

# Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271  
<http://dnr.state.il.us>

Pat Quinn, Governor  
Marc Miller, Director

May 12, 2010

VIA FIRST CLASS and CERTIFIED MAILING - 7005 1160 0001 1884 3669

Ms. Geraldine P. Turner, President  
S-Coal Company  
1122 North Main Street  
Muskogee, Oklahoma 74401

Re: CONSENT ORDER for Show Cause Order No. 2008-01  
Permit #367 - Elkville Mine/Jackson County, Illinois

Mrs. Turner;

Enclosed please find a copy of the CONSENT ORDER in the above referenced matter which has been executed by you, as the Permittee and President of S Coal Company, and the Illinois Department of Natural Resources [IDNR]. The CONSENT ORDER has been affirmed as the settlement agreement pursuant to Section 8.06 of the Illinois Surface Coal Mining Land Conservation and Reclamation Act, 225 ILCS 720/8.06 by Order of the Hearing Officer, Michael O'Hara, dated May 10, 2010.

Under the terms and conditions of the CONSENT ORDER, specifically Paragraph F at page 8, S Coal Company must bring current conditions at its Elkville Mine into compliance with the requirements of the Act and its regulations, as well as the terms of its Permit #367 no later than November 10, 2010 [i.e. 6 months from the effective date of this Consent Order]. We also recognize that during this period, the Elkville mine will be in "temporary inactive" status, as indicated in Exhibit B of the Consent Order.

In order to promote the goals of the CONSENT ORDER, you are requested to attend an onsite meeting at the Elkville Mine with IDNR Office of Mines and Minerals representatives to discuss the various measures necessary to abate current noncompliance conditions at the mine site. These measures must be completed within this six [6] month abatement period. Among these issues are the following: 1] corporate standing with the Illinois Secretary of State; 2] commencement of quarterly groundwater monitoring obligations; 3] site contour map and affected acreage report; and 4] grading and soil replacement plan and implementation schedule. IDNR representatives are available to meet at the Elkville mine site during the week of June 7th .

May 12, 2010  
Mrs. Geraldine Turner, President  
S Coal Company  
Page 2 of 2

Please contact me, as indicated below, to confirm date/time for this onsite meeting and to identify any other individuals or technical consultants attending on behalf of S Coal Company.

If there are further questions, please contact me at your convenience. Your cooperation is appreciated.

Yours truly,

A handwritten signature in cursive script that reads "Virginia I. Yang".

Virginia I. Yang, Deputy Counsel  
Office of Legal Counsel

Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62701-1271  
217-782-1809  
217-785-2438 [fax]  
virginia.yang@illinois.gov

Enclosure

Cc: C. Ebetino - Patriot Coal  
K. L. Davis -- Peabody CoalTrade  
S. Fowler [w/o enclosure]

STATE OF ILLINOIS  
DEPARTMENT OF NATURAL RESOURCES

RECEIVED

MAY 11 2010

S COAL COMPANY,  
an Illinois Corporation.  
ELKVILLE MINE PERMIT NO. 367  
Elkville, Illinois 62932

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Dept. of Natural Resources  
OFFICE OF LEGAL COUNSEL

SHOW CAUSE ORDER  
NO. 2008-01

**CONSENT ORDER**

NOW COMES, the Illinois Department of Natural Resources, Office of Mines and Minerals, Division of Land Reclamation ("Department") and S Coal Company, an Illinois corporation authorized to conduct the business in Illinois ("Permittee"), and in the interest of settling all claims and controversies related to Show Cause Order No. 2008-01, hereby consent to the Statement of Facts and Terms of this Consent Order as follows:

