

APPENDIX 2

**OFFICE OF SURFACE MINING
REPORT ON
DEPARTMENT FOR SURFACE MINING
RECLAMATION AND ENFORCEMENT
ENFORCEMENT ACTIONS**

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**OFFICE OF SURFACE MINING (OSM)
REPORT ON
DEPARTMENT FOR SURFACE MINING RECLAMATION
AND ENFORCEMENT (DSMRE)
ENFORCEMENT ACTIONS**

**PREPARED IN RESPONSE TO THE OCTOBER 11, 2000,
IMPOUNDMENT BREAKTHROUGH
AT
MARTIN COUNTY COAL CORPORATION (MCCC)
BIG BRANCH SLURRY IMPOUNDMENT**

This report was prepared by OSM as a part of its review of the MCCC 2000 breakthrough. This report addresses the enforcement actions taken by DSMRE in response to the 1994 and 2000 breakthroughs.

Enforcement Actions Related to May 22, 1994, Breakthrough

On May 23, 1994, DSMRE issued Notice of Non-Compliance (NC) 41-0200 to MCCC. The NC stated, "Operator allowed a large volume of water (too great to measure) in excess of the allowable water quality standards (suspended solids) to be discharged from pond #2 into Wolf Creek. The water originated in the refuse impoundment, and entered pond #2 via old mine works located around the perimeter of the refuse impoundment."

For abatement of NC 41-0200, MCCC was required to "Stop the flow of water entering Wolf Creek by whatever means that are necessary." The NC did not require MCCC to submit plans, or a permit revision, to address the measures necessary to prevent future breakthroughs. On May 31, 1994, DSMRE abated the NC (i.e., accepted MCCC's remedial measures).

Enforcement Actions Related to October 11, 2000, Breakthrough

On October 11, 2000, DSMRE issued NC 41-1752, NC 41-1753, NC 41-1754, NC 41-1800 and Imminent Danger Cessation Order (IDCO) 04-1241 to MCCC. Also, on February 13, 2001, DSMRE issued NC 41-1552 to MCCC.

IDCO 04-1241, October 11, 2000, MCCC Big Branch Impoundment Permit, Permit Number 680-8002

The IDCO relates to the conditions, as cited in NC 41-1752, which created an imminent danger to the public and imminent harm to the environment. The IDCO was terminated on November 9, 2000. The IDCO directed MCCC to:

- Immediately cease all substandard discharges into the waters of the Commonwealth of Kentucky.

- Cease placement of slurry materials into the refuse impoundment until a plan to repair the impoundment has been approved by the Kentucky Natural Resources and Environmental Protection Cabinet (NREPC).
- Re-establish access to all driveways and any county and state roads blocked by slurry.

NC 41-1752, October 11, 2000, MCCC Big Branch Impoundment Permit, Permit Number 680-8002

Violation	Required Remedial Measures	Status
Failed to pass all drainage and slurry through approved sediment control structures prior to discharge into waters of the Commonwealth of Kentucky.	<ol style="list-style-type: none"> 1. Cease all substandard discharges into waters of the Commonwealth of Kentucky. 2. Take all additional actions necessary to prevent further discharge of substandard water and slurry into waters of the Commonwealth of Kentucky. 	Abated November 9, 2000.
Engaged in an unsafe practice by allowing substandard water and slurry to flow from an impoundment into underground mine works, creating imminent environmental damage off permit, in Wolf Creek and Coldwater Fork watersheds. This discharge also blocked driveways to residences.	<ol style="list-style-type: none"> 1. Retrieve and dispose of all released slurry material in a manner approved by the NREPC. 2. Cease placement of slurry material into the refuse impoundment until approval of a plan to repair the impoundment has been obtained from NREPC. 3. Prevent further accumulation of water in the slurry impoundment until permission to reactivate the impoundment has been obtained from NREPC. 4. Re-establish access to all slurry-blocked driveways. 	<p>Not yet abated.</p> <p>Abatement of this violation is pending completion of the action required under #1. Corrective action has been taken for the remaining three required remedial measures.</p>
Failed to protect the hydrologic balance by allowing substandard water and slurry to enter waters of the Commonwealth of Kentucky.	Replace aquatic species in Wolf Creek and Coldwater Fork in coordination with the Kentucky Department of Fish and Wildlife Resources.	Not yet abated.

NC 41-1753, October 11, 2000, MCCC Haul Road Permit, Permit Number 880-7000

Violation	Required Remedial Measures	Status
Allowed a large discharge to wash away sediment pond #200.	Reconstruct pond #200 according to the approved design and recertify.	Abated January 10, 2001.
Allowed a large discharge to create a huge gully on the mine management area below sediment pond #200.	Backfill, grade and stabilize the huge gully, created by the discharge, at the South Mains Portal.	Abated January 10, 2001.

NC 41-1754, October 11, 2000, MCCC Haul Road Permit, Permit Number 880-7002

Violation	Required Remedial Measures	Status
Slurry and coal refuse from the slurry discharge covered up three sediment holding areas (sumps).	Clean out the affected sediment holding areas (sumps).	Abated February 12, 2001.

NC 41-1800, October 11, 2000, MCCC I-C Underground Mine Permit, Permit Number 680-5012

Violation	Required Remedial Measures	Status
Sediment pond #326 is filled with slurry due to the slurry discharge.	Clean out sediment pond #326 to bring it into compliance.	Abated January 3, 2001.

NC 41-1552, February 13, 2001, MCCC Big Branch Impoundment Permit, Permit Number 680-8002

Violation	Required Remedial Measures	Status
Failed to accurately depict the unmined barrier of coal in the Coalburg coal seam within the impoundment.	Submit to DSMRE, within 30 days, a permitting action for the final closure and reclamation of the Big Branch Slurry Impoundment and the associated highwall of the Stockton coal seam.	Not yet abated.
Failed to comply with the terms and conditions of the approved permit including plans and documents provided as part of the approved permit including: 1) Exceeded the approved slurry elevation (pool) for Phase III of the Big Branch Slurry Impoundment. ¹ 2) Failed to construct hydraulic mine seal (bulkhead) at first left section, #2 North Main as approved by DSMRE. ² 3) Engaged in the unapproved backfilling of one of the South Mains portals. ³ 4) Failed to construct the seepage barrier according to approved designs. ⁴	Submit to DSMRE, within 30 days, a permitting action for the final closure and reclamation of the Big Branch Slurry Impoundment and the associated highwall of the Stockton coal seam.	Not yet abated.

¹ MCCC had obtained approval from Mine Safety and Health Administration (MSHA) to change the maximum slurry elevation, but had not obtained DSMRE's approval.

² MCCC had obtained MSHA's approval to change the location and method of construction of the bulkheads, but had not obtained DSMRE's approval.

³ MCCC had obtained MSHA's approval to leave only one entry open, but had not obtained DSMRE's approval.

⁴ The approved permit specified that fine refuse shall be directed along the barrier by periodically redirecting the discharge of fine refuse. MCCC did not place the fine refuse discharge pipes along the barrier, but placed the discharge pipe at the upstream side of the dam.

During March 2001, DSMRE and MSHA allowed MCCC to resume the disposal of coarse refuse at the Big Branch impoundment. The disposal area is located downstream from the embankment (dam) in a non-structural, side-hollow area of the embankment. This area was actively being used for coarse refuse disposal prior to the 2000 breakthrough. The March approval by DSMRE and MSHA does not authorize MCCC to place coarse refuse within the impoundment area.

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