



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 13 2008

REPLY TO THE ATTENTION OF:
- WW-16J

Certified Mail 7001 0320 0005 8931 3453
Return Receipt Requested

Bruno Pigott, Assistant Commissioner
Office of Water Quality
Indiana Department of Environmental Management
Mail Code IGCN 1315
100 North Senate Avenue
Indianapolis, Indiana 46204-2251

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V
2008 MAR 14 PM 1:11

Re: Notice of Proposed Administrative Penalty Assessment: Black Beauty Coal Company

Dear Mr. Pigott:

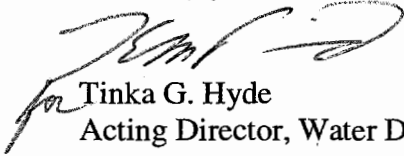
Enclosed are copies of two Consent Agreement and Final Orders (CAFOs) that the U.S. Environmental Protection Agency (U.S. EPA) proposes to issue to Black Beauty Coal Company associated with two mining operations in Indiana. U.S. EPA is concurrently proposing to issue a CAFO to Black Beauty Coal Company associated with a mining operation in Illinois. The CAFOs address alleged violations of Section 301 of the Clean Water Act (CWA), 33 U.S.C. § 1311, by Respondent and assess an administrative Class II civil penalty in the amount of \$75,000 total for three mining areas: Somerville Mine-North, Central and South Pits, Farmersburg Mine, and Wildcat Hills Mine-Cottage Grove Pit (in Illinois). Respondent will also perform a Supplemental Environmental Project (SEP) valued at \$292,345. The SEP includes the creation of 36.3 acres of wetland and a 50 foot buffer around the perimeter of the created wetland (5.5 acres). The SEP wetlands will be protected in perpetuity by a Conservation Easement to be held by the Indiana Department of Natural Resources.

Alleged violations include impacts to a total of approximately 16.69 acres of wetlands and 142,470 linear feet of streams within the Somerville Mine Sites in Gibson County and Farmersburg Mine Site in Sullivan and Vigo Counties. The alleged violations consist of mining and earth moving activities without authorization under a CWA Section 404 permit. U.S. EPA proposes to issue the CAFOs to simultaneously commence and conclude this administrative penalty action pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22.

Because the violations at the Farmersburg and Somerville Mine Sites have occurred in the State of Indiana, U.S. EPA is offering you an opportunity to consult with the Agency regarding the proposed assessment of a civil penalty. Should you deem it necessary, you may request a conference with Kevin Pierard, Chief of the Watersheds & Wetlands Branch, at (312) 886-4448.

We ask that this request be made within two weeks of your receipt of this letter. The request for a conference may be in person or by telephone and may cover any matters relevant to the proposed assessment.

Sincerely yours,



Tinka G. Hyde
Acting Director, Water Division

Enclosures

cc: James Robb
Chief, Section 401 Water Quality Certification Program
Indiana Department of Environmental Management
Office of Water Quality
100 N. Senate Ave. MC 65-40
Indianapolis, Indiana 46204-2251

Lee Anne Devine
Acting Chief, Regulatory Branch
U.S. Army Corps of Engineers, Louisville District
P.O. Box 59
Louisville, Kentucky 40201