluding attachments, is attached hereto as Exhibit C.

16. Absent proof that Eastern's operations are responsible for any contamination of the claimants' water supplies, the claimants are not entitled to any relief on the allegations included in the Claims. Because the WVDEP report establishes that the necessary factual predicate is lacking, the Claims should be disallowed.

WHEREFORE, the Debtors respectfully request that this Court:

- (a) disallow the Claims;
- (b) to the extent necessary in connection with those portions of the Claims involving alleged personal injuries, submit proposed findings of fact and conclusions of law concerning the disallowance of the Claims to the District Court for consideration pursuant to 28 U.S.C. § 157(c)(1); and
- (c) grant such other and further relief as is just and proper.

Dated: October 11, 2013  
St. Louis, Missouri

Respectfully submitted,  
BRYAN CAVE LLP

/s/ Brian C. Walsh  
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Brian C. Walsh, #58091MO  
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*Local Counsel to the Debtors  
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-and-

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*Counsel to the Debtors  
and Debtors in Possession*

## Exhibit A - Clear Fork Water Supply Claims

**Omnibus Objection to Claims**

**Patriot Coal Corporation  
12-51502 (KSS)**

Note: Claims on the exhibit are sorted in alphabetical order based on the creditor name as listed on proof of claim form.

SEQ NO.	CLAIM(S) TO BE DISALLOWED			
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	CLAIM AMOUNT
1	ALGIE DKATHERINE R ALGIE J AND ALEXIS J COOK C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2592	1693-1	Unsecured: \$250,000.00
2	ALGIE R COOK AND PEGGY ANN COOK C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2593	1671-1	Unsecured: \$250,000.00
3	AVARY H BAILEY AND BETTY J BAILEY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2594	1673-1	Unsecured: \$250,000.00
4	BILLY RAY WILLARD C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2582	1668-1	Unsecured: \$250,000.00
5	DAVID E PELPHREY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2606	1687-1	Unsecured: \$250,000.00

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SEQ NO.	CLAIM(S) TO BE DISALLOWED			
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	CLAIM AMOUNT
6	DENNIS L COOK SR AND BRENDA K COOK C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2595	1676-1	Unsecured: \$250,000.00
7	DENNIS L MICHELE LARRY J AND TRAVIS J COOK C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2586	1666-1	Unsecured: \$250,000.00
8	DONNA FRALEY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2598	1672-1	Unsecured: \$250,000.00
9	DOYLE JOHNSON AND PHYLLIS JOHNSON C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2600	1677-1	Unsecured: \$250,000.00
10	EARL R PELPHREY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2605	1685-1	Unsecured: \$250,000.00

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SEQ NO.	CLAIM(S) TO BE DISALLOWED			
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	CLAIM AMOUNT
11	ELIZABETH L KENNEDY AND LINDSEY L KENNEDY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2588	1669-1	Unsecured: \$250,000.00
12	EVERETT SMITH AND FREDA SMITH C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2580	1663-1	Unsecured: \$250,000.00
13	GLEN P JOHNSON AND MARY E JOHNSON C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2601	1679-1	Unsecured: \$250,000.00
14	HELEN M MCGINNIS C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2604	1684-1	Unsecured: \$250,000.00
15	JACQUELYN A WHITLEY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2581	1667-1	Unsecured: \$250,000.00

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SEQ NO.	CLAIM(S) TO BE DISALLOWED			
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	CLAIM AMOUNT
16	JASON A BAILEY, RONCHESKI BAILEY, ELLA BAILEY & OLIVIA BAILEY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2584	1662-1	Unsecured: \$250,000.00
17	JESSICA STEPP WILLIAM STEPP TAYLOR STEPP MAKENZIE & CADENCE HUNZBERRY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2591	1689-1	Unsecured: \$250,000.00
18	LARRY G REED AND BECKY L REED C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2607	1688-1	Unsecured: \$250,000.00
19	MAYBETH FRALEY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2597	1680-1	Unsecured: \$250,000.00

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**Patriot Coal Corporation  
12-51502 (KSS)**

