

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

_____)	
In re:)	
)	
Lee Ranch Coal Company,)	NPDES APPEAL No. 14-04
El Segundo Mine)	
)	
NPDES Permit No. NM0030996)	
_____)	

STATUS REPORT

Respectfully, Region 6 of the United States Environmental Protection Agency (“Region 6”) and Petitioner Lee Ranch Coal Company (“LRCC”) (collectively, the “Parties”) jointly file this Report with regard to the above-captioned proceeding.

I.
BACKGROUND

On November 3, 2014, pursuant to 40 C.F.R. § 124.19(a), LRCC filed a petition for review of National Pollution Discharge Elimination System (“NPDES”) Permit No. NM0030996 (the “Permit”), which was issued by Region 6 on September 30, 2014 (the “Petition”). Two permit conditions are at issue in the Petition: (1) the total dissolved solids effluent limitation, as set forth in Part I.A(5) of the Permit, and (2) the sediment control plan (“SCP”) under the Western Alkaline Coal Mining (“WACM”) Rule, as set forth in Part I.A(6) of the Permit (collectively, the “Contested Conditions”). After a five-month stay to allow the Parties to explore settlement, the Environmental Appeals Board (“Board”) lifted the stay and Region 6 responded to the Petition, including seeking to terminate the Permit. Thereafter, LRCC filed a

reply and the Board set oral argument with regard to the permit termination sought by the Region.

After reaching the terms of a settlement, on August 14, 2015, the Parties filed a Joint Motion to Stay the Proceedings to allow the Parties time to execute the agreement and effectuate its terms. On August 20, 2015, the Board granted the motion and canceled the scheduled oral argument. The Board ordered that the Parties submit joint status reports no later than October 14, 2015, and December 14, 2015.

II. **STATUS**

On August 21, 2015, the Settlement Agreement was fully executed by the Parties. On September 17, 2015, Region 6 proposed a draft permit for public comment to address the Contested Conditions. The comment period is currently open until October 19, 2015.

On October 9, 2015, after reviewing the proposed draft permit for public comment, LRCC informed Region 6 of its belief that EPA's draft permit modification impermissibly deviates from the terms of the Settlement Agreement. The Parties have conferred, and intend to seek to come to resolution on this issue as expeditiously as practicable. The Parties will notify the Board in the event the resolution results in a modification to, or otherwise affects the status of, the Settlement Agreement.

Date: October 14, 2015

Respectfully Submitted,

MANATT, PHELPS & PHILLIPS, LLP

U.S. EPA REGION 6

/s/ Peter Duchesneau
Peter R. Duchesneau
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Blvd.
Los Angeles, CA 90064
(310) 312-4000
pduchesneau@manatt.com

/s/ David Gillespie
David Gillespie
Assistant Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202
(214) 665-7467
gillerspie.david@epa.gov

CERTIFICATE OF SERVICE

I, Peter R. Duchesneau, hereby certify that on this 14th of October, 2015, I served a copy of the foregoing Status Report on the parties identified below by U.S. mail.

David Gillespie
Assistant Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202
(214) 665-7467
gillespie.david@epa.gov

/s/ Peter Duchesneau
Peter R. Duchesneau