



500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

DIRECT TELEPHONE: 304-340-1347

DIRECT TELECOPIER: 304-340-1272

dcrouse@jacksonkelly.com

August 11, 2014

Jackie Shultz, Clerk
Environmental Quality Board
601 57th Street, SE
Charleston, WV 25304

Re: *Elk Run Coal Company, Inc. v. WVDEP*
Appeal No. 14-11-EQB

Dear Jackie:

On behalf of Elk Run Coal Company, Inc., enclosed are the original and two copies of its Joint Motion to Continue Hearing in the above-referenced appeal. As indicated on the Certificate of Service, all counsel of record have been served.

Sincerely yours,

DOUGLAS J. CROUSE

DJC/kll

cc: C. Scott Driver, w/enc.

**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA**

ELK RUN COAL COMPANY, INC.
Appellants,

v.

Appeal No. 14-11-EQB

HAROLD WARD,
Acting Director, Division of
Mining and Reclamation
West Virginia Department
of Environmental Protection
Appellee.

JOINT MOTION TO CONTINUE HEARING

Appellants Elk Run Coal Company, Inc., by counsel, and Appellee Harold Ward, Acting Director, Division of Mining and Reclamation, by counsel, jointly move the West Virginia Environmental Quality Board to continue the evidentiary hearing in the above-styled appeal from August 14, 2014, for sixty (60) days. The parties would like additional time to explore a possible resolution to this appeal without the need for an evidentiary hearing.

In support of the Joint Motion to Continue Hearing, the parties represent the following:

- 1) On June 5, 2014 Appellants filed appeal 14-11-EQB related to WVDEP's modification of WV/NPDES permit WV0050903 issued to Elk Run's Chess Processing Refuse Disposal Area near the town of Sylvester in Boone County, West Virginia.
- 2) In their appeal Appellants allege that Appellee improperly modified permit WV0050903 by incorporating an unreasonably short selenium compliance schedule.
- 3) The parties believe that a settlement may be possible in this appeal.
- 4) As a result of the above, the parties request that the evidentiary hearing in this matter be moved sixty (60) days from the current date of August 14, 2014 to allow additional time for settlement discussion.

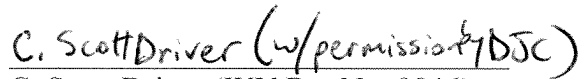
5) This request for a continuance is made in good faith and not for the purposes of delay.

WHEREFORE, for the reasons set forth above, the parties respectfully request that the Environmental Quality Board grant this Joint Motion to Continue Hearing.

Respectfully Submitted,



Douglas Crouse (WV Bar No. 11094)
Shane Harvey (WV Bar No. 6604)
Jackson Kelly PLLC
500 Lee St. East
Suite 1600
Charleston, WV 25301



C. Scott Driver (WV Bar No. 9846)
Office of Legal Services
WVDEP
601 57th Street
Charleston, WV 25304

**WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD
CHARLESTON, WEST VIRGINIA**

ELK RUN COAL COMPANY, INC.
Appellants,

v.

Appeal No. 14-11-EQB

HAROLD WARD,
Acting Director, Division of
Mining and Reclamation
West Virginia Department
of Environmental Protection
Appellee.

CERTIFICATE OF SERVICE

I, Douglas J. Crouse, do hereby certify that on August 11, 2014, served a true copy of the foregoing **JOINT MOTION TO CONTINUE HEARING** to all parties in Appeal No. 14-11-EQB.

C. Scott Driver
Office of Legal Services
WVDEP
601 57th Street
Charleston, WV 25304



DOUGLAS J. CROUSE (WV Bar NO. 11094)
Counsel for Elk Run Coal Company, Inc.
Jackson Kelly PLLC
PO Box 553
Charleston, WV 25322