**STATEMENT OF FACTS**

**62 Ill. Adm. Code 1843.13 (a)(3) Pattern of Violations**

- A. On June 30, 2004, the Department issued Permit No. 367 ("Permit") pursuant to Section 2.01 of the Surface Coal Mining Land Conservation and Reclamation Act, 225 ILCS 720/2.01 ("State Act"). The Permit authorized Permittee to conduct surface coal mining and reclamation operations at its mine in Elkville, Jackson County, Illinois ("Permit Site"). And pursuant to 62 Ill. Adm. Code 1773.17 ©, the Permit also requires the Permittee to comply with the terms and conditions of the Permit and all applicable performance standards of the State Act, and the requirements of the state regulatory program, as provided in 62 Ill. Adm. Code 1700 through 1850.
- B. Beginning in June, 2004, the Department conducted regular onsite inspections of the Elkville mine ("Permit Site") and reviewed the Permit to assess Permittee's operational compliance with the State Act and its regulations at 62 Ill. Adm. Code 1700 through 1850.
- C. Pursuant to its authority under Section 8.06 of the State Act and its regulations, 62 Ill. Adm. Code 1843.11 and 1843.12, the Department determined that the Permittee's mining operations were in violations of the State Act and its regulations. The Department cited the Permittee for violations as follow:
1. On June 26, 2007, the Department issued **Notice of Violation No. 26-04-2007** for observed onsite violations of 62 Ill. Adm. Code 1816.101(b)(2). Permittee failed to

complete the final grading plan for its FY2005 mined overburden acres (12.86 acres) by the agreed to date of May 31, 2007. On December 5, 2007, Department's onsite inspection verified completion of the required final grading activities. Permittee was assessed a penalty in the amount of \$940.00; this penalty was paid on December 20, 2007.

2. On August 2, 2007, the Department issued **Notice of Violation No. 26-05-2007** for observed onsite violations of 62 Ill. Adm. Code 1816.41(a). Permittee's dewatering operations to pump out waters from its onsite mine pits had adversely affected and lowered the water level of an adjacent residential lake [i.e., Crane Lake]. Permittee failed to timely install discharge pipes for a new sedimentation pond (NPDES Outfall 005) to direct collected water from pond for offsite discharge into Crane Lake. The Department conducted an onsite inspection on August 3, 2007 and verified completion of the required abatement action [ i.e., installation of onsite drainage pipes for sedimentation pond]. The Department issued a notice of abatement compliance on August 17, 2007. Permittee was assessed a penalty in the amount of \$1,210.00; penalty was paid on December 20, 1007.

3. On September 20, 2007, the Department issued **Notice of Violation No. 26-06-2007** for observed onsite violation of 62 Ill. Adm. Code 1773.17(b). Permittee had contaminated undisturbed topsoil materials at the Permit Site as a result of spilling coal slurry materials near its onsite coal preparation plant. The Department conducted an onsite inspection on June 2, 2008 and verified that Permittee had not timely completed the required abatement actions [i.e., clean up of spilt coal slurry materials] Permittee was assessed a penalty in the amount of \$1,905.00; penalty was paid on February 1, 2008.

4. On September 20, 2007, the Department issued **Notice of Violation No. 26-07-2007** for observed onsite violation of 62 Ill. Adm. Code 1773.17(b) and 1816.46(b)(2). Permittee discharged surface water and sediments from the Permit Site onto privately owned agricultural lands. Permittee failed to direct and/or contain surface drainage through its onsite siltation structures and sedimentation ponds. Permittee submitted design plan for Department review during fall, 2007 to construct perimeter berm and ditches to direct surface water runoff to sedimentation pond for offsite discharge. Permittee was assessed a penalty in the amount of \$1,830.00; penalty was paid on February 1, 2008.

5. On September 20, 2007, the Department issued **Notice of Violation No. 26-08-2007** for observed onsite violation of 62 Ill. Adm. Code 1816.43(a)(2). Permittee failed to maintain adequate holding capacity within its onsite drainage ditch[s] by failing to remove accumulated sediments from these ditch[s] to allow discharge of surface water to its sedimentation pond for offsite discharge. On October 18, 2007, Department's onsite inspection verified Permittee implementation of abatement action [i.e., resumed surface water flows through onsite ditches to sedimentation pond]. Permittee was assessed a penalty in the amount of \$1,830.00; penalty was paid on February 1, 2008.

6. On September 20, 2007, the Department issued **Notice of Violation No. 26-09-2007** for observed onsite violation of 62 Ill. Adm. Code 1773.17(b). Permittee failed to maintain adequate "water freeboard" capacity within its onsite coal slurry cells. Department's 2008 onsite inspections do not verify Permittee implementation of any abatement actions [i.e., removal of excess slurry material from coal slurry cells]. Permittee was assessed a penalty in the amount of \$1,830.00; penalty was paid on February 1, 2008.

7. On June 2, 2008, the Department issued **Cessation Order 01-2008** for Permittee's failure to comply with the abatement actions [i.e. clean up of spilt coal slurry materials] as described in **Notice of Violation No. 26-06-2007** herein at Paragraph C-3. On June 5, 2008, Department onsite inspection verified completion of the required abatement action. Permittee was assessed a penalty in the amount of \$2,250.00; penalty has not been paid.

