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January 22, 2016

Secretary Randy Huffman
West Virginia Department of Environmental Protection
601 57th Street
Charleston, WV 25304

Michael Sheehan
Assistant Director
WVDEP Office of Special Reclamation
601 57th Street
Charleston, WV 25304

Re: Notice of Intent to Sue for Violations of Clean Water Act WV/NPDES Permits at Seven Bond Forfeiture Sites

Dear Secretary Huffman and Assistant Director Sheehan:

The Sierra Club, 85 Second Street, 2d Floor, San Francisco, CA 94105, (415) 977-5680, West Virginia Highlands Conservancy, P.O. Box 306, Charleston, WV 25321, (304) 924-5802, and the West Virginia Rivers Coalition, 3501 Maccorkle Ave. SE, Charleston, WV 25304, (304) 637-7201, hereby notify you that they intend to file a citizen suit against you under Section 505 of the Clean Water Act (CWA), 33 U.S.C. § 1365, for violations of the CWA at seven bond forfeiture sites in West Virginia. If within sixty days of the postmark of this letter, WVDEP does not bring its discharges into full compliance with the CWA, Sierra Club, West Virginia Highlands Conservancy and the Ohio Valley Environmental Coalition will file a citizens' suit seeking civil penalties for the WVDEP's ongoing violations and an injunction compelling it to come into compliance with the CWA.

Based on WVDEP's electronic DMR records, we believe that WVDEP's Office of Special Reclamation controls and operates facilities at seven bond forfeiture sites in West Virginia that are discharging pollutants to waters of the United States in violation of the effluent limitations in its WV/NPDES permits for those sites. The seven sites are:

WV/NPDES No.	Effective Date	Site	County	Receiving Waters/Watershed
1023462	9/1/2011	J.E.B., Inc.	Preston	Morgan Run/Cheat River
1023543	9/1/2011	T&T Fuels	Preston	Muddy Creek/Cheat River
1023560	9/1/2011	F&M Coal	Preston	L. Fork/Sandy Creek/Tygart River
1025694	9/25/12	Mangus Coal	Barbour/Preston	Maple Run/Sandy Creek/Tygart River
1025830	3/22/13	Decondor Coal	Preston	Kanes Creek/Monongahela R.
1027841	2/27/14	Chicopee Coal	Nicholas	Big HI/Lilly Branch/ Twentymile Creek/Gauley

				River
1027823	2/27/15	Summersville 5 Block	Nicholas	Libertybowl Branch/Buffalo Creek/Elk River

The attached table identifies the date and nature of the violations at each of these sites. The groups represented on this letter reserve the right to seek civil penalties for any further violations of the CWA identified herein that may have occurred since the last available DMRs were submitted, or for similar violations which occur after today. *See Public Interest Research Group of N.J. Inc. v. Hercules, Inc.* 50 F.3d 1230 (3d Cir. 1995).

If WVDEP does not advise us of the steps that it may take during the 60-day period to correct these violations, we will assume that no such steps have been taken and that violations are likely to continue. We will also be available to meet you during the 60-day period to attempt to resolve these issues without the need for further litigation.

Sincerely,

J. Michael Becher
Appalachian Mountain Advocates
PO Box 507
Lewisburg, WV 24901
(304) 382-4798

Jim Hecker
Public Justice
1825 K Street NW, Suite 200
Washington, D.C. 20006
(202) 797-8600

cc: Regional Administrator Shawn M. Garvin
U.S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Administrator Gina McCarthy
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