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SEQ NO.	CLAIM(S) TO BE DISALLOWED			
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	CLAIM AMOUNT
20	MICHAEL E MARCUM C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2602	1681-1	Unsecured: \$250,000.00
21	NEWMAN KATHERINE JACOB AND CALEB BROWN C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2585	1664-1	Unsecured: \$250,000.00
22	ONNIE VIRGINIA AND JAMES PAYNTER C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2589	1675-1	Unsecured: \$250,000.00
23	PAUL MARCUM AND ALICE F MARCUM C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2603	1682-1	Unsecured: \$250,000.00
24	TEDDY WYKLE AND DOROTHY WYKLE C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2583	1659-1	Unsecured: \$250,000.00

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**Patriot Coal Corporation  
12-51502 (KSS)**

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SEQ NO.	CLAIM(S) TO BE DISALLOWED			CLAIM AMOUNT
	NAME	GCG CLAIM NO.	ED MO CLAIM NO.	
25	WESTLEY FRALEY AND JUDY FRALEY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2599	1674-1	Unsecured: \$250,000.00
26	WILLIAM C COOK AND REGINA COOK C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON, ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2596	1678-1	Unsecured: \$250,000.00
27	WILLIAM D JENNY CHRISTOPHER A JOSHUA M & WILLIAM N LAFFERTY C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2590	1683-1	Unsecured: \$250,000.00
28	WILLIAM H STEPHANIE AND SARAH L COOK C/O THOMPSON BARNEY ATTN KEVIN W THOMPSON ESQ 2030 KANAWHA BLVD E CHARLESTON, WV 25311  Date Filed: 12/14/12 ED MO Date Filed: 02/27/13 Debtor: EASTERN ASSOCIATED COAL, LLC	2587	1670-1	Unsecured: \$250,000.00

**EXHIBIT B**

WVDEP Report of April 4, 2013



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west virginia department of environmental protection

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Division of Mining and Reclamation  
Office of Explosives and Blasting  
601 57th Street SE  
Charleston, WV 25304

Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
dep.wv.gov

FROM: Dustin C. Johnson, ERS III Oak Hill WVDEP DMR

SUBJECT: Eastern Associated Coal, LLC  
O001983

DATE: April 4, 2013

An investigation into potential groundwater contamination was conducted by the West Virginia Department of Environmental Protection (WVDEP) Division of Mining and Reclamation (DMR). An MR-35 Complaint Investigation was filed on November 14, 2011 by Kevin W. Thompson, Attorney. The alleged complaint concerned Eastern Associated Coal, LLC permit number O001983. Mr. Thompson is representing residents in Crany, Wyoming County, WV with concerns of compromised public health due to environmental conditions impacting the local water supplies.

Representatives from the WVDEP, Thompson/Barney Law Firm, REIC Laboratory, CTL Lab, Steptoe & Johnson Law Firm, Eastern Associated Coal, and a citizen involved in the suit met at the Crany Church on December 8, 2011 to conduct water sampling from the immediate receiving streams and private wells. A site visit to the reclaimed impoundment was also conducted on this day.

Water conditions were slightly above the season flow average. Approximately 0.70 inches of rain were reported on December 7, 2011.

Samples were collected from two wells (The Crany Church and J. Hutchinson Well) as well as Outlet 013 on the O001983 permit, upstream of the O001983 outlet in Crane Fork, the mouth of Crane Fork, and Clear Fork above and below the confluence with Crane Fork. Samples were taken for Probable Hydrologic Consequences (PHC) baseline and table IV-C Heavy metals. Also semi volatile and volatile organic compounds were sampled. The company split samples with the WVDEP. The sampling results are attached at the end of this report.

