

US EPA ARCHIVE DOCUMENT

**PUBLIC NOTICE**  
**U. S. Environmental Protection Agency, Region 4**  
**61 Forsyth Street, SW**  
**Atlanta, GA 30303-8960**

**NOTICE OF PUBLIC HEARINGS REGARDING**  
**36 EPA OBJECTIONS TO DRAFT NPDES PERMITS**  
**FOR DISCHARGES ASSOCIATED WITH COAL MINING**

Public Notice Issuance Date: April 16, 2012

The U. S. Environmental Protection Agency, Region 4, (EPA) is announcing, pursuant to 40 Code of Federal Regulations (CFR) §§123.44, 124.10, and 124.12(c) and (d), that it will hold a series of three public hearings to allow interested persons to submit oral or written comments and data regarding EPA’s specific objections to 36 Kentucky Energy and Environment Cabinet (“Cabinet”) draft National Pollutant Discharge Elimination System (NPDES) permits. The 36 draft NPDES permits that will be the subject of the hearings are listed below by Kentucky’s permit number, the identity of the permit applicant, and the county in which the facility is located.

**List of Facilities That Will Be the Subject of Hearings**

The following 36 listed draft permits, identified by date of EPA’s specific objection, NPDES Permit Number, identity of permit applicant, and county of facility, will be the subject of the hearings:

#	Specific Objection Date	NPDES #	Applicant/Company	County
1	09/16/10	KY0108715	Laurel Mountain Resources	Floyd
2	09/29/10	KY0107212	Matt/Co Inc	Floyd
3	09/29/10	KY0107310	Clintwood Elkhorn Coal Co.	Pike
4	09/29/10	KY0107808	Enterprise Mining Co LLC	Knott
5	09/29/10	KY0107603	PIA Co Inc	Floyd
6	09/29/10	KY0042765	Nally & Hamilton Enterprises	Bell
7	09/29/10	KY0107085	Sidney Coal Company	Pike
8	09/29/10	KY0107778	Matt/Co Inc	Floyd
9	10/22/10	KY0108332	Cambrian Coal Corporation	Pike
10	10/22/10	KY0108014	Xinergy Corporation	Bell
11	10/25/10	KY0108324	Xinergy Corporation	Leslie
12	10/27/10	KY0106852	ICG Hazard	Perry
13	10/27/10	KY0108294	Laurel Mountain Resources	Floyd
14	10/27/10	KY0108359	Beech Fork Processing Inc	Martin
15	10/27/10	KY0108448	Mitco Enterprises Inc.	Clay
16	10/27/10	KY0108472	CAM Mining LLC	Pike
17	10/28/10	KY0108685	Logan Gap Development	Knott
18	09/29/11	KY0108821	Mine Rite Coal Co.	Johnson
19	09/29/11	KY0054810	Martin Co. Coal Corp	Martin

20	09/29/11	KY0109738	Sidney Coal Company, Inc.	Pike
21	09/29/11	KY0092509	Clintwood Elkhorn Mining Co.	Pike
22	09/29/11	KY0105651	Nally & Hamilton Enterprises	Knott
23	09/29/11	KY0109321	Czar Coal Corp	Martin
24	09/29/11	KY0109100	Laurel Mountain Resources	Floyd
25	09/29/11	KY0109123	Czar Coal Corp	Martin
26	09/29/11	KY0107140	Sidney Coal Company, Inc.	Pike
27	09/29/11	KY0091910	Leeco, Inc.	Perry
28	09/29/11	KY0091847	Blue Diamond Coal Co.	Perry
29	09/29/11	KY0046981	Frasure Creek Mining, LLC	Perry
30	09/29/11	KY0106445	FCDC Coal Inc.	Floyd
31	09/29/11	KY0108782	Sidney Coal Company, Inc.	Pike
32	09/29/11	KY0108774	Sidney Coal Company, Inc.	Pike
33	09/29/11	KY0108723	Sandlick Coal Company	Harlan
34	09/29/11	KY0105767	Matt/Co	Floyd
35	09/29/11	KY0108421	Robinson Coal Co	Clay
36	09/29/11	KY0106682	BDCC Holding Company	Perry

### **Dates and Locations**

The first public hearing will be held on June 5, 2012 from 7:00 p.m. to 11:00 p.m. at the Frankfort Convention Center, 405 Mero Street, Frankfort, KY 40601. The second and third hearings will be at the Eastern Kentucky Exposition Center at 126 Main Street, Pikeville, KY 41501 on June 7, 2012 from 12:00 pm to 4:00 pm, and then 7:00 p.m. to 11:00 p.m., respectively.

### **Background**

The Cabinet is the permitting authority for NPDES permits issued in the Commonwealth of Kentucky pursuant to the federal CWA. The Cabinet issues NPDES permits through its Department of Environmental Protection, Division of Water (KDOW). Without such a permit, any discharge of pollutants into waters of the United States by a coal mine is prohibited.

Under the CWA, states are required to submit draft or proposed NPDES permits to the EPA for review. The EPA has the authority to review a state's draft or proposed NPDES permits for compliance with the requirements of the CWA, and to submit to the state its comments, objections and/or recommendations regarding the draft permits. During 2010 and 2011, the KDOW sent to EPA for review many draft CWA NPDES permits, including draft permits for the 36 coal mine facilities listed above.