LIST OF VIOLATIONS

eDMR #	Month	NPDES #	Facility	Outlet	Parameter	Result	Units	Limit	Type
21797	4/1/2015	1023462	J.E.B., Inc.	15	Al	18.9	mg/l	0.43	Avg
21797	4/1/2015	1023462	J.E.B., Inc.	15	Al	18.9	mg/l	0.75	Max
21797	4/1/2015	1023462	J.E.B., Inc.	15	Fe	8.28	mg/l	1.42	Avg
21797	4/1/2015	1023462	J.E.B., Inc.	15	Fe	8.28	mg/l	2.46	Max
21797	4/1/2015	1023462	J.E.B., Inc.	15	pH	3.16	SU	6	Min
21798	5/1/2015	1023462	J.E.B., Inc.	15	Al	28.8	mg/l	0.43	Avg
21798	5/1/2015	1023462	J.E.B., Inc.	15	Al	28.8	mg/l	0.75	Max
21798	5/1/2015	1023462	J.E.B., Inc.	15	Fe	34.8	mg/l	1.42	Avg
21798	5/1/2015	1023462	J.E.B., Inc.	15	Fe	34.8	mg/l	2.46	Max
21798	5/1/2015	1023462	J.E.B., Inc.	15	pH	2.12	SU	6	Min
22738	6/1/2015	1023462	J.E.B., Inc.	6	Al	66.4	mg/l	0.43	Avg
22738	6/1/2015	1023462	J.E.B., Inc.	6	Al	66.4	mg/l	0.75	Max
22738	6/1/2015	1023462	J.E.B., Inc.	15	Al	31.9	mg/l	0.43	Avg
22738	6/1/2015	1023462	J.E.B., Inc.	15	Al	31.9	mg/l	0.75	Max
22738	6/1/2015	1023462	J.E.B., Inc.	15	Fe	15.2	mg/l	1.42	Avg
22738	6/1/2015	1023462	J.E.B., Inc.	15	Fe	15.2	mg/l	2.46	Max
22738	6/1/2015	1023462	J.E.B., Inc.	6	pH	2.89	SU	6	Min
22738	6/1/2015	1023462	J.E.B., Inc.	15	pH	2.45	SU	6	Min
23140	7/1/2015	1023462	J.E.B., Inc.	6	Al	33.2	mg/l	0.43	Avg
23140	7/1/2015	1023462	J.E.B., Inc.	6	Al	33.2	mg/l	0.75	Max
23140	7/1/2015	1023462	J.E.B., Inc.	6	pH	3.27	SU	6	Min
23888	8/1/2015	1023462	J.E.B., Inc.	6	Al	58	mg/l	0.43	Avg
23888	8/1/2015	1023462	J.E.B., Inc.	6	Al	58	mg/l	0.75	Max
23418	8/1/2015	1023462	J.E.B., Inc.	6	pH	3.06	SU	6	Min
23888	9/1/2015	1023462	J.E.B., Inc.	6	Al	69.6	mg/l	0.43	Avg
23888	9/1/2015	1023462	J.E.B., Inc.	6	Al	69.6	mg/l	0.75	Max
23888	9/1/2015	1023462	J.E.B., Inc.	6	pH	2.76	SU	6	Min
23173	7/1/2015	1023543	T&T Fuels	24	Al	0.95	mg/l	0.43	Avg
23173	7/1/2015	1023543	T&T Fuels	24	Al	0.95	mg/l	0.75	Max
23173	7/1/2015	1023543	T&T Fuels	24	N Am	131.6	mg/l	6.49	Avg
23173	7/1/2015	1023543	T&T Fuels	24	N Am	131.6	mg/l	13.01	Max
23645	8/1/2015	1023543	T&T Fuels	24	Al	6.7	mg/l	0.43	Avg
23645	8/1/2015	1023543	T&T Fuels	24	Al	6.7	mg/l	0.75	Max
23645	8/1/2015	1023543	T&T Fuels	24	Fe	10.4	mg/l	1.42	Avg
23645	8/1/2015	1023543	T&T Fuels	24	Fe	10.4	mg/l	2.46	Max
23645	8/1/2015	1023543	T&T Fuels	24	N Am	133.9	mg/l	6.49	Avg
23645	8/1/2015	1023543	T&T Fuels	24	N Am	133.9	mg/l	13.01	Max
24126	9/1/2015	1023543	T&T Fuels	24	Al	0.86	mg/l	0.75	Max
24126	9/1/2015	1023543	T&T Fuels	24	N Am	219	mg/l	6.49	Avg
24126	9/1/2015	1023543	T&T Fuels	24	N Am	219	mg/l	13.01	Max
22524	4/1/2015	1023560	F&M Coal	6	Al	0.93	mg/l	0.43	Avg
22524	4/1/2015	1023560	F&M Coal	6	Al	0.93	mg/l	0.75	Max

