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August 29, 2025

Lexington Coal Company, LLC  
c/o Jeremy Hoops, Manager  
1051 Main Street Suite 2  
Milton, WV 25541

**By Certified Mail – Return Receipt Requested**

**Re: 60-Day Notice of Intent to File Citizen Suite under the Clean Water Act and Surface Mining Reclamation and Control Act for Violations at Lexington Coal's Violations at Mine No 5 and/or Other Facilities Permitted Under WV/NPDES Permit WV0056693**

Dear Mr. Hoops,

Appalachian Voices, and West Virginia Rivers Coalition (collectively “Citizen’s 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 Lexington Coal Company, LLC (“Lexington”) has violated and continued to violate the CWA by discharging pollutants from a point source in violation of effluent limitations in WV/NPDES permit issued pursuant to CWA section 402, 33 U.S.C. § 1342. A list of those permit violations is attached as Appendix A of this letter. If Lexington does not bring itself into compliance with those limits within the sixty-day notice period, the Citizen Groups intend to file suit.

Moreover, Lexington’s 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”). If Lexington does not bring itself into compliance with SMCRA and WVSCMRA by ceasing its discharge of pollutants above allowable limits, the Citizen groups 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**

Lexington Coal Company currently holds WV/NPDES Permit WV0056693 for discharges associated with SMCRA permits D006982, O010783, O017483, U058900, and U060500. These permits are related to an active deep mine, a haulroad, a preparation/cleaning plant, a refuse area, an underground disposal area, and stormwater. According to records from the WVDEP, Lexington has held the permit since 2018 when it received the permit via a transfer from the Big Bear Mining Company, LLC. A review of the compliance history from Permit WV0056693 shows a protracted history of permit violations over the last several years.

Information from the company's own discharge monitoring reports from the WVDEP show at least 186 violations, primarily of limits set on metals and pH dating back to October 2021. These violations stem from discharges from Outlets 018 and 020, which flow into Road Branch of Clear Fork in the Guyandotte River watershed. Both Road Branch and Clear Fork are listed as impaired by the WVDEP.

### **Clean Water Act Violations**

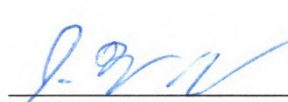
The CWA authorizes citizens to sue “any . . . person who is alleged to be in violation of . . . an effluent standards or limitation under this chapter.” 33 U.S.C. § 1365(a)(1). An “effluent standard or limitation under this chapter” is defined to include “a permit or condition thereof. *Id.* § 1365(f)(6). A person who violates a condition of a WV/NPDES permit is therefore in violation of the CWA and subject to a citizen enforcement action under the CWA. Based on Lexington's violations of WV/NPDES Permit WV0056693, as revealed through its discharge monitoring reports the Citizen Groups intend to bring a citizen action against you under the CWA seeking declaratory and injunctive relief as well as civil penalties.

### **Surface Mining Control and Reclamation Act Violations**

Federal and State performance standards under SMCRA and WVSCMRA mandate that discharges from mining operations “shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations . . . .” 30 C.F.R. §§ 816.42, 817.42; *accord* 38 W.Va. C.S.R. § 2-14.5.b. Accordingly, violations of the CWA are also violations of SMCRA and the WVSCMRA. Pursuant to 30 U.S.C. § 1270(a)(1), SMCRA authorizes citizens to commence civil actions against any person alleged to be in violations 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 Lexington has taken any steps to eradicate the underlying cause of violations described in this letter, or, if Lexington believes that anything in this letter is inaccurate, please let us know. If Lexington does not advise us of any remedial steps during the 60-day notice period, we will assume that no such action has been taken and violations are likely to continue. Additionally, we would be happy to meet with Lexington or its representatives to attempt to resolve these issues within the 60-day notice period

Sincerely,



J. Michael Becher  
Appalachian Mountain Advocates  
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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 57<sup>th</sup> Street S.E.  
Charleston, WV 25304

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

Lexington Coal Company, LLC  
c/o Walls and Associates, PLLC  
1025 N Main St Suite 2  
Milton, WV 2554