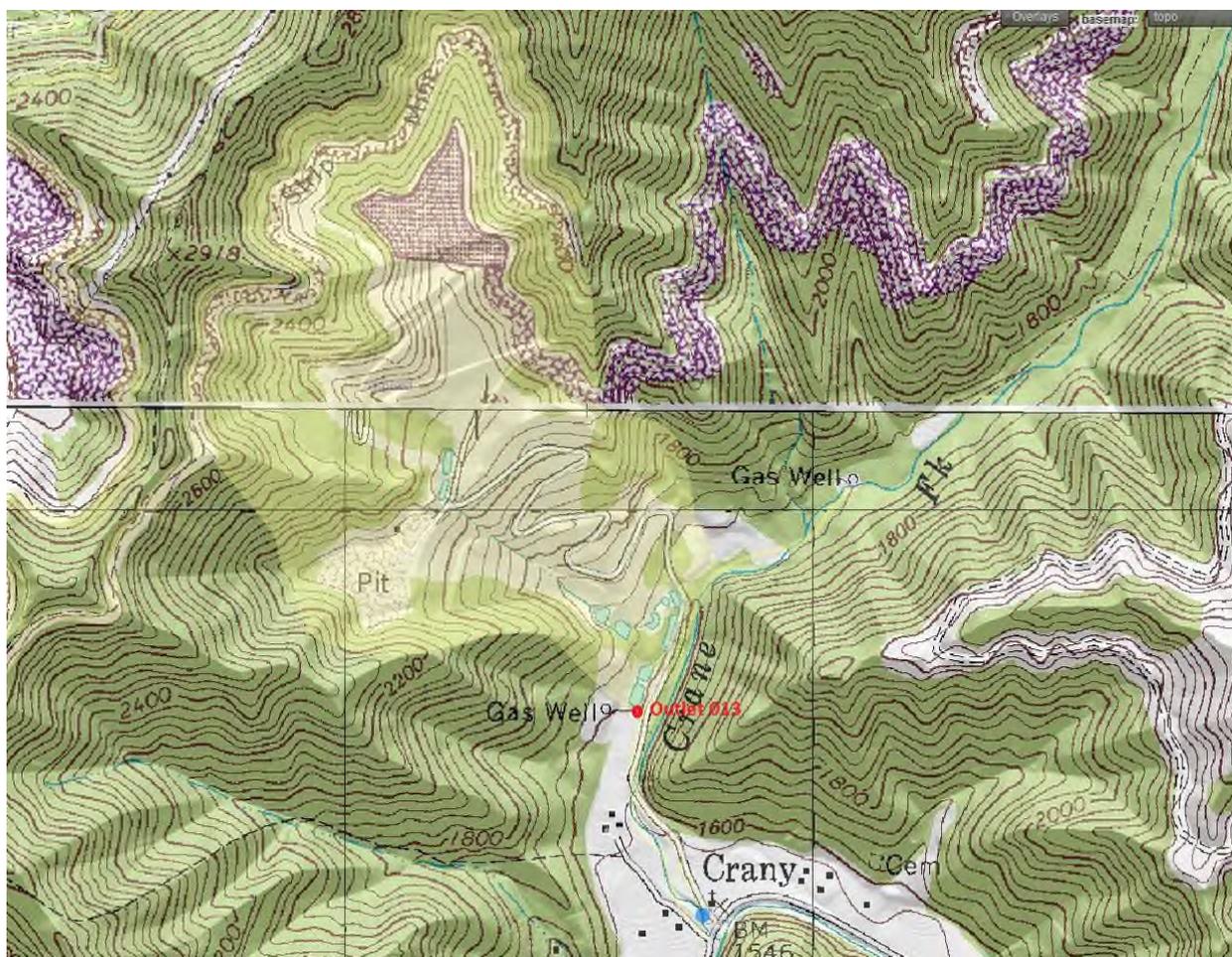
Promoting a healthy environment.

Outlet 013 showed a slightly elevated aluminum concentration (0.795 mg/L in sample, 0.75 mg/L max daily on NPDES permit), while other values were noted to be in compliance with the NPDES permit.

Organics were non-detect across the sampling, with no evidence in either surface or groundwater sources.

Metal concentrations were generally low to slightly-elevated in the stream samples, with the downstream sampling site on Crane Fork showing moderate iron and aluminum levels.

The J. Hutchinson well located just to the south of the O001983 permit did show elevated iron (13.3 mg/L), as well as slightly elevated barium and strontium levels (0.524 mg/L and 0.273 mg/L, respectively).



