



KENTUCKY ENERGY &
ENVIRONMENT CABINET

Individual §401 Water Quality Certification Request Form

More information regarding federal regulation 40 CFR 121 and the nine components listed in this form may be viewed on the [U.S. EPA Overview of §401 Certification](#) webpage.

This form may be used to request §401 Water Quality Certification and submitted to the Division of Mine Permits and to the licensing or permitting Federal agency. For the U.S. Army Corps of Engineers contact information, please review the [District map](#).

Contact Thomas Barbour at Thomas.Barbour@ky.gov, or 502-782-6549 with any questions.

Component (1) - Identify the project proponent(s) (applicant) and a point of contact

Applicant Name: **B&W Resources, LLC**

Phone No.: **606-599-8227**

E-mail Address: **woody@bwcoal.com**

An [Application for Permit to Construct Across or Along A Stream and/or Water Quality Certification \(Form DOW 7116, July 2008\)](#) is required for Individual Water Quality Certification. Date submitted: []

Component (2) - Identify the proposed project

Brief Description of the activity: **Surface coal mining utilizing area and contour mining techniques. Mining activities will necessitate the dredge and or fill of Waters of the U.S. In total the project will impact 8,878 linear feet.**

Component (3) - Identify the applicable federal license or permit

- ☐ Nationwide Permit (NWP) Permit Number: [] ☒ §404 Individual Permit ☐ §10 Individual Permit
- ☐ §10/ §404 Letter of Permission (LOP) ☐ §10/ §404 Regional General Permit Number: []
- ☐ Federal Energy Regulatory Commission ☐ TVA 26a Permit

Component (4) – Identify the location and nature of any potential discharge that may result from the proposed project and the location of receiving waters

4a. Linear feet of stream impacts: **8,453** Acreage of wetland impacts:

4b. Surface Water Body Name: **Big Branch of Tug Fork of Big Sandy River**

4c. Latitude & Longitude (decimal degrees):
37.53600, -82.08470

Component (5) – Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge

- 5a. Brief description of best management practices (BMPs) to be implemented to minimize the impacts to surface waters, including sediment and erosion control measures.: [All construction and grading activities that could potentially result in disturbance and exposure of soil would be done under suitable field conditions. Mining operations would be attempted to be performed during low or no flow periods; during excessively wet or dry periods, irreparable damage to soil to soil porosity and structure may occur, so the applicant would attempt to avoid these conditions. In extreme circumstance, such as record wet (or dry) seasons, it may be necessary to postpone construction until later in the year or the following year when field conditions are again suitable.
- Well-trained personnel, knowledgeable in the operation of heavy equipment in ecologically sensitive areas, would be onsite during all phases of construction, regarding the disposal of overburden material to ensure that reclamation goals are met with a minimum level of disturbance. Following construction/grading, soil conditioning may be necessary to

reduce compaction, remove weed species, and prepare a good seed bed. Topsoil, subsoil, parent material, and coarse woody debris (CWD) may be stock piled during mining operations for later use; providing that it is stored in a manner that will not create excessive runoff and erosion. Surface roughening (with a disk or similar applicable equipment) of areas that will be seeded may be performed as needed to ensure good seed-to-soil contact. Surface roughening would be done after all construction operations are complete. Constructed reclaimed areas would be re-vegetated as soon as possible based on seasonal weather conditions and completion of all disturbances in the area. Additional proposed BMP's to potentially be used are listed below in detail:

1. Temporary sediment control structures (silt fence, straw bales, rock checks, dikes, and/or channel barriers) would be used, as necessary, to prevent the transport of sediment downstream.
2. Natural stream channel flows above the mining site could be diverted prior to entering the project area, and reintroduced downstream of the pond outlet in order to prevent flow through the project and regrade site and to maintain the continuity of flow in the watershed. Diversions would be constructed around the regrade so that surface runoff from upland areas would be intercepted and not infiltrate the regrade. Diversion channels would be constructed to pass flows as dictated by the SMCRA (Surface Mining Control and Reclamation Act of 1977) regulations.
3. Existing vegetation would be retained to the maximum extent practicable.
Topsoil or topsoil substitute, as approved by the KDNR in the SMCRA permit for this project would be stockpiled and managed so that re-graded areas can be covered with a layer of topsoil or topsoil substitute and revegetated as quickly as practicable. The regrade areas would be vegetated during construction after being brought to final grade to reduce erosion of the material.
4. Sediment and erosion control measures would be inspected by a qualified individual, appointed by the applicant's management, at least twice per month and after every rainfall exceeding 0.5 inches in a 24 hour period (as measured at the project site) to ensure the structure and measures are functioning properly and to identify any required maintenance.
5. Chemical treatment of the ponds would be used, if necessary and practicable to facilitate compliance with the project's Kentucky Pollutant Discharge Elimination System (KPDES) permit.]