EPA has issued specific objections with respect to each of the 36 listed draft NPDES permits. In each case, EPA's objections were based on EPA's finding that KDOW did not conduct a complete analysis of whether the proposed discharges had a reasonable potential to cause or contribute to a violation of Kentucky's water quality standards, and that as a result of the incomplete analyses, KDOW could not demonstrate that its draft permits included the control measures or effluent limits necessary to meet Kentucky's water quality standards, as required by the CWA.

EPA is required by 40 CFR §123.44(e) to hold a hearing on its specific objections whenever the state requests such a hearing within 90 days of receipt of EPA's specific objection. In the case of the 36 listed facilities, KDOW has submitted timely requests for public hearings regarding EPA's objections.

### **Hearing Procedures and Comments**

All persons interested in EPA's specific objections to the listed permits are invited to attend the public hearings. If you wish to contribute comments, statements, data, and other information to EPA regarding the specific objections you may:

(1) submit written comments at any of the hearings; (2) send written comments to EPA at: Public Hearings Regarding 36 EPA Objections to Draft NPDES Permits for Discharges Associated with Coal Mining, Environmental Protection Agency, Mail code: 2822-1T, 1200 Pennsylvania Ave, NW, Washington, DC 20460; (3) hand deliver at: EPA Docket Center, Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, M.W., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information; (4) submit comments electronically to EPA via [www.regulations.gov](http://www.regulations.gov) by following on-line instructions for submitting comments or e-mail comments to [ow-docket@epa.gov](mailto:ow-docket@epa.gov), Docket ID: EPA-HQ-OW-2012-0315; (5) fax to (202) 566-1741; or (6) present oral comments at any of the hearings.

The hearings will be presided over by the Regional Administrator's designee, the EPA Hearing Officer. If you are interested in attending any of the hearings EPA encourages you to pre-register at least 72 hours before the hearing at the following website: [www.epa.gov/region4/kycoalminehearings](http://www.epa.gov/region4/kycoalminehearings) or by calling 703-577-4953. Pre-registering for the hearings will allow EPA to improve meeting planning and maximize opportunities for interested parties to provide oral comments. You may request in advance to speak at one of the three hearings online at [www.epa.gov/region4/kycoalminehearings](http://www.epa.gov/region4/kycoalminehearings). You may also request to speak when you arrive at the hearing. EPA will generally assign speaking slots in the order received but may make adjustments to the speaking order to accommodate requests to speak within the time available. You can find more information about the registration process and the hearing procedures at [www.epa.gov/region4/kycoalminehearings](http://www.epa.gov/region4/kycoalminehearings).

The hearings will begin with brief presentations by EPA and a neutral process facilitator, followed by oral comments from interested persons. Oral comments will be limited to two (2) minutes each to ensure more opportunities for interested persons to speak. Though every effort will be made to accommodate all requests for a speaking time, US EPA cannot guarantee that all persons will have an opportunity to contribute oral comments. As noted above, EPA also encourages you to provide written comments.

### **For Further Information**

For more information about EPA's specific objections for the 36 listed facilities, including copies of the Cabinet's draft permits and fact sheets, and EPA's specific objection letters and other relevant documents please visit [www.epa.gov/region4/kycoalminehearings](http://www.epa.gov/region4/kycoalminehearings). Hard copies of these documents are also on file and may be inspected at the following address any time between 8:30 a.m. and 4:00 p.m., Monday through Friday: US EPA Region 4 Water Protection Division, Municipal and Industrial NPDES Section, 61 Forsyth St, SW 30303-8960. You may also contact EPA Region 4 by telephone at 404-562-9900 or by writing to EPA Region 4 at the above address.

### **Following the Public Hearings**

The period for public comment on EPA's specific objections will close 14 days after the last of the scheduled public hearings. The EPA hearing officer may extend the comment period for written statements and data by so stating at the hearings. A tape recording or written transcript of the hearing and all written comments, data and other information EPA receives will be made available to the public at [www.epa.gov/region4/kycoalminehearings](http://www.epa.gov/region4/kycoalminehearings).

Following the public hearings, and after consideration of all written and oral comments and data and the requirements of the CWA and applicable regulations, the EPA Regional Administrator will reaffirm the original objection(s), modify the terms of the objection(s), or withdraw the objection(s), pursuant to 40 CFR § 123.44(g). The EPA will notify the Cabinet, the permit applicants, and all persons providing written or oral comments, if a mailing or email address has been provided, of its determination. In the case of permits for which EPA either reaffirms the original objection or modifies the terms of the objection, KDOW must, within thirty (30) days of receipt of EPA's determination, submit to EPA a revised permit which meets the terms of the remaining objection, or exclusive authority to issue the permit passes to EPA for one permit term. For any facilities for which EPA's objections are withdrawn following the hearings, KDOW may proceed with the permit issuance process for these permits.

### **Disability Reasonable Accommodation Notice**

EPA intends to provide the services of an American Sign Language interpreter. If you need a reasonable accommodation for a disability, please contact EPA at 703-577-4953. Please provide one week advance notice prior to the relevant public hearing date for special requests not related to ongoing programs and services.