Topographic Map showing Outlet 013 location and drainage control ponds on O001983

The sampling in July 2012 involved several additional private wells in addition to in-stream monitoring sites above and below the O001983 discharge into Crane Fork, Outlet 013 on O001983, and Clear Fork below the confluence with Crane Fork.

During this sampling event, coal fines were noted in Crane Fork above the confluence with the Outlet 013 discharge. These fines were prevalent for approximately 1,900 linear feet upstream.

Recent gas development is noted in the Crane Fork and Clear Fork watersheds. Upstream of the Eastern Associated Coal, LLC O001983 permit, a discharge is present from an un-reclaimed pre-SMCRA refuse area. Where this discharge meets Crane Fork, a landing area for a well pad had been disturbed. Coarse and fine refuse fill was present in this landing area. Crane Fork is down-cutting through this refuse, with an eroded bank of coal fines comprising the right descending bank. The discharge from the abandoned refuse fill has eroded a braided channel in the recently disturbed refuse and was transporting sediment containing coal fines into Crane Fork.



Unreclaimed Pre-SMCRA Refuse Area immediately to the East of the Crany Impoundment.

The gas well on the opposite side of the Crane Fork showed evidence of Iron laden blow-off, with vegetation and ground cover coated in an iron oxide precipitate. Piping across Crane

Fork lead to a contaminant holding tank. The contents of this tank were unknown, but the tank had adequate storage capacity at the time of the investigation and did not appear to overflow.