Component (6) - Include a list of all other federal, interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received

Authorization/ Permit Name	Issuing Agency	Status (approved, denied, application submitted)
Stream Construction Permit	DOW	Pending
Section 404 Individual	USACE	Pending
SMCRA Permit No. 898-1036	KDNR	Approved
KPDES Permit No KYGE40841	KDOW	Approved

Component (7) - Include documentation that a pre-filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request.

[This can include the email containing the *Application for Permit to Construct Across or Along A Stream and/or Water Quality Certification (Form DOW 7116, July 2008)*]

☒ Attached

Components (8) and (9) – ‘The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief’; and ‘The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.’

Print Project Proponent Name (applicant): B & W Resources, LLC

Project Proponent Signature (applicant):	X	Date: []

Submit the completed form and attachments through email to Thomas.Barbour@ky.gov.

B&W RESOURCES, INC.

TO

WOODSON ASHER


APPOINTMENT OF AUTHORIZED AGENT

KNOW ALL MEN BY THESE PRESENTS, that B&W Resources, Inc., a corporation duly organized and existing under the laws of the State of Kentucky ("Company"). has made, constituted and appointed, and by these presents hereby makes, constitutes and appoints **Woodson Asher**, ("Appointee") of the City of London, Laurel County, in the State of Kentucky, to be its true and lawful Authorized Agent, who may act for it and in its name, and as and for its act and deed, (i) sign, acknowledge for record, execute and deliver, in the ordinary and regular course of the Company's business, applications, revisions, amendments, reports, information and data certifications, notices, performance bonds (including, but not limited to, reclamation bonds), stipulations and other documents and instruments with respect to the acquisition, maintenance and administration of coal mining permits, licenses, authorizations and certifications, environmental permits, licenses, authorizations and certifications, and other permits, licenses, authorizations and certifications, issued to, the United States Army Corps of Engineers, the United States Environmental Protection Agency, the Office of Surface Mining Reclamation and Enforcement of the United States Department of Labor, and the Commonwealth of Kentucky, Energy and Environment Cabinet (together with its various departments and divisions, including but not limited to the Department for Natural Resources and the Office of Mine Safety and Licensing); and (ii) to do and perform any and all other proper acts and things necessary to carry out the purposes relative thereto, including to sign, execute and deliver other similar instruments relating to or required in connection with the Company's lands, operations and permits, including to sign and file national pollutant discharge elimination system (NPDES) reports, discharge monitoring reports (DMR's), quarterly water reports, greenhouse gas (GHG) emissions reports, and other similar reports and data submissions required by state and federal regulatory agencies. This authority shall become effective on the 1st of January, 2020 (the "Effective Date"), and shall expire on the 31st day of December, 2022, unless sooner revoked and shall automatically terminate if Appointee at any time during the term hereof becomes no longer employed by the Company or one of its affiliates. As of the Effective Date, any prior authorized agent of power of attorney appointment by Company to Appointee hereupon shall be null, void and of no further force and effect with respect to

actions taken on or after the Effective Date, but authorized actions taken by Appointee before the Effective Date pursuant to any such prior authorized agent of power of attorney appointment shall not be affected.

IN TESTIMONY WHEREOF, B & W Resources, Inc., has caused these presents to be signed and acknowledged by its respective officer thereunto duly authorized, all as of the 1st day of January, 2020.

B & W RESOURCES, INC.

By 

RICHARD W. LIPEROTE, PRESIDENT

STATE OF KENTUCKY

CITY OF LONDON, to-wit:

I, GREG C. CALDWELL, a Notary Public in and for the State and County aforesaid, do hereby certify that Richard W. Liperote, President of **B & W Resources, Inc.**, whose name as such is signed to the foregoing writing bearing date the 1st day of January, 2020, has before me, in my said County, acknowledged the said writing.

Given under my hand and notarial seal this 17th day of Dec., 2020

My commission expires 7-27-2024



NOTARY PUBLIC