
**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY**

IN THE MATTER OF:

Emery County Coal Resources, Inc
Lila Canyon Mine
UPDES Permit No. UT0026018

**ADMINISTRATIVE SETTLEMENT
AGREEMENT**

Docket No. I22-07

This Administrative Settlement Agreement (“Agreement”) is entered into voluntarily by and between the Director of the Utah Division of Water Quality (“Director”), under the Director’s legal authorities described below, and Emery County Coal Resources, Inc (“ECCR”) in its capacity as the owner or operator legally responsible for the operation of Lila Canyon Mine, located in Township 16S Range 14E Section 15, on Lila Canyon Road in Emery County, Utah (“Facility”), jointly referred to hereafter as “the Parties.” By entering into this Agreement, the Parties wish, without further administrative or judicial proceedings, to stipulate to civil penalties and associated administrative costs arising out of alleged violations of the Utah Water Quality Act, Utah Code § 19-5-101 *et. seq.* (the “Act”) and corresponding regulations in the Utah Admin. Code R317-1-1 *et. seq.* (“Water Quality Rules”) and R305-7-101 *et. seq.*

1. The Director has authority to administer the Act pursuant to Utah Code § 19-1-105(1)(e), and to enforce the Water Quality Rules in Utah Admin. Code R317 through the issuance of orders, as specified in Utah Code §§ 19-5-106(2)(d) and 19-5-111. The Director also has authority to settle any civil action initiated to compel compliance with the Act and implementing regulations pursuant to Utah Code § 19-5-106(2)(k).
2. ECCR is a “person” as that term is defined in Utah Code § 19-1-103(4).
3. For the purposes of this Agreement, the Parties agree to and stipulate to the findings and violations identified in the March 09, 2023 Notice of Violation and Compliance Order (“NOV/CO”), Docket No. I22-07, and as described below.
4. Pursuant to the NOV/CO, on March 31, 2023, ECCR submitted a written report to the Division of Water Quality (“Division”) that provided the cause and corrective actions associated with the violations identified in NOV/CO I22-07.
5. ECCR timely complied with the requirements in the NOV/CO to the Director’s satisfaction, such that no further remedial action to address the violations is necessary.
6. On February 23, 2023, ECCR initiated pumping operations to evaluate the water quality of discharged mine water. ECCR discharged for a single day, and collected water samples to submit for lab analysis.

7. On May 23, 2023, ECCR notified the Division of an effluent limitation exceedance for Total Iron that resulted from the collected samples on February 23, 2023. ECCR reported, via email, that the analytical results from the February 23rd samples collected indicate a total iron measurement of 2.8 mg/L. This is a violation of UPDES Permit No. UT0026018, Condition I.C.2. Effluent Limitations for Total Iron (1.0 mg/L). ECCR was aware of the total iron exceedance of 180% on March 6, 2023.
8. On September 19, 2023, a Utah Division of Oil, Gas, and Mining (“DOG M”) representative notified the Division of staining at the Facility outfall via photographs taken on September 13, 2023, while on site. Upon further investigation, DOGM determined that the staining observed resulted from the startup operations event that occurred on February 23, 2023. Staining depicted in photographs demonstrates orange discoloration along an undetermined length of an unnamed ditch.
9. DOGM notified the Division that the staining has been present since the February 2023 pumping evaluation event and was observed within an unnamed ditch that conveys water to Lila Canyon Wash. Utah Admin. Code R317-2-13 classifies all drainage canals and ditches statewide as a 2B, 3E water of the State, establishing the following protections:
 - i. Class 2B – Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with water.
 - ii. Class 3E – Severely habitat-limited waters. Narrative standards will be applied to protect these waters for aquatic wildlife.
10. The discoloration of the unnamed ditch is in violation of Utah Admin. Code R317-2-7.2 for placing wastes in such a manner that caused a violation of the Utah Water Quality Narrative Standard.
11. In lieu of issuance of a subsequent NOV/CO, the parties agree to resolve the violations identified in paragraph 7 and 10 above through this Agreement.
12. The Parties voluntarily enter into this Agreement to resolve the NOV/CO without the necessity of further administrative or judicial proceedings.
13. ECCR agrees to pay a civil penalty in the amount of \$7,026.00, based on the Division’s application of the penalty policy outlined in Utah Admin. Code R317-1-8.
14. This Agreement and penalty are subject to a thirty (30) calendar day notice and comment period. The Parties each reserve the right to withdraw from this Agreement if comments received during the notice period result in a modification to the terms and conditions.
15. This Agreement will be final after the thirty-day notice and comment period, on the date the Director signs the Agreement.
16. ECCR agrees that within thirty (30) calendar days of receiving the signed and final

Settlement from the Director, ECCR shall submit payment in the amount specified in paragraph 13 above, using one of the following methods:

- a. CHECK – Payable to the Division of Water Quality. The payment shall be sent to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870

- b. OTHER – For other available payment options, please contact the Division of Water Quality Finance staff at eqwqfinance@utah.gov

17. ECCR agrees that if it fails to make the required payment within thirty (30) calendar days of receiving the signed and final Settlement from the Director, the Director reserves the right to rescind the Agreement and seek the full penalty amount authorized under the Act, currently authorized at \$10,000 per violation per day.
 - a. Prior to rescinding the Agreement, the Director shall provide written notice to ECCR of its default and will provide fourteen (14) calendar days to cure the default. If payment is not received within the fourteen (14) calendar day default period, the Director is authorized, without providing written notice to ECCR, to begin a civil action for all appropriate relief provided under the Act, including seeking the full penalty amount authorized under the Act.
18. ECCR agrees to the terms, conditions, and requirements of this Agreement. By signing this Agreement, ECCR understands, acknowledges, and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code § 19-1-301; (2) the right to contest the finding(s) in the NOV/CO; and (3) the opportunity for judicial review.
19. The Parties mutually agree that this Agreement is entered in good faith and is an appropriate means to resolve the matters specified herein.
20. The violations described herein will constitute part of ECCR compliance history where such history is relevant, including any subsequent violations. ECCR understands and agrees that this Agreement is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
21. This Agreement, when final, is binding upon ECCR and any corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this Agreement.

[SIGNATURE PAGE FOLLOWS]

FOR THE UTAH DIVISION OF WATER QUALITY

By: _____
John K. Mackey, P.E.
Director, Utah Division of Water Quality

Date: _____ (Effective Date)

EMERY COUNTY COAL RESOURCES, INC

By: 
James R. Turner, Jr.

Title: President

Date: 2/6/2024