22524	4/1/2015	1023560	F&M Coal	10	N Am	43.87	mg/l	5.86	Avg
22524	4/1/2015	1023560	F&M Coal	10	N Am	43.87	mg/l	11.76	Max
22028	5/1/2015	1023560	F&M Coal	6	Al	0.67	mg/l	0.43	Avg
23173	7/1/2015	1023560	F&M Coal	10	N Am	39.25	mg/l	5.86	Avg
23173	7/1/2015	1023560	F&M Coal	10	N Am	39.25	mg/l	11.76	Max
23645	8/1/2015	1023560	F&M Coal	10	N Am	83.68	mg/l	5.86	Avg
23645	8/1/2015	1023560	F&M Coal	10	N Am	83.68	mg/l	11.76	Max
24124	9/1/2015	1023560	F&M Coal	6	Al	0.55	mg/l	0.43	Avg
22028	5/1/2015	1025694	Mangus Coal	3	Al	3.76	mg/l	0.43	Avg
22028	5/1/2015	1025694	Mangus Coal	3	Al	3.76	mg/l	0.75	Max
22028	5/1/2015	1025694	Mangus Coal	3	pH	4.7	SU	6	Min
22029	6/1/2015	1025694	Mangus Coal	3	Al	1.24	mg/l	0.43	Avg
22029	6/1/2015	1025694	Mangus Coal	3	Al	1.24	mg/l	0.75	Max
22029	6/1/2015	1025694	Mangus Coal	3	pH	5.5	SU	6	Min
24122	9/1/2015	1025694	Mangus Coal	3	Al	13.2	mg/l	0.43	Avg
24122	9/1/2015	1025694	Mangus Coal	3	Al	13.2	mg/l	0.75	Max
24122	9/1/2015	1025694	Mangus Coal	3	Fe	80.1	mg/l	3	Avg
24122	9/1/2015	1025694	Mangus Coal	3	Fe	80.1	mg/l	5.26	Max
24122	9/1/2015	1025694	Mangus Coal	3	pH	4.5	mg/l	6	Min
23173	7/1/2015	1025830	Decondor Coal	2	Al	17.8	mg/l	0.43	Avg
23173	7/1/2015	1025830	Decondor Coal	2	Al	17.8	mg/l	0.75	Max
23173	7/1/2015	1025830	Decondor Coal	2	Fe	81.3	mg/l	1.42	Avg
23173	7/1/2015	1025830	Decondor Coal	2	Fe	81.3	mg/l	2.46	Max
23173	7/1/2015	1025830	Decondor Coal	2	SS	60	ml/l	0.5	Max
21815	4/1/2015	1027841	Chicopee Coal	2	pH	5.5	SU	6	Min
21815	4/1/2015	1027841	Chicopee Coal	5	pH	4.6	SU	6	Min
21815	4/1/2015	1027841	Chicopee Coal	7	pH	4.6	SU	6	Min
21815	4/1/2015	1027841	Chicopee Coal	9	pH	4.6	SU	6	Min
21815	4/1/2015	1027841	Chicopee Coal	12	pH	5.3	SU	6	Min
21816	5/1/2015	1027841	Chicopee Coal	2	pH	5.2	SU	6	Min
21816	5/1/2015	1027841	Chicopee Coal	5	pH	5.4	SU	6	Min
21816	5/1/2015	1027841	Chicopee Coal	7	pH	4.6	SU	6	Min
21816	5/1/2015	1027841	Chicopee Coal	9	pH	4.7	SU	6	Min
21816	5/1/2015	1027841	Chicopee Coal	12	pH	5.4	SU	6	Min
22062	6/1/2015	1027841	Chicopee Coal	1	pH	4.3	SU	6	Min
22062	6/1/2015	1027841	Chicopee Coal	2	pH	4.4	SU	6	Min
22062	6/1/2015	1027841	Chicopee Coal	5	pH	4.6	SU	6	Min
22062	6/1/2015	1027841	Chicopee Coal	7	pH	4.4	SU	6	Min
22062	6/1/2015	1027841	Chicopee Coal	9	pH	4.6	SU	6	Min
23188	7/1/2015	1027841	Chicopee Coal	2	pH	5.7	SU	6	Min
23188	7/1/2015	1027841	Chicopee Coal	5	pH	5.7	SU	6	Min
23188	7/1/2015	1027841	Chicopee Coal	7	pH	4.7	SU	6	Min
23188	7/1/2015	1027841	Chicopee Coal	9	pH	4.6	SU	6	Min
23287	8/1/2015	1027841	Chicopee Coal	4	pH	5.4	SU	6	Min
23287	8/1/2015	1027841	Chicopee Coal	5	pH	4.4	SU	6	Min
23287	8/1/2015	1027841	Chicopee Coal	7	pH	4.3	SU	6	Min