**APPENDIX  
EFFLUENT LIMIT VIOLATIONS  
(Violations in Bold)**

Outlet	Date	Parameter	Max Limit	Avg Limit	Reported Min	Reported Avg	Reported Max
018	May-25	Fe	2.89	1.67	0.56	<b>3.895</b>	<b>7.23</b>
018	Apr-25	Fe	2.89	1.67	<b>7.63</b>	<b>7.875</b>	<b>8.12</b>
018	Mar-25	Fe	2.89	1.67	<b>3.61</b>	<b>4.655</b>	<b>5.7</b>
018	Feb-25	Fe	2.89	1.67	<b>3.4</b>	<b>3.965</b>	<b>4.53</b>
018	Jan-25	Fe	2.89	1.67	<b>7.82</b>	<b>7.82</b>	<b>7.82</b>
018	Dec-24	Fe	2.89	1.67	<b>6.07</b>	<b>6.07</b>	<b>6.07</b>
018	Oct-24	Fe	2.89	1.67	<b>6.74</b>	<b>6.74</b>	<b>6.74</b>
018	Aug-24	Fe	2.89	1.67	2.37	<b>2.435</b>	2.5
018	Jul-24	Fe	2.89	1.67	<b>3.46</b>	<b>3.805</b>	<b>4.15</b>
018	Jun-24	Fe	2.89	1.67	<b>4.54</b>	<b>5.49</b>	<b>6.44</b>
018	May-24	Fe	2.89	1.67	<b>6.01</b>	<b>6.32</b>	<b>6.63</b>
018	Apr-24	Fe	2.89	1.67	<b>5.02</b>	<b>5.53</b>	<b>6.04</b>
018	Jan-24	Fe	2.89	1.67	<b>2.94</b>	<b>3.105</b>	<b>3.27</b>
018	Nov-23	Fe	2.89	1.67	<b>10.59</b>	<b>13.61</b>	<b>16.63</b>
018	Oct-23	Fe	2.89	1.67	<b>4.69</b>	<b>6.725</b>	<b>8.76</b>
018	Sep-23	Fe	2.89	1.67	<b>4.17</b>	<b>4.17</b>	<b>4.17</b>
018	Aug-23	Fe	2.89	1.67	<b>11.44</b>	<b>11.44</b>	<b>11.44</b>
018	May-23	Fe	2.89	1.67	<b>16.45</b>	<b>16.45</b>	<b>16.45</b>
018	Apr-23	Fe	2.89	1.67	0.15	<b>6.905</b>	<b>13.66</b>
018	Mar-23	Fe	2.89	1.67	0.15	<b>6.29</b>	<b>14.34</b>
018	Feb-23	Fe	2.89	1.67	2.23	<b>5.05</b>	<b>7.87</b>
018	Dec-22	Fe	2.89	1.67	2.23	<b>8.23</b>	<b>14.23</b>
018	Oct-22	Fe	2.89	1.67	<b>25.12</b>	<b>25.465</b>	<b>25.81</b>
018	Sep-22	Fe	2.89	1.67	0.14	<b>3.77</b>	<b>7.4</b>
018	Aug-22	Fe	2.89	1.67	0.46	<b>3.5</b>	<b>6.54</b>
018	Jul-22	Fe	2.89	1.67	7.88	<b>7.88</b>	<b>7.88</b>
018	Jun-22	Fe	2.89	1.67	1.83	<b>2.46</b>	<b>3.09</b>
018	Apr-22	Fe	2.89	1.67	<b>8.17</b>	<b>9.67</b>	<b>11.17</b>
018	Aug-21	Fe	2.89	1.67	< 0.1	<b>1.825</b>	<b>3.55</b>
018	Jul-21	Fe	2.89	1.67	< 0.1	<b>1.518</b>	<b>5.77</b>
018	Jun-21	Fe	2.89	1.67	0.17	<b>4.47</b>	<b>8.77</b>
018	Apr-21	Fe	2.89	1.67	0.24	<b>3.09</b>	<b>5.94</b>
018	May-25	pH	6	10	<b>3.45</b>	3.505	<b>3.56</b>
018	Apr-25	pH	6	10	<b>3.26</b>	3.375	<b>3.49</b>
018	Mar-25	pH	6	10	<b>4.28</b>	4.33	<b>4.38</b>
018	Feb-25	pH	6	10	<b>4.26</b>	5.89	7.52
018	Jan-25	pH	6	10	<b>5.2</b>	5.2	<b>5.2</b>

