



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF WATER POLLUTION CONTROL  
MINING SECTION

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March 18, 2009

**NOTICE OF DETERMINATION**  
**Economic/Social Necessity Justification**

*National Coal Corporation  
Jordan Ridge Refuse Area  
NPDES Permit TN0062961  
Scott County, Tennessee*

Dear Interested Citizen:

National Coal Corporation proposes to renew and modify its existing NPDES permit for the Jordan Ridge Refuse Area. The facility is located on Smoky Road near the community of Smoky Junction in Scott County, Tennessee. The facility has been covered by an NPDES permit since 1989.

The modification is for the addition of a discharge monitoring point and outfall for Pond 007. This new pond will enhance drainage control and treatment efficiency by reducing the peak discharge and total runoff volume to Pond 006. Pond 007 presently collects storm water runoff and does not receive any coal waste impacted water. However, it is possible that within the five-year term of the proposed permit, Pond 007 may receive coal mine wastewater.

Discharge from Pond 007 will enter Old House Branch that confluences with New River approximately 2,900 feet downstream of the new discharge outlet. New River is currently listed as Exceptional Tennessee Waters (ETWs). It is high quality waters because it includes: 1) areas containing federal and state endangered species, 2) a portion designated as critical habitat for certain species, and 3) a segment located in the Big South Fork National River and Recreation Area (BSFNRR).

Tennessee's Antidegradation Policy prohibits degradation of Exceptional Tennessee Waters (ETWs) unless and until it is affirmatively demonstrated to the Department that the expanded discharge is justified as a result of necessary economic or social development and will not interfere with or become injurious to any of the classified uses for such waters.

The Division is considering the addition of any pollutant to the stream as degradation. The existing permit establishes discharge limitations for Settleable Solids (SS), Total Suspended Solids (TSS), Iron, Manganese, and pH. There is not an approved analytical method to determine the assimilative capacity of streams for TSS or SS.

National Coal Corporation submitted information to justify the expanded discharge activity as necessary for the economic or social development of the area where the waters are located. As required by the Antidegradation Policy, the Division scheduled a public meeting to consider comments concerning this

information. The public meeting was conducted on January 29, 2009, at Cove Lake State Park, Caryville, Tennessee. The comment period extended until February 9, 2009. There were no comments received at the meeting or during the 10-day comment period following the scheduled meeting. Only company representatives attended the meeting.


The Division's notice of the public meeting was announced in Public Notice M2008-26 and published in the *LaFollette Press*, LaFollette, Tennessee, on December 11, 2008. The company also notified the public of the proposed activity by publication in the *Scott County Times*, Oneida, Tennessee, on November 20, 2008, and posting a sign at the entrance to the facility.

The applicant conducted the required alternatives analysis and submitted the necessary economic and social information to justify the expanded discharge and demonstrated that the discharge will not become injurious or interfere with any of the classified uses of the receiving waters.

Based on this information, our review of the plans and the applicant's alternatives analysis and economic-social considerations presented for this operation, the Division has determined that degradation to New River is justified. Degradation is the alteration of the properties of waters by the addition of pollutants or removal of habitat as defined by the Department in *Rule 1200-4-3-.04*. The reasons for our determination follow:

- 1) The company demonstrated that it had the technological capability and financial capacity to support and sustain the proposed change.
- 2) Existing treatment ponds are properly sized, operated, and maintained to meet the required effluent limitations for facility discharges. The proposed change will reduce the discharge volume and intensity that have occurred at Pond 006 resulting from large storm events.
- 3) Facility operations and disposal practices are reducing the amount of off-site runoff into treatment structures.
- 4) Economic data demonstrated that facility operations provide economic and social benefits in regard to the local community and local labor market. These benefits include facility employment opportunities, competitive wages and salaries for employees, employment opportunities in non-mining related jobs, increased wages and salaries for non-mining related jobs, product sales, and revenues generated by product sales.

A petition to the Water Quality Control Board for a declaratory order may be filed within 30 days from the date of this notification. If no petition is received, the Division will proceed with its permitting process.

  
Paul E. Davis, Director  
Division of Water Pollution Control

3-18-09  
Date