8. On June 3, 2008, the Department issued **Notice of Violation No. 31-02-2008**, for observed onsite violation of 62 Ill. Adm. Code 1816.46(b)(2). Permittee failed to direct surface water runoff impacted by active mining operations through its siltation control structures prior to offsite discharge. Permittee discharged surface water and sediments from the Permit Site onto privately owned agricultural lands. On August 1, 2008, Department onsite inspection verified completion of the approved abatement actions [i.e., construction of perimeter berm and ditches to direct onsite surface runoff to sedimentation pond prior to offsite discharge]. Permittee was assessed a penalty in the amount of \$2,620.00; penalty was paid on October 1, 2008.

9. On June 3, 2008, the Department issued **Notice of Violation No. 31-03-2008**, for observed onsite violation of 62 Ill. Adm. Code 1800.11©. Permittee was conducting active mining operations on un-bonded permit acreage. On August 1, 2008, Permittee completed the required abatement action [i.e., submittal of the required bond funds to the Department]. Permittee was assessed a penalty in the amount of \$3,670.00; penalty was paid on November 9, 2009.

#### **Show Cause Order 2008-01**

D. The Department reviewed the Notices of Violations [8] and Cessation Order [1], described above, that were issued to Permittee from June, 2007 through June, 2008. Based on this review of Permittee's history of violations of same or related requirements of the State Act and its regulations, or Permit conditions, and Permittee's failure to abate the cited violations, the Department determined that a pattern of violations exists or has existed during 3 or more State inspections of the Permit Site conducted within a 12 month period, as provided for in 62 Ill. Adm. Code 1843.12 (a)(3). This pattern of violations was documented as follows:

1. Notice of Violations Nos. 26-04-2007, dated June 26, 2007;

2. Notice of Violations Nos.26-05-2007, dated August 2, 2007;
  3. Notices of Violations Nos. 26-06-2007, 26-07-2007, 26-08-1007, & 26-09-2007, dated September 20, 2007, and
  4. Notices of Violations Nos. 31-02-2008 & 31-03-2009, dated June 3, 2008.
- E. Based on this review and its authority under 62 Ill. Adm. Code 1843.13(a)(1), On September 17, 2008, the Department issued Show Cause Order No. 2008-01, which required Permittee to show cause why Permit No. 367 should not be revoked. (Exhibit A - "SCO No. 2008-01)

#### 62 Ill. Adm. Code 1843.12 Notices of Violations

- F. After the Department issued SCO No. 2008-01 and pursuant to Section 8.06 of the State Act, as provided for under 62 Ill. Adm. Code de 1843.11 and 1843.12, the Department determined that the Permittee continued to operate its mine in violation of the State Act and its regulations. The Department cited the Permittee for additional violations as follows:
1. On August 20, 2008, the Department issued **Notice of Violation No. 31-04-2008**, for an observed onsite violations of 62 Ill. Adm. Code 1816.11(a) & (b). Permittee failed to maintain an adequate number of permit boundary markers. On September 22, 2008, the Department conducted an onsite inspection and verified completion of abatement actions [i.e., installation of permit boundary markers]. Permittee was assessed a penalty in the amount of \$890.00; this penalty was paid on November 9, 2009.
  2. On January 6, 2009, the Department issued **Notice of Violation No. 31-01-2009** for an observed onsite violation of 62 Ill. Adm. Code 1816.22(a)(1). Permittee failed to protect and segregate topsoil materials removed as part of mining operations. On January 12, 2009, the Department onsite inspection verified completion of abatement actions [i.e., - relocation of at least 30' of topsoil materials from stockpile located at southwest corner of active mine pit]. Permittee was assessed a penalty in the amount of \$1,030.00. Penalty was partially paid; the unpaid penalty amount is \$220.00.
  3. On May 12, 2009, the Department issued **Notice of Violation No. 31-03-2009** for an observed onsite violation of 62 Ill. Adm. Code 1773.17(b). Permittee failed to follow its approved operations plan, specifically by failure to conduct without the simultaneous loading or hauling of box-cut spoil materials during ongoing coal extraction activities. During the onsite inspection, Permittee commenced onsite loading and hauling of box-cut spoil materials using one 'loader' and two haul trucks. The Department verified these abatement actions during its May 11, 2007 onsite inspection. Permittee was assessed a penalty in the amount of \$1,375.00; penalty has not been paid.
  4. On May 12, 2009, the Department issued **Notice of Violation No. 31-04-2009** for

an observed onsite violation of 62 Ill. Adm. Code 1773.17(b). Permittee failed to follow its approved operations plan, specifically, by failure to clean out and maintain onsite slurry cells. On July 12, 2009, the Department conducted an onsite inspection and verified completion of abatement actions. Permittee was assessed a penalty in the amount of \$1,100.00; penalty has not been paid.