018	Dec-24	pH	6	10	<b>3.48</b>	3.48	<b>3.48</b>
018	Oct-24	pH	6	10	<b>3.42</b>	3.42	<b>3.42</b>
018	Aug-24	pH	6	10	<b>3.37</b>	3.395	<b>3.42</b>
018	Jul-24	pH	6	10	<b>3.26</b>	3.26	<b>3.26</b>
018	Jun-24	pH	6	10	<b>3.01</b>	3.025	<b>3.04</b>
018	May-24	pH	6	10	<b>3.15</b>	3.215	<b>3.28</b>
018	Nov-23	pH	6	10	<b>4.18</b>	4.3	<b>4.42</b>
018	Oct-23	pH	6	10	<b>4.1</b>	4.21	<b>4.32</b>
018	Sep-23	pH	6	10	<b>4.75</b>	4.75	<b>4.75</b>
018	Aug-23	pH	6	10	<b>4.23</b>	4.23	<b>4.23</b>
018	May-23	pH	6	10	<b>4.98</b>	4.98	<b>4.98</b>
018	Apr-23	pH	6	10	<b>5.32</b>	5.69	6.06
018	Feb-23	pH	6	10	<b>5.7</b>	6.85	8
018	Dec-22	pH	6	10	<b>4.71</b>	5.675	6.64
018	Oct-22	pH	6	10	<b>3.38</b>	6.155	8.93
018	Sep-22	pH	6	10	<b>4.47</b>	5.495	6.52
018	Aug-22	pH	6	10	<b>4.05</b>	5.315	6.58
018	Jul-22	pH	6	10	<b>3.54</b>	3.54	<b>3.54</b>
018	Apr-22	pH	6	10	<b>3.6</b>	5.675	7.75
018	Jul-21	pH	6	10	<b>3.53</b>	5.195	6.86
018	Jun-21	pH	6	10	<b>3.67</b>	5.375	7.08
018	Apr-21	pH	6	10	<b>3.43</b>	5.575	7.72
018	Mar-21	pH	6	10	<b>5.36</b>	6.26	7.16
018	Jul-20	pH	6	10	<b>4.36</b>	5.945	7.53
018	May-25	Al	2.12	1.21	1.374	<b>9.602</b>	<b>17.83</b>
018	Apr-25	Al	2.12	1.21	<b>19.77</b>	<b>20.035</b>	<b>20.3</b>
018	Mar-25	Al	2.12	1.21	<b>33.45</b>	<b>34.865</b>	<b>36.28</b>
018	Feb-25	Al	2.12	1.21	<b>25.92</b>	<b>26.645</b>	<b>27.37</b>
018	Jan-25	Al	2.12	1.21	<b>14.86</b>	<b>14.86</b>	<b>14.86</b>
018	Dec-24	Al	2.12	1.21	<b>1.67</b>	1.67	<b>1.67</b>
018	Nov-24	Al	2.12	1.21	<b>1.785</b>	<b>2.2</b>	<b>2.615</b>
018	Oct-24	Al	2.12	1.21	<b>13.07</b>	<b>13.07</b>	<b>13.07</b>
018	Aug-24	Al	2.12	1.21	<b>18.45</b>	<b>20.225</b>	<b>22</b>
018	Jul-24	Al	2.12	1.21	<b>18.52</b>	<b>20.69</b>	<b>22.85</b>
018	Jun-24	Al	2.12	1.21	<b>19.3</b>	<b>20.625</b>	<b>21.95</b>
018	May-24	Al	2.12	1.21	<b>19.58</b>	<b>19.855</b>	<b>20.13</b>
018	Apr-24	Al	2.12	1.21	<b>14.67</b>	<b>16.985</b>	<b>19.3</b>
018	Nov-23	Al	2.12	1.21	<b>15.36</b>	<b>15.48</b>	<b>15.6</b>
018	Oct-23	Al	2.12	1.21	<b>14.74</b>	<b>15.5</b>	<b>16.26</b>
018	Sep-23	Al	2.12	1.21	<b>12.86</b>	<b>12.86</b>	<b>12.86</b>
018	Aug-23	Al	2.12	1.21	<b>11.59</b>	<b>11.59</b>	<b>11.59</b>
018	May-23	Al	2.12	1.21	<b>17.86</b>	<b>17.86</b>	<b>17.86</b>
018	Apr-23	Al	2.12	1.21	0.198	<b>9.894</b>	<b>19.59</b>

