

## DEPARTMENT OF JUSTICE

**Notice of Lodging of Proposed Consent Decree Under the Clean Water Act**

On March 5, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Mississippi in the lawsuit entitled *United States, State of Mississippi, by and through Mississippi Commission on Environmental Quality v. Total Environmental Solutions, Inc. and Utility Services, LLC*, Civil Action No. 1:14-cv-001114-LG-JMR.

The lawsuit was filed against Total Environmental Solutions, Inc. ("TESI") and Utility Services, LLC on March 3, 2014 pursuant to Clean Water Act ("CWA") Sections 309(b) and (d), 33 U.S.C. 1319(b) and (d), and the Mississippi Air and Water Pollution Control Law, Miss. Code Ann. § 49-17-1 *et seq.*, seeking penalties and injunctive relief under Sections 301 and 402 of the CWA, 33 U.S.C. 1311 and 1342, and under Miss. Code Ann. §§ 49-17-23(2), 49-17-29 and 49-17-43(1) for (1) unpermitted discharges of untreated sewage into navigable waters and waters of the State of Mississippi; (2) failure to comply with certain National Pollutant Discharge Elimination System ("NPDES") effluent permit conditions; (3) failure to comply with standard NPDES permit conditions, including failure to monitor or report the results of requiring monitoring of pollutants in its water discharges from July 2007 to June 2010.

The proposed Consent Decree contains injunctive relief, including effluent monitoring and management, a sanitary sewer overflow plan, and the following operation and maintenance programs: (a) A comprehensive performance evaluation and development of a composite correction plan; (b) a sewer overflow response program; (c) an emergency operations and maintenance plan; (d) a training program; (e) an information management system program; (f) a sewer mapping program; (g) a financing and cost analysis program; (h) a fats, oils and grease public education program; (i) a pump station operations program; (j) a gravity line preventive maintenance program; and (k) a pump station preventive maintenance program. Utility Services intends to purchase the facilities from TESI and then assume the responsibilities of TESI to perform the injunctive relief. TESI also has agreed to pay a penalty of \$225,000, of which \$112,500 will be paid to the United States, and \$112,500 will be paid to the

Mississippi Department of Environmental Quality.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, State of Mississippi, by and through Mississippi Commission on Environmental Quality v. Total Environmental Solutions, Inc. and Utility Services, LLC*, Civil Action No. 1:14-cv-001114-LG-JMR, D.J. Ref. No. 90-5-1-1-09955. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email ...	<a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a> .
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044-7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: <http://www.usdoj.gov/enrd/ConsentDecrees.html>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$63.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy of the Consent Decree without Appendix B—EPA Region IV Guidance on Capacity, Management, Operation and Maintenance ("CMOM") programs, the cost is \$18.50.

**Henry Friedman,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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## DEPARTMENT OF JUSTICE

**Notice of Lodging of Proposed Consent Decree Under the Clean Water Act**

On March 5, 2014, the Department of Justice lodged a proposed consent decree with the United States District

Court for the Southern District of West Virginia in a lawsuit entitled *United States, et al. v. Alpha Natural Resources, Inc., et al.*, Civil Action No. 2:14-cv-11609.

The proposed Consent Decree will resolve Clean Water Act claims alleged in this action by the United States, the State of West Virginia, the Pennsylvania Department of Environmental Protection, and the Commonwealth of Kentucky against Alpha Natural Resources, Inc. and 59 of its subsidiaries<sup>1</sup> (collectively, "Alpha") for the discharge of pollutants into state waters and waters of the United States in violation of limits in National Pollutant Discharge Elimination System ("NPDES") permits. The Consent Decree will also resolve claims against Alpha Natural Resources, Inc. and Cumberland Coal Resources, LP for discharging pollutants into state waters and waters of the United States without complying with the requirements for obtaining an NPDES permit.

Under the proposed Consent Decree, Defendants will perform injunctive relief including: (1) Development and implementation of an environmental management system and periodic internal and third-party environmental compliance auditing; (2) data tracking and evaluation measures, including centralized audit and violations databases to track information relevant to compliance efforts at each outfall; (3) response measures for effluent limit violations, including consultation with a third-party expert and automatic stipulated penalties; (4) construction and operation of a specified treatment system to address violations of osmotic

<sup>1</sup> Alpha Natural Resources, Inc.; Alpha Appalachia Holdings, Inc.; Alex Energy, Inc.; Alpha PA Coal Terminal, LLC; Amfire Mining Company, LLC; Aracoma Coal Co., Inc.; Bandmill Coal Corp.; Belfry Coal Corp.; Big Bear Mining Co.; Brooks Run Mining Company, LLC; Brooks Run South Mining LLC; Clear Fork Coal Co.; Cumberland Coal Resources, LP; Delbarton Mining Co.; Dickenson-Russell Coal Company, LLC; Duchess Coal Co.; Eagle Energy, Inc.; Elk Run Coal Co., Inc.; Emerald Coal Resources, LP; Enterprise Mining Company, LLC; Goals Coal Co.; Greysage Coal Co.; Harlan Reclamation Services LLC; Herndon Processing Co., LLC; Highland Mining Co.; Independence Coal Company, Inc.; Jacks Branch Coal Co.; Kanawha Energy Co.; Kepler Processing Co., LLC; Kingston Mining, Inc.; Kingwood Mining Co., LLC; Knox Creek Coal Corp.; Litwar Processing Co., LLC; Marfork Coal Co.; Martin County Coal Corp.; New Ridge Mining Co.; Omar Mining Co.; Paramount Coal Company Virginia, LLC; Paynter Branch Mining, Inc.; Peerless Eagle Coal Co.; Performance Coal Co.; Peter Cave Mining; Pigeon Creek Processing Corp.; Pioneer Fuel Corp.; Power Mountain Coal Co.; Premium Energy, LLC; Rawl Sales & Processing Co.; Resource Land Co.; Riverside Energy Co., LLC; Road Fork Development Co.; Rockspring Development, Inc.; Rum Creek Coal Sales, Inc.; Sidney Coal Co.; Spartan Mining Co.; Stirrat Coal Co.; Sycamore Fuels Inc.; Tennessee Consolidated Coal Company; Trace Creek Coal Co.; and Twin Star Mining, Inc.