5. On May 12, 2009, the Department issued **Notice of Violation No. 31-05-2009** for an observed onsite violation of 62 Ill. Adm. Code 1816.46(b)(2). Permittee discharged surface water and sediments onto privately owned lands. Permittee failed to direct "mine-affected area" drainage through its onsite siltation structures prior to drainage discharge from Permit Site. On July 12, 2009, Department onsite inspection verified completion of abatement actions [i.e., reconstruction of collection ditches to designed capacity and directing surface water runoff to new onsite sediment pond]. Permittee was assessed a penalty in the amount of \$1,750.00; penalty has not been paid.

6. On June 24, 2009, the Department issued **Notice of Violation No. 31-07-2009** for an observed onsite violation of 62 Ill. Adm. Code 1773.17(b). Permittee failed to follow its approved operations plan, specifically, failure to remove coal and simultaneously load and haul box-cut spoil material. During the July 24, 2009 onsite inspection, Permittee commenced onsite loading and hauling of box-cut spoil materials using one 'loader' and two haul trucks. Permittee was assessed a penalty in the amount of \$1,295.00; penalty has not been paid.

7. On July 2, 2009, the Department issued **Notice of Violation No. 31-08-2009** for an observed onsite violation of 62 Ill. Adm. Code 1773.17 ( c ). Permittee failed to comply with its permit conditions, specifically failure to submit 'as-built' construction certification for an out-take well as required by a condition for Incidental Permit Revision #26 for its Permit. Permittee has not performed the required abatement action [i.e., submittal of 'as-built' documentation]. Permittee was assessed a penalty in the amount of \$745.00; this penalty has not been paid.

8. On August 11, 2009, the Department issued **Cessation Order 01-2009** for Permittee's failure to abate the onsite observed violation, as described above in **Notice of Violation No. 31-08-2009** (i.e., failure to submit 'as-built' construction certification for an out-take well). On August 13, 2009, the Department onsite inspection verified these abatement actions [i.e., submittal of 'as-built' documentation]. Permittee was assessed a penalty in the amount of \$1,500.00; this penalty has not been paid.

9. On September 2, 2009, the Department issued **Notice of Violation No. 31-09-2009**, for observed onsite violation of 62 Ill. Adm. Code 1773.17 ( c ). Permittee failed to submit groundwater monitoring results for 2<sup>nd</sup> quarter, 2009. Permittee did not submit any groundwater monitoring data of 2<sup>nd</sup> quarter, 2009. Permittee was assessed a penalty in the amount of \$765.00; this penalty has not paid.

10. On September 2, 2009, the Department issued **Notice of Violation No. 31-10-2009** for observed onsite violation of 62 Ill. Adm. Code 1816.22(a)(1). Permittee failed to remove and segregate topsoil materials from a temporary onsite storage location to another onsite location on the Permit Area. The 2009 Department onsite inspections do not verify timely completion of abatement actions [i.e., relocation of stored topsoil materials]. Permittee was assessed a penalty in the amount of \$1,315.00; this penalty has not been paid.

11. On October 28, 2009, the Department issued **Notice of Violation No. 31-11-2009** for observed onsite violation of 62 Ill. Adm. Code 1816.46(b)(3). Permittee failed to submit a sealed 'as-built' construction certification for a completed sediment pond. On October 26, 2009, Department onsite inspection verified completion of abatement action [i.e., submittal of 'as-built' documentation]. Permittee was assessed a penalty in the amount of \$1,030.00; this penalty has not been paid.