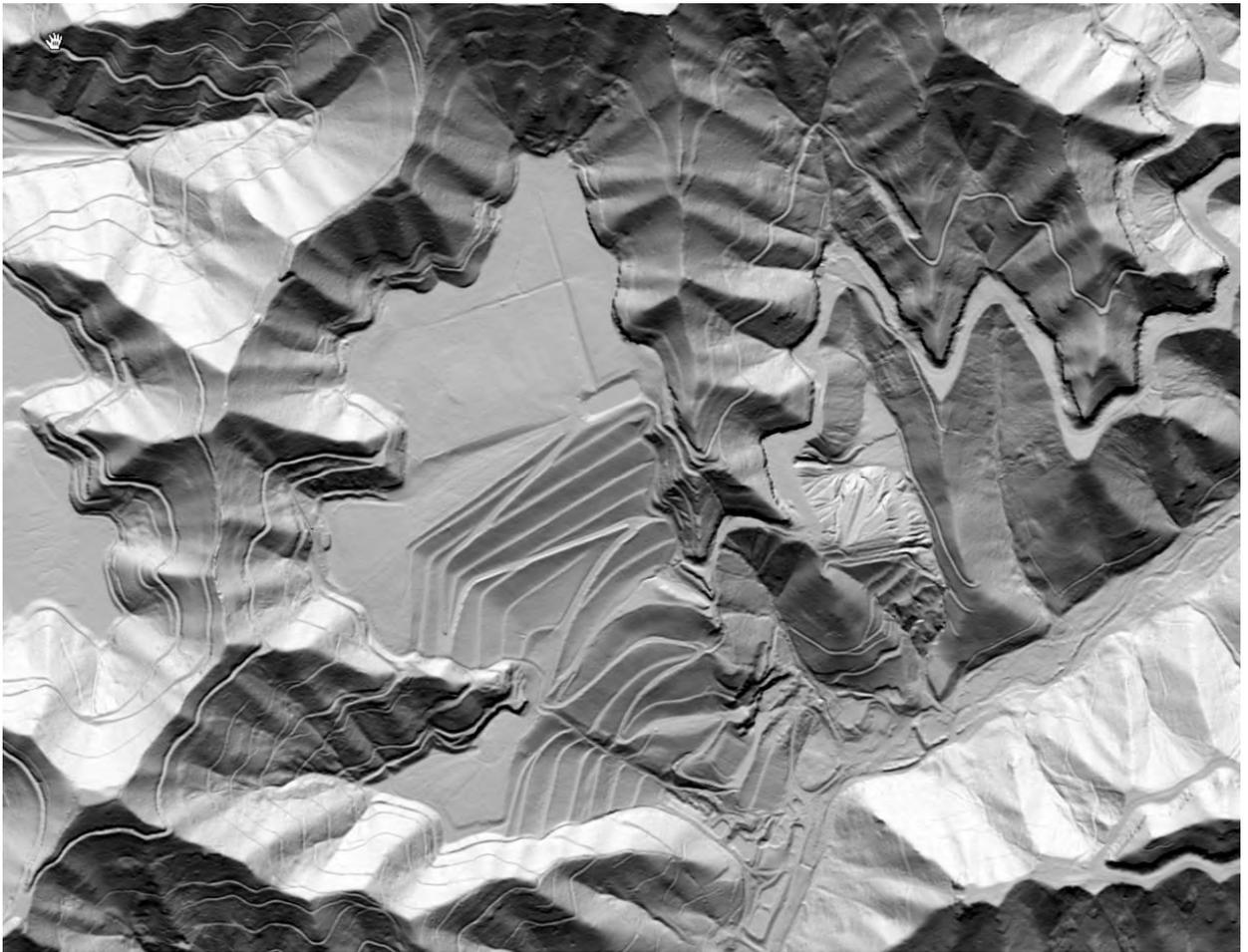


Coal Refuse being transported to Crane Creek through Pre-SMCRA discharge

While the well samples did show elevated Iron levels in the drinking water during the July sampling event. Sulfates were particularly low in most well samples, indicating very little influence from mine drainage.

The wells were all located along in the alluvial stress-relief aquifers of Clear Fork and Crane Creek. Groundwater surveys conducted for a recent deep mine permit in the area noted most residences considered their water “poor”. More than one resident commented that their water ran red occasionally, and this occurrence started when the gas development first began in the watershed. These surveys are attached to this report.

The discharge emanating from the Pre-SMCRA refuse area was sampled during the July 2012 sampling event. The sample showed very high aluminum (13.1 mg/L), high iron (3.43 mg/L), high sulfates (518 mg/L), and an acidic pH (3.03 su). In addition to the bad water quality from the pre-SMCRA refuse pile, coal fines are being distributed into Crane Fork and further downstream into Clear Fork. The leaching of additional acidity and metals is likely possible once these coal fines are distributed in the stream bedload. The potential for aquifer contamination due to interaction between groundwater sources and surface water is plausible given the location of the wells sampled in relation to the stream. Alluvial valleys surrounded by very steep, high gradient terrain dictate the location of the residences to the characteristics of the topography.



LIDAR Imagery showing O001983, abandoned coal refuse area to the east, Crane Fork alluvial valley, and Pre-SMCRA contour mining in the immediate area of Crane Fork.

Responsible Party	Permit ID	Permit Type	Permit Status	Active	Issue Date	Expire Date
Eastern Associated	WV0041122	Refuse	Extended	Yes	04/12/1985	06/12/2012