018	Feb-23	Al	2.12	1.21	0.414	<b>8.357</b>	<b>16.3</b>
018	Dec-22	Al	2.12	1.21	0.61	<b>6.735</b>	<b>12.86</b>
018	Oct-22	Al	2.12	1.21	<b>22.72</b>	<b>23.07</b>	<b>23.42</b>
018	Sep-22	Al	2.12	1.21	0.168	<b>5.209</b>	<b>10.25</b>
018	Aug-22	Al	2.12	1.21	0.504	<b>5.059</b>	<b>9.614</b>
018	Jul-22	Al	2.12	1.21	<b>13.64</b>	<b>13.64</b>	<b>13.64</b>
018	Apr-22	Al	2.12	1.21	<b>15.54</b>	<b>16.66</b>	<b>17.78</b>
018	Mar-22	Al	2.12	1.21	0.203	<b>1.188</b>	<b>2.173</b>
018	Feb-22	Al	2.12	1.21	<b>1.946</b>	<b>2.127</b>	<b>2.308</b>
018	Jan-22	Al	2.12	1.21	<b>1.615</b>	1.65	<b>1.685</b>
018	Oct-21	Al	2.12	1.21	0.275	1.057	<b>2.139</b>
018	Aug-21	Al	2.12	1.21	< 0.1	<b>5.195</b>	<b>10.29</b>
018	Jul-21	Al	2.12	1.21	< 0.1	<b>4.586</b>	<b>17.86</b>
018	Jun-21	Al	2.12	1.21	0.201	<b>9.1855</b>	<b>18.17</b>
018	Apr-21	Al	2.12	1.21	0.412	<b>9.891</b>	<b>19.37</b>
018	Mar-21	Al	2.12	1.21	0.418	1.49	<b>4.196</b>
018	Jul-20	Al	2.12	1.21	0.218	<b>2.972</b>	<b>5.726</b>
018	May-25	Mn	4	2	0.6	2.895	<b>5.19</b>
018	Apr-25	Mn	4	2	<b>4.75</b>	4.845	<b>4.94</b>
018	Mar-25	Mn	4	2	<b>7.33</b>	<b>8.2</b>	<b>9.07</b>
018	Feb-25	Mn	4	2	3.98	<b>4.76</b>	<b>5.54</b>
018	Jan-25	Mn	4	2	<b>4.66</b>	<b>4.66</b>	<b>4.66</b>
018	Dec-24	Mn	4	2	<b>5.67</b>	<b>5.67</b>	<b>5.67</b>
018	Oct-24	Mn	4	2	<b>8.78</b>	<b>8.78</b>	<b>8.78</b>
018	Aug-24	Mn	4	2	<b>9.6</b>	<b>9.92</b>	<b>10.24</b>
018	Jul-24	Mn	4	2	<b>8.9</b>	<b>9.44</b>	<b>9.98</b>
018	Jun-24	Mn	4	2	<b>6.86</b>	<b>7.59</b>	<b>8.32</b>
018	May-24	Mn	4	2	<b>5.14</b>	<b>5.7</b>	<b>6.26</b>
018	Apr-24	Mn	4	2	3.87	<b>4.08</b>	<b>4.29</b>
018	Jan-24	Mn	4	2	<b>4.64</b>	<b>4.815</b>	<b>4.99</b>
018	Dec-23	Mn	4	2	2.04	<b>2.755</b>	3.47
018	Nov-23	Mn	4	2	<b>8.84</b>	<b>8.87</b>	<b>8.9</b>
018	Oct-23	Mn	4	2	<b>7.97</b>	<b>8.275</b>	<b>8.58</b>
018	Sep-23	Mn	4	2	<b>6.94</b>	<b>6.94</b>	<b>6.94</b>
018	Aug-23	Mn	4	2	<b>6.19</b>	<b>6.19</b>	<b>6.19</b>
018	May-23	Mn	4	2	<b>5.95</b>	<b>5.95</b>	<b>5.95</b>
018	Apr-23	Mn	4	2	2.82	<b>4.24</b>	<b>5.66</b>
018	Mar-23	Mn	4	2	1.19	<b>2.83</b>	<b>4.84</b>
018	Feb-23	Mn	4	2	2.62	<b>2.93</b>	3.24
018	Jan-23	Mn	4	2	1.39	<b>2.24</b>	3.09
018	Dec-22	Mn	4	2	4.23	<b>5.22</b>	<b>6.21</b>
018	Oct-22	Mn	4	2	<b>8.36</b>	<b>8.73</b>	<b>9.1</b>
018	Sep-22	Mn	4	2	0.61	<b>3.045</b>	<b>5.48</b>