#### **Failure to Timely Abate or Pay Penalty Assessments**

- G. Permittee failed to make full and timely payment the assessed penalty(s) in the amount of \$2,250.00, as stated above in Paragraphs C-7, and in the aggregated amount of \$11,095.00, as stated above in Paragraphs F-2 through F-11, as required by 62 Ill. Adm. Code 1845.18(a). The total outstanding assessed penalty amount is \$13,345.00.
- H. Permittee failed to contest the penalty assessments or the violations by means of placing the proposed penalty assessment in escrow and requesting a hearing within a 30 day period, as provided for in 62 Ill. Adm. Code 1847.4 and 1847.5. Permittee has thereby waived all legal rights to contest both the fact of the violations and the assessed penalty amounts, as provided for in 62 Ill. Adm. Code 1847.4 and 1847.5.
- I. Permittee failed to timely abate violations as noted by Notices of Violations, and as described in Paragraph C-6 and in Paragraphs F-7, F-9, and F-10 above.

#### **Pre-Hearing Conference**

- J. On January 26, 2010, the Hearing Officer Michael O'Hara ordered a pre-hearing conference with Permittee. The Department sought an order by the Hearing Officer for revocation of Permit No. 367. The Permittee was requested terms for a compliance settlement agreement between the Department and Permittee. The Hearing Officer encouraged that the Department and the Permittee work towards terms and condition of a settlement agreement.



## TERMS AND CONDITIONS

In the interest of settling all claims and controversies involving this matter, Permittee hereby consents to the entry of the following terms and conditions of this Consent Order:

- A. This Consent Order shall apply to and be binding upon the Permittee, and any officer, director, agent or employee of the Permittee, as well as any successors or assigns of the Permittee. The Permittee shall not raise, as defense to any enforcement action taken pursuant to this Consent Order, the failure of any of its officers, directors, agents, employees, successors or assigns to take such action as shall be required to comply with the provisions of this Consent Order.
- B. No change in ownership, corporate status, or operator of/for the Permit Site shall in any way alter the responsibilities of the Permittee under this Consent Order. In the event of any conveyance of Permit No. 367, title, easement, or other interest in the Permit Site, the Permittee shall continue to be bound by and remain liable for performance of the penalty obligations under this Consent Order.
- C. In the event that the Permittee proposed to sell or transfer any real property or operations, subject to any Order accepting and adopting the terms of this Consent Order, the Permittee shall notify the Department 30 days prior to the conveyance of title, ownership or other interest, including Permit No. 367, or a leasehold interest in the Permit Site or portion thereof. The Permittee shall disclose to and compel, by agreement with the prospective purchaser or successor, compliance of such parties with any Order accepting and adopting the terms of this Consent Order as a condition of any sale or transfer, and shall provide a copy of that Order accepting and adopting the terms of this Consent Order to any such successor in interest. This provision does not relieve the Permittee from compliance with any regulatory requirement regarding notice and transfer of applicable permits for the Permit Site.
- D. The Permittee shall notify each contractor, as well as employee, retained to perform work required, of each requirement of this Consent Order relevant to the activities to be performed by that contractor, or employee, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Consent Order and any Order accepting and adopting the terms of this Consent Order to each contractor, or employee, already retained no later than 30 days after the date of adoption of this Consent Order. In addition, the Permittee shall provide copies of all schedules of implementation of any provision of this Consent Order to the prime vendor(s) supplying any technology and other equipment required by any Order accepting or adopting the terms of this Consent Order.
- E. 1) Permittee shall send payment(s), by certified check or money order payable to "Illinois Department of Natural Resources, Office of Mines and Minerals - Coal Mining Regulatory Fund" for deposit into this fund held by the State Treasury, as provided for by Section 9.07

of the State Act, 225 ILCS 720/9.07, and 62 Ill. Adm. Code 62 Ill. Adm. Code 1847.5 (c-1), for the outstanding penalty assessments in the aggregate amount of \$13,345.00, as noted in Paragraph 10 above, within the following dates after the effective date of this Consent Order:

- a) Payment of \$3,345.00, as provided for above, upon execution and signature of this Consent Order by Permittee;
- b) Payment of \$5,000.00, as provided for above, within 3 months of this Consent Order; and
- c) Payment of \$5,000.00, as provided for above, within 6 months of this Consent Order;

2) The name and number of this matter and Permittee's Federal Employer Identification (FEIN), 37-1364210 [as inserted herein] shall appear on each certified check or money order.

F. 1. The Permittee shall conduct mining operations in compliance with the State Act and its regulations, 62 Ill. Adm. Code 1700 through 1850.

