

BEFORE THE WEST VIRGINIA ENVIRONMENTAL QUALITY BOARD

PINN MC WIND DOWN CO., LLC,

Appellant,

v.

Appeal No. 23-04-EQB

**DIRECTOR, OFFICE OF MINING AND
RECLAMATION, DEPARTMENT OF
ENVIRONMENTAL PROTECTION,**

Appellee.

JOINT STATUS REPORT

Appellant, Pinn MC Wind Down Co., LLC (“Pinn MC”), and Appellee, the West Virginia Department of Environmental Protection (“WVDEP”) jointly submit this status report.

On March 30, 2023, Pinn MC filed the notice of appeal in this matter, representing that it is aggrieved by WVDEP’s February 28, 2023 MR-HP15E Single Event Violation (“SEV”) #16.

On March 10, 2023, WVDEP commenced a civil enforcement action¹ against Pinn MC seeking injunctive relief compelling Pinn MC to abate an artesian discharge from an old well-head onto a residential property occupied by James and Tina Christian at 5754 Welch Pineville Road, Pineville, West Virginia, which was alleged to be emanating from underground mine works associated with the Permit No. U020483. The Court ordered Pinn MC to take immediate steps necessary to prevent the pooling of water around the Christian residence. In response to the Wyoming County Circuit Court Order and in accordance with the Mitigation Plan approved by WVDEP, the Plan Administrator of Pinn MC arranged for a contractor to: (1) excavate and expose a well-head; (2) remove approximately 80 inches of well casing; (3) dig a drainage ditch to divert the artesianing water to Indian Creek; and (4) monitor the effectiveness of the remedial measures.

¹ *WVDEP v. Pinn MC Wind Down Co., LLC & Bluestone Resources, Inc.*, Civil Action No. 23-C-23.

On Pinn MC's behalf, the Mission Coal Wind Down Co. Estate spent \$53,351.35 to abate the violations.

On October 17, 2023, Outlet 118 was added to WV/NPDES Permit No. WV009000, which covers discharges associated with the Pinnacle Mining Complex/Mine No. 50, via Modification. No. 74. Mod. No. 74 was submitted to add the drainage ditch dug by Pinn MC, which channels the artesian discharges from the well near the Christians' residence to Indian Creek, as Outlet 118 to Permit No. WV009000.

Pinn MC has arranged for sampling of Outlet 118, and WVDEP also samples Outlet 118 as part of its routine inspections of the associated surface mining permit (U020483). As of the date of this filing, WVDEP has not sought further injunctive relief from the Wyoming County Circuit Court related to the artesian discharge that is the subject of this appeal.

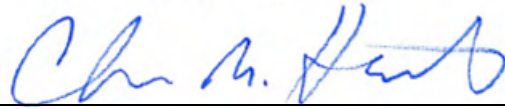
On June 26, 2023, Pinn MC served Bluestone Resources, Inc. ("Bluestone") with a Third-Party Complaint seeking specific performance of Bluestone's contractual obligations regarding Permit No. U020483 and indemnification for all fees and expenses Pinn MC has incurred in complying with the Permit and enforcing Bluestone's obligations. These obligations arise from an asset purchase agreement whereby Bluestone acquired assets associated with the Pinnacle Mine Complex out of the 2019 Mission Coal bankruptcy filed in Alabama Bankruptcy Court.

The disputes between Pinn MC and Bluestone are still unresolved before both the Wyoming County Circuit Court and the Alabama Bankruptcy Court.

Given that Pinn MC's main defense against SEV #16 is that Bluestone—not Pinnacle or Pinn MC—is the party responsible for abating all violations on all permits associated with the Pinnacle Mine Complex, the Parties continue to believe that this appeal

should be held in abeyance until such time as either the Wyoming County Circuit Court or the Alabama Bankruptcy Court resolves the dispute between Pinn MC and Bluestone.

Respectfully submitted,



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/s/Jeffrey Dye by CMH w/ permission

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