23287	8/1/2015	1027841	Chicopee Coal	9	pH	4.3	SU	6	Min
23287	8/1/2015	1027841	Chicopee Coal	12	pH	5.8	SU	6	Min
24042	9/1/2015	1027841	Chicopee Coal	4	pH	5.3	SU	6	Min
24042	9/1/2015	1027841	Chicopee Coal	5	pH	3.7	SU	6	Min
24042	9/1/2015	1027841	Chicopee Coal	7	pH	3.6	SU	6	Min
24042	9/1/2015	1027841	Chicopee Coal	9	pH	3.8	SU	6	Min
24042	9/1/2015	1027841	Chicopee Coal	12	pH	5.2	SU	6	Min
24761	10/1/2015	1027841	Chicopee Coal	4	pH	4.2	SU	6	Min
24761	10/1/2015	1027841	Chicopee Coal	5	pH	3.5	SU	6	Min
24761	10/1/2015	1027841	Chicopee Coal	7	pH	3.7	SU	6	Min
24761	10/1/2015	1027841	Chicopee Coal	9	pH	3.4	SU	6	Min
24761	10/1/2015	1027841	Chicopee Coal	12	pH	5.3	SU	6	Min
24762	11/1/2015	1027841	Chicopee Coal	5	pH	4.29	SU	6	Min
24762	11/1/2015	1027841	Chicopee Coal	7	pH	3.47	SU	6	Min
24762	11/1/2015	1027841	Chicopee Coal	9	pH	5.36	SU	6	Min
21799	4/1/2015	1028723	Summersville 5 Block	1	pH	4.4	SU	6	Min
21799	4/1/2015	1028723	Summersville 5 Block	3	pH	4.8	SU	6	Min
21800	5/1/2015	1028723	Summersville 5 Block	1	pH	4.4	SU	6	Min
21800	5/1/2015	1028723	Summersville 5 Block	3	pH	4.6	SU	6	Min
22052	6/1/2015	1028723	Summersville 5 Block	1	pH	4.6	SU	6	Min
22052	6/1/2015	1028723	Summersville 5 Block	3	pH	4.6	SU	6	Min
23174	7/1/2015	1028723	Summersville 5 Block	1	pH	4.4	SU	6	Min
23174	7/1/2015	1028723	Summersville 5 Block	3	pH	5.3	SU	6	Min
23282	8/1/2015	1028723	Summersville 5 Block	1	pH	3.8	SU	6	Min
23282	8/1/2015	1028723	Summersville 5 Block	3	pH	3.9	SU	6	Min
24009	9/1/2015	1028723	Summersville 5 Block	1	pH	3.3	SU	6	Min
24009	9/1/2015	1028723	Summersville 5 Block	3	pH	3.4	SU	6	Min
24716	10/1/2015	1028723	Summersville 5 Block	1	pH	3.25	SU	6	Min
24716	10/1/2015	1028723	Summersville 5 Block	3	pH	3.48	SU	6	Min
24717	11/1/2015	1028723	Summersville 5 Block	1	pH	3.25	SU	6	Min
24717	11/1/2015	1028723	Summersville 5 Block	3	pH	3.79	SU	6	Min

Al Aluminum
Avg Monthly Average
Fe Iron
Max Daily Maximum
N Am Nitrogen, Ammonia
SS Suspended Solids
SU Standard Units