2. The Permittee shall within six [6] months from the effective date of this Consent Order, bring current conditions in its mining operations which are not in compliance with the State Act and its regulations, 62 Ill. Adm. Code 1700 through 1850, into full compliance with the State Act and regulations.

G. 1. Notwithstanding the above, the Department may conduct regular inspections of the Permit Site and issue Notice[s] of Violation, including Cessation Orders, to the Permittee for any onsite mining operations that fails to comply with the State Act and its regulations, and/or failure to make timely payments as prescribed above.

2. Upon issuance of such Notice[s] of Violation, Permittee shall send timely and full payment[s] for any assessed penalty[s] to the Department, by certified check or money order payable to "Illinois Department of Natural Resources, Office of Mines and Minerals - Coal Mining Regulatory Fund" for deposit into this fund held by the State Treasury, as provided for by Section 9.07 of the State Act, 225 ILCS 720/9.07, and 62 Ill. Adm. Code 62 Ill. Adm. Code 1847.5 (c-1).

H. This Consent Order in no way affects the responsibilities of the Permittee to comply with any other federal, state or local laws or regulations including, but not limited to, the State Act and its regulations 62 Ill. Adm. Code 1700 and 1800. This Consent Order in no way affects the responsibilities of the Department to conduct any mandated regulatory actions,

such as emergency conditions or otherwise, as authorized by the State Act and its regulations, 62 Ill. Adm. Code 1700 and 1800.

- I. Notwithstanding any other language in this Consent Order to the contrary, and in consideration of the mutual promises and conditions contained in this Consent Order, the Permittee hereby agrees that this Consent Order may be used against the Permittee in any subsequent enforcement action or permit proceedings as proof of a past adjudication of violation[s] of the Act and its regulations concerning all violations alleged in SCO 08-01. Further Permittee agrees to waive any rights to contest, in any subsequent enforcement action or permit proceedings, any allegation that these alleged violations were adjudicated.
- J. Any and all correspondence, reports and any other documents required under this Consent Order, except for penalty payments as described above, shall be submitted to the following parties:

As to the Department Office of Mines and Minerals:

Mr. Scott Fowler, Manager  
Office of Mines and Minerals, Land Reclamation Unit  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271

As to the Department Office of Legal Counsel:

Ms. Virginia I. Yang, Deputy Counsel  
Office of Legal Counsel  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62701-1271

As to the Permittee:

Mr. And Mrs. Geraldine Turner, President  
S-Coal Company  
1122 North Main  
Muskogee, Oklahoma 74401

- K. The following signatories for the Department and the Permittee have legal authority to bind their respective parties and agents to the terms of this Consent Order.

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Wherefore, pursuant to the foregoing terms of Consent Order between the Department and Permittee, it is hereby agreed that Show Cause Order 2008-01 be and is dismissed, with prejudice.

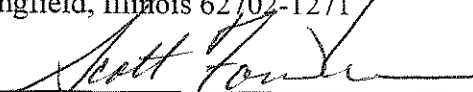
AGREED TO BY:

**S Coal Company**  
1122-A North Main  
Muskogee, Oklahoma 74401

By:   
Geraldine Turner, President

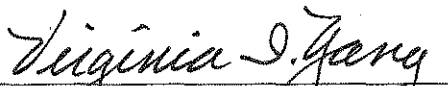
Date: April 28, 2010

**Illinois Department of Natural Resources,  
Office of Mines & Minerals,  
Land Reclamation Division**  
One Natural Resources Way  
Springfield, Illinois 62702-1271

By:   
Scott Fowler, Manager

Date: 5/5/10

Illinois Department of Natural Resources  
Office of Legal Counsel  
One Natural Resources Way  
Springfield, Illinois 62702-1271

By:   
Virginia I. Yang, Deputy Counsel

Date: May 5, 2010

Department of Natural Resources,  
Office of the Director  
One Natural Resources Way  
Springfield, Illinois 62702-1271

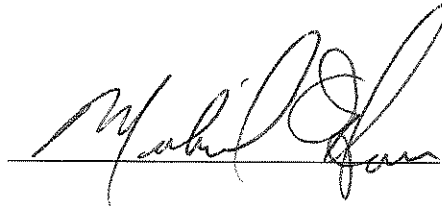
By:   
Marc Miller, Director

Date: 5 May 2010

**ORDER**

The foregoing Consent Order between the Illinois Department of Natural Resources, Office of Mines and Minerals, Land Reclamation Division, and S Coal Company, an Illinois Corporation with regard to Show Cause Order No. 2008-01 is hereby affirmed as a settlement agreement pursuant to Section 8.06 of the Surface Coal Mining Land Conservation and Reclamation Act, 225 ILCS, 720/8.06, and its regulations, specifically at 62 Ill. Adm. Code 1847.6.

