



August 29, 2025

Rockwell Mining, LLC
250 West Main Street, Suite 2000
Lexington, KY 40507

Jesse Parrish
Blackhawk Mining, LLC
250 West Main Street, Suite 2000
Lexington, KY 40507

By Certified Mail – Return Receipt Requested

**Re: 60-Day Notic Intent to File Citizens Suit Under the Clean Water Act and
Surface Mining Reclamation and Control Act for Unpermitted Discharges from
Kopperston No. 1 Mine in Wyoming County, West Virginia**

Dear Mr. Parrish,

Appalachian Voices, and the West Virginia Rivers Coalition (together “Citizen Groups”) in accordance with section 505(b)(1) of the Clean Water Act (“CWA”), 33 U.S.C. § 1365(b)(1) and 40 C.F.R. Part 135, hereby notify you that Rockwell Mining has violated and continues to violate the CWA by discharging pollutants from a point source without a permit in violations of CWA section 301, 33 U.S.C. § 1311. These illegal discharges are the result of Rockwell Mining, LLC’s (“Rockwell’s”) control and operation of the Kopperston No 1 mine, permitted under WV/SMCRA permit U004783. If within 60 days, Rockwell does not cease its illegal discharges or obtain a validly issued permit under the National Pollutant Discharge Elimination System (“NPDES”), the Citizen Groups intend to file suit.

In addition, violations of the CWA are also violations of the Surface Mining Control and Reclamation Act (“SMCRA”) and the West Virginia Surface Coal Mining and Reclamation Act (“WVSCMRA”). As a result, the Citizen Groups additionally intend to file suit under the citizen suit provision of SMCRA, 30 U.S.C § 1270 to address any SMCRA or WVSCMRA violations related to the illegal CWA discharges detailed in this notice.

Factual Background

On June 24, 2025 the Citizen Groups conducted water sampling on what appeared to be mine drainage adjacent to Kopperston Road and above what mine mapping shows is the Kopperston No. 1 Mine. This mine drainage was being discharged from a concrete, boxlike structure at the side of the road and flowing along the side of the road into Toney Fork of the Clear Fork of the Guyandotte. GPS was used to identify the latitude and longitude of the sampling location which was at Lat. 37.775944, Long. -81.540411. The drainage visibly showed

discoloration and staining of the streambed. Upon information and belief this drainage flows consistently from the concrete, boxlike structure at least during the spring and summer months.

Sampling results from the location were received on July 9, 2025. The results showed elevated levels of aluminum, iron, selenium and manganese as well as high levels of sulfates and a low pH. The results of sampling is shown below:

Parameter	Result
Aluminum	5.42 mg/l
Iron	2.78 mg/l
Selenium	2.0 mg/l*
Manganese	0.710
Sulfates	249 mg/l
pH	4.7

*The sulfates results were above the MDL but below the reporting limit and are therefore an estimate, but confirm the presence of selenium in the discharge

The concentration of aluminum and iron are well above the applicable West Virginia water quality standards for these parameters. Additionally, the pH is well below acceptable levels and is highly acidic. Finally, the presence and concentrations of these metals, and the high level of sulfates indicate that the sample being taken is consistent with mine drainage. Reconnaissance of the site and nearby accessible locations showed that there was no outfall marker or indication near the discharge. Discoloration and staining from the discharge was noticeable dozens of yards downstream.

Rockwell is in Violation of the Clean Water Act for Discharging from the Kopperston No. 1 Mine without a Permit

The CWA authorizes citizens to sue “any person . . . who is alleged to be in violation of . . . an effluent standard or limitation under this chapter.” 33 U.S.C. § 1365(a)(1). An “effluent standard or limitation under this chapter” is defined to include an unlawful act under 33 U.S.C. § 1311, which in turn prohibits the discharge of pollutants from a point source into waters of the United States without a valid permit. 33 U.S.C. § 1365(f)(1).

While Rockwell does hold a CWA permit for discharges from the Kopperston No. 1 Mine, none of the permitted outlets appear to be in the immediate vicinity of the site sampled. Additionally, none of the required signage for a NPDES outlet was present at the location where the discharge was occurring.

The term “point source” as defined by the CWA includes “any discernable, confined and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or wells or other floating craft from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14). The concrete box like structure from where the discharge is emanating qualifies as a point source under the act.

Because the pollution is coming from a point source and because Toney Fork, Clear Fork and the Guyandotte River are all “waters of the United States” Rockwell is in violation of the CWA as the result of its discharges. If Rockwell does not bring itself into compliance by ceasing these discharges or obtaining a valid permit within 60 days, the Citizen groups intend to file suit.

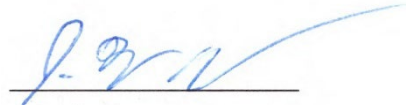
In addition, because of the concentrations of pollutants being discharged from the location Rockwell should be required to install treatment for at least aluminum, iron, and pH in its discharges. Any validly issued permit could not allow the discharge of pollutants above the applicable water quality standards, nor could it allow the discharge of water with a pH as low as that currently being discharged by Rockwell.

Violations of Rockwell’s CWA Obligations are also Violations of SMCRA and the WVSCMRA

Federal and state performance standards under SMCRA and the WVSCMRA mandate that all discharges from mining operations “be made in compliance with all applicable State and Federal water quality laws and regulations . . .” 30 C.F.R. §§ 816.42, 817.42; *accord*, 38 W.Va. C.S.R. § 2-14.5.b. Violations of the CWA are therefore also violations of SMCRA. Pursuant to 30 U.S.C. § 1270(a)(1), SMCRA authorizes citizens to commence civil actions against any person alleged to be in violation of rules, orders, or permits issued pursuant to SMCRA. West Virginia has a federally-approved mining program under SMCRA. Violations of federally-approved state programs are enforceable in federal court under SMCRA’s citizen suit provision. *Molinary v. Powell Mountain Coal Co.*, 125 F.3d 231, 237 (4th Cir. 1997). The Citizen Groups intend to file suit under SMCRA for any violations of the CWA referenced in prior paragraphs.

If Rockwell has taken any steps to eradicate the underlying cause of the violations described above, or if Rockwell believes that anything in this letter is inaccurate, please let us know. If Rockwell does not advise us of any remedial steps during the 60-day period, we will assume that no such steps have been taken and that violations are likely to continue. Additionally, we would be happy to meet with Rockwell or its representatives within the 60-day notice period to attempt to resolve these issues.

Sincerely,



J. Michael Becher
Appalachian Mountain Advocates
P.O. Box 11571
Charleston, WV 25339
(304) 382-4798
mbecher@appalmad.org

Counsel for:

Appalachian Voices
589 West King Street
Boone, NC 28607
(828) 262-1500

West Virginia Rivers Coalition
3501 MacCorkle Ave. SE # 129
Charleston, WV 25304
304-637-7201

cc (via certified mail):

Amy Van Blarcom-Lackey
EPA Region 3 Administrator
1650 Arch Street
Philadelphia, PA 19103

Administrator Lee Zeldin
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Mail Code 1101A
Washington, DC 20460

Secretary Harold Ward
West Virginia Department of Environmental Protection
601 57th Street S.E.
Charleston, WV 25304

Thomas Shope
Office of Surface Mining Reclamation and Enforcement
1849 C Street, NW
Washington, DC 20240

Thomas Shope
OSMRE Regional Director
3 Parkway Center
Pittsburgh, PA 15220

Secretary Doug Burgum
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Rockwell Mining, LLC
c/o CT Corporation System
5098 Washington St. W. Suite 407
Charleston, WV 25313