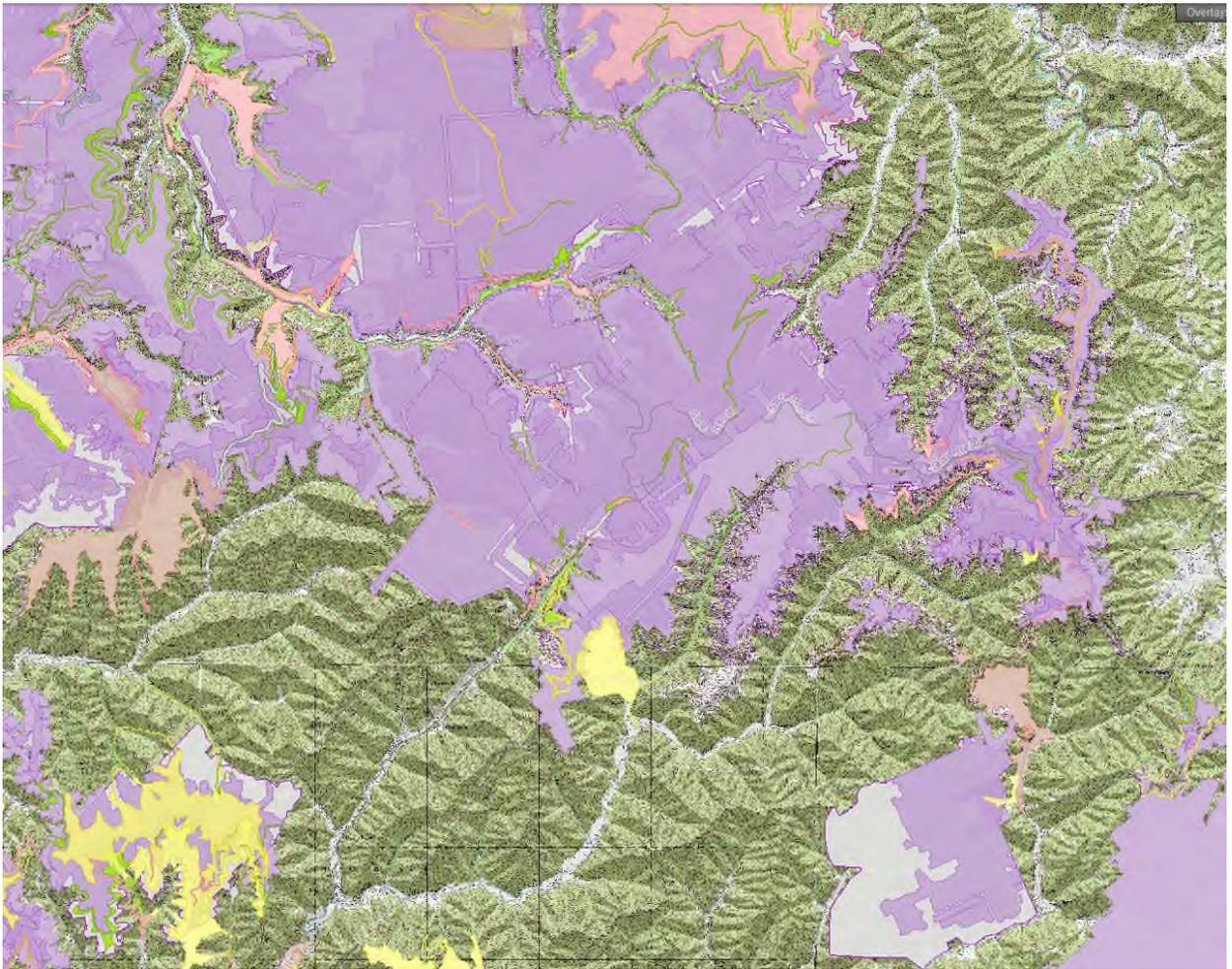
Inspectable Unit Code	Inspectable Unit Type	Inspectable Unit Description	Begin Date	End Date	Certified	Permit Struct.	Certified Date	Inspectable Unit Name	Structure Id
013	Outlet		04/12/1985		N				
020	Outlet		04/12/1985		N				

Inspectable Unit	Extension	Geography	County - Quad	Stream	Limit Extension	Limit	Treatment	Assoc. Insp. Unit																																																																																																																																																		
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NDPES Effluent Limits on WV0041122 Outlet 013

Outlet 013 on the WV0041122 Permit has a long history of compliance according to the Discharge Monitoring Reports (DMRs) submitted and discussions with the area Inspection & Enforcement Officer, Jerry Quesenberry. A review of the DMRs illustrates a no iron violations in past five (5) years. Two (2) manganese values slightly exceeded the effluent limits of the NPDES permit, as well as one (1) aluminum value for average and max. The previous five (5) years of DMRs are attached to this report.



Deep mining in the region. The O001983 permit is the yellow permit in the center.