This matter is hereby dismissed, with prejudice, on this day 10<sup>th</sup> of May, 2010.

A handwritten signature in black ink, appearing to read "Michael O'Hara", written over a horizontal line.

Michael O'Hara, Hearing Officer  
Cavanagh & O'Hara  
497 East Adams Street  
Springfield, Illinois 62705

STATE OF ILLINOIS  
DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF MINES AND MINERALS

S COAL COMPANY  
ELKVILLE MINE  
PERMIT NO. 367

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SHOW CAUSE ORDER  
NO. 2008-01

The Illinois Department of Natural Resources, Office of Mines and Minerals ("Department") hereby ORDERS S Coal Company ("Permittee") to SHOW CAUSE that Permit No. 367 should not be suspended or revoked, pursuant to Section 8.06(d) of the Surface Coal Mining Land Conservation and Reclamation Act ("State Act") 225 ILCS 720/8.06(d). The basis for the Department's decision to issue this Show Cause Order No. 2008-01 are as follows:

1. The Department issued Permit No. 367 on June 30, 2004 authorizing Permittee to conduct surface coal mining and reclamation operations in Jackson County, Illinois, pursuant to Section 2.01 of the State Act 225 ILCS 720/2.01.

This permit was subject to the following condition found at 62 Ill. Adm. Code 1773.17(c):

The Permittee shall comply with the terms and conditions of the permit, all applicable performance standards of the Federal and State Acts, and the requirements of the regulatory program.

2. Reclamation specialists employed by the Department have conducted periodic inspections of this permit and reviewed these permit requirements to ensure that Permittee's operations comply with the State Act and its implementing regulations at 62 Ill. Adm. Code 1700 through 1850.

3. Pursuant to Section 8.06 of the State Act, a Department reclamation specialist issued the following citations to Permittee for a violation of the State Act and implementing regulations:

a. Notice of Violation No. 26-04-2007, dated June 26, 2007, for a violation of 62 Ill. Adm. Code 1816.101(b)(2) for failure to complete final grading on FY2005 mined overburden acres (12.86 acres) by May 31, 2007.

Notice of Violation No. 26-04-2007 required that Permittee:

- \* Submit a report detailing the status of these 12.86 acres,
- \* Submit a plan for completing the final grading on the 12.86 acres,
- \* Complete final grading by August 10, 2007.

b. Notice of Violation No. 26-05-2007, dated August 2, 2007, for a violation of 62 Ill. Adm. Code 1816.41(a) for failure to minimize disturbance to the hydrologic balance adjacent to the permit area; specifically, S Coal has negatively impacted the water level in adjacent Crane Lake and failed to adequately replace water.

Notice of Violation No. 26-05-2007 required that Permittee:

- \* Direct all pit pumpage to sedimentation pond 005,
- \* Submit a plan for minimizing any future similar disturbances to the Crane Lake water level.

c. Notice of Violation No. 26-06-2007, dated September 20, 2007, for a violation of 62 Ill. Adm. Code 1773.17(b) for contamination of placeland topsoil by coal materials.

Notice of Violation No. 26-06-2007 required that Permittee submit a plan for abating this violation, and for avoiding this type of violation in the future.

d. Notice of Violation No. 26-07-2007, dated September 20, 2007, for a violation of 62 Ill. Adm. Code 1773.17(b) and 1816.46(b)(2) for discharging water and sediment from the site at an unauthorized location and failure to pass drainage through a sedimentation pond.

Notice of Violation No. 26-07-2007 required that Permittee provide a plan for preventing future violations in this area while accounting for proper drainage of the adjacent corn field.

e. Notice of Violation No. 26-08-2007, dated September 20, 2007, for a violation of 62 Ill. Adm. Code 1816.43(a)(2) for failure to maintain the ditch draining pond 006.

Notice of Violation No. 26-08-2007 required Permittee to clean out this ditch to restore designated drainage.

f. Notice of Violation No. 26-09-2007, dated September 20, 2007, for a violation of 62 Ill. Adm. Code 1773.17(b) for failure to maintain adequate freeboard on the slurry cells.

Notice of Violation No. 26-09-2007 required Permittee to restore designated freeboard to the slurry cells.

g. Notice of Violation No. 31-02-2008, dated June 3, 2008, for a violation of 62 Ill. Adm. Code 1816.46(b)(2) for failure to pass affected area runoff drainage through siltation structure.

Notice of Violation No. 31-02-2008 required that Permittee:

- \* Take immediate action to minimize adverse impacts of affected area runoff leaving the permit area,
- \* Submit a plan that outlines actions to be taken to direct all affected area drainage through siltation structures.

h. Notice of Violation No. 31-03-2008, dated June 3, 2008, for a violation of 62 Ill. Adm. Code 1800.11(c) for conducting active mining operations on un-bonded permit acreage.

Notice of Violation No. 31-03-2008 required that Permittee immediately cease all active mining operations within the un-bonded portion of the mine and initiate reclamation activities, or if continuation of mining activities is desired, take immediate action and submit required bond for the un-bonded acreage affected to date and additional bond to cover anticipated future mining activities.

4. Permittee failed to comply with the remedial action required by Notice of Violation No. 26-06-2007. Thus, the Department issued the following cessation order to Permittee for failure to abate the notice of violation:

Cessation Order 01-2008, dated June 2, 2008, for failure to abate Notice of Violation No. 26-06-2007.

Permittee complied with the abatement obligations specified in Cessation Order No. 01-2008 on June 5, 2008.

5. In accordance with 62 Ill. Adm. Code 1843.13(b), the Department has reviewed the Permittee's history of violations and determined that a pattern of violations exists, and that such violations were caused by the Permittee's unwarranted failure to comply with the requirements of the State Act and its implementing regulations.

6. Permittee failed to request a hearing to review the above-referenced Notices of Violation or Cessation Order within the time frames set forth in the Department's regulations. As such, the Notices of Violation and Cessation Order have become final administrative decisions of the Department.


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WHEREFORE, the Department ORDERS S Coal Company to SHOW CAUSE that Permit No. 367 should not be revoked and any reason[s] in support thereof.

WHEREFORE, the Department further states that Permit No. 367 shall be summarily revoked if the Permittee fails to file an answer and request for hearing within 30 days from completion of service of this Show Cause Order, pursuant to 62 Ill. Adm. Code 1843.13 and 1847.6.

So Ordered this 17th day of September, 2008.

  
\_\_\_\_\_  
Joe Angleton, Director  
Illinois Department of Natural Resources  
Office of Mines and Minerals

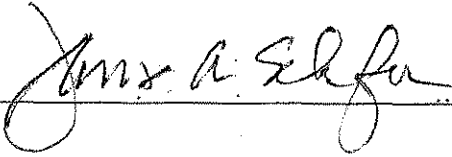
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Show Cause Order was mailed to the following:

Mr. Jim Mussat  
S Coal Company  
770 Coal Road  
Elkville, Illinois 62932

CERTIFIED MAIL # 7008 1140 0003 1413 4809

by enclosing the same in an envelope addressed as shown above, by certified mail, return receipt requested, postage fully prepaid, and by depositing said envelope in a U.S. Post Office Box in Springfield, Illinois on this 17<sup>th</sup> day of September, 2008.

  
\_\_\_\_\_

**S COAL COMPANY**  
**1122 North Main, Suite A**  
**Muskogee, Oklahoma 74401**  
**918-684-4343**  
**Fax 918-684-3237**

Ms Virginia Yang  
Deputy Legal Counsel  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271

April 28, 2010

Re: Show Cause – Consent Order

Dear Ms Yang

Enclosed please find two signed copies of the Consent Order for Show Cause Order No. 2008-01. A check for \$13,345.00 has been forwarded to you from the Peoples National Bank of Harrisburg, Illinois.

Accordingly, we respectfully ask that IDNR subsequent to the execution of the Consent Order review our request dated 12/17/09 to put the mine on a temporary inactive status until new coal sales contracts can be negotiated or if applicable, a modified reclamation plan developed and approved by IDNR.

Thanks for your consideration and help.

Sincerely,

A handwritten signature in black ink, appearing to read "Geraldine P. Turner". The signature is fluid and cursive, with a large initial "G" and "T".

Geraldine P. Turner