Deep mining has occurred in several seams near the location of the impoundment. The local dip of the strata is to the northwest, with a gentle 1-3% slope. The No. 2 Gas and Eagle Seam have been extensively deep mined in this area. The Eagle seam is the predominant aquifer outside of the stream alluvial valleys. Inter-basin transfer of groundwater is likely to occur at this stratigraphic interval. The migration of this water is away from the Clear Fork and Crane Fork Watersheds where the wells are located. The lack of major faults, folds, and lineaments in this basin would indicate interaction of water originating from permit O001983 would be from the discharge into Crane Fork through Outlet 013.

In conclusion, there is a lack of evidence that water emanating from the O001983 permit is causing detrimental environmental damage to the hydrologic balance in which the alleged groundwater contaminated wells are located. The sampling results from outlet 013, as well as the DMRs, illustrate a history of compliance from this site.

The un-reclaimed pre-SMCRA refuse dump located to the east of the impoundment contributes an acid and metals load that is affecting the immediate receiving stream of Crane Fork. While the effects of the discharge seem to dissipate in downstream into Clear Fork, there is a contribution to the degrading of cumulative hydrologic balance.

**EXHIBIT C**

WVDEP Notice of Termination

MR-35  
Rev 2/01

West Virginia Department of Environmental Protection

**COMPLAINT INVESTIGATION**

PERMIT NUMBER <u>0001983</u>	COMPLAINT DATE <u>11/14/11</u>	TIME <u>0900</u>	METHOD OF COMPLAINT <input checked="" type="checkbox"/> IN PERSON <input type="checkbox"/> HOTLINE <input type="checkbox"/> FACSIMILE	<input type="checkbox"/> LETTER <input type="checkbox"/> PHONE <input type="checkbox"/> OTHER
CITIZEN NAME <u>Kevin W. Thompson Attorney</u>		CITIZEN TO ACCOMPANY? <input type="checkbox"/>		
ADDRESS <u>2030 Kanawha Blvd. E. Charleston WV</u>		PHONE <u>304-343-4401</u>		
NATURE OF COMPLAINT <u>This is the fourth and final follow up to the original complaint on 11/14/11.</u>				
PERMITTEE NAME <u>Eastern Associated Coal Corp. LLC</u>				
OPERATOR NAME _____				
NPDES NUMBER <u>WV0041122</u>		MSHA NUMBER _____		
COUNTY <u>Wyoming</u>		POST OFFICE <u>Charleston WV</u>		
RECEIVING STREAM <u>Clear Fork</u>		LOCATION <u>Clear Frk.Rd County RTE 2 Clear Fork, WV.</u>		
INVESTIGATION RESULTS: COMPLAINT STATUS				
<input type="checkbox"/> INITIAL <input type="checkbox"/> OPEN <input checked="" type="checkbox"/> TERMINATED <input type="checkbox"/> UNSUBSTANTIATED <input type="checkbox"/> WITHDRAWN				
INSPECTOR <u>Jerry Quesenberry</u>				
DATE INVESTIGATION <u>05/22/13</u>	DATE RIGHT TO REVIEW ADVISED _____	DATE MR36 PROVIDED <u>05/22/13</u>	DATE COMPANY CONTACTED <u>05/22/13</u>	
COMPANY CONTACT NAME <u>Dave Hettinger</u>		PHONE NO. _____		
INSPECT DATE <u>05/22/2013</u>	TIME <u>1700</u>	FORM # _____	FACILITY _____	ENF STD _____
VIOL # _____				
FINDINGS <u>This complaint is being terminated. Please see attachment.</u>				
DISTRIBUTED TO: <u>Kevin W. Thompson</u>		TITLE: <u>Attorney</u>		
ACTING AS <u>Counsel for Residents in Crany, Wyoming County, WV.</u>		DISTRIBUTION DATE AND TIME		
<input type="checkbox"/> DELIVERED <input type="checkbox"/> CERTIFIED MAIL <input checked="" type="checkbox"/> REG. MAIL		<u>05-22-2013</u>	<u>1700</u>	CERTIFIED MAIL # _____
ADDRESS <u>2030 Kanawha Blvd. E. Charleston, WV 25311</u>		WVDEP REP <u>Jerry Quesenberry</u>		
DISTRIBUTED TO SIGNATURE: _____		DATE: <u>05/22/2013</u>		