018	Aug-22	Mn	4	2	0.504	<b>5.059</b>	<b>9.614</b>
018	Jul-22	Mn	4	2	5.44	<b>5.44</b>	<b>5.44</b>
018	Jun-22	Mn	4	2	<b>4.8</b>	<b>5.095</b>	<b>5.39</b>
018	Apr-22	Mn	4	2	<b>5.07</b>	<b>5.275</b>	<b>5.48</b>
018	Mar-22	Mn	4	2	0.74	<b>2.505</b>	<b>4.27</b>
018	Aug-21	Mn	4	2	1.61	<b>3.78</b>	<b>5.95</b>
018	Jul-21	Mn	4	2	1.33	<b>4.28</b>	<b>7.23</b>
018	Jun-21	Mn	3.47	2	2.68	<b>4.775</b>	<b>6.87</b>
018	May-21	Mn	3.47	2	0.41	<b>1.272</b>	<b>4.77</b>
018	Apr-21	Mn	3.47	2	0.67	<b>3.8</b>	<b>3.92</b>
018	Feb-21	Mn	3.47	2	< 0.1	1.88	<b>3.8</b>
018	Oct-20	Mn	3.47	2	< 0.1	1.862	<b>6.98</b>
018	Jul-22	Mn	3.47	2	1.55	<b>2.685</b>	<b>3.82</b>
020	May-25	Fe	2.89	1.67	0.21	<b>4.705</b>	<b>9.2</b>
020	May-25	Al	2.12	1.21	0.604	<b>9.182</b>	<b>17.76</b>
020	Mar-25	Al	2.12	1.21	1.282	<b>1.584</b>	<b>1.886</b>
020	Feb-25	Al	2.12	1.21	<b>2.412</b>	<b>2.412</b>	<b>2.412</b>
020	Jan-25	Al	2.12	1.21	2.081	<b>2.081</b>	2.081
020	Nov-24	Al	2.12	1.21	1.785	<b>2.2</b>	<b>2.615</b>
020	Sep-24	Al	2.12	1.21	<b>3.776</b>	<b>4.743</b>	<b>5.71</b>
020	Aug-24	Al	2.12	1.21	<b>3.128</b>	<b>8.944</b>	<b>14.76</b>
020	Jul-24	Al	2.12	1.21	<b>1.952</b>	<b>3.152</b>	<b>4.352</b>
020	Jun-24	Al	2.12	1.21	<b>2.127</b>	<b>2.977</b>	<b>3.827</b>
020	May-24	Al	2.12	1.21	1.912	<b>2.872</b>	<b>3.832</b>
020	Apr-24	Al	2.12	1.21	<b>4.896</b>	<b>5.069</b>	<b>5.242</b>
020	Jan-24	Al	2.12	1.21	1.555	<b>1.6255</b>	1.696
020	Oct-23	Al	2.12	1.21	0.859	<b>1.3905</b>	1.922
020	Sep-23	Al	2.12	1.21	1.487	<b>1.487</b>	1.487
020	May-23	Al	2.12	1.21	2.083	<b>2.083</b>	2.083
020	Apr-23	Al	2.12	1.21	<b>2.349</b>	<b>2.55</b>	<b>2.751</b>
020	Mar-23	Al	2.12	1.21	<b>3.499</b>	<b>3.5535</b>	<b>3.608</b>
020	Feb-23	Al	2.12	1.21	<b>2.221</b>	<b>2.8605</b>	<b>3.5</b>
020	Oct-22	Al	2.12	1.21	1.696	<b>2.02</b>	<b>2.344</b>
020	Sep-22	Al	2.12	1.21	1.247	<b>1.7915</b>	<b>2.336</b>
020	Aug-22	Al	2.12	1.21	1.458	<b>2.247</b>	<b>3.036</b>
020	Jul-22	Al	2.12	1.21	1.256	<b>1.256</b>	1.256
020	Apr-22	Al	2.12	1.21	0.981	<b>1.29</b>	1.599
020	Mar-22	Al	2.12	1.21	1.134	<b>1.3195</b>	1.505
020	Feb-22	Al	2.12	1.21	1.957	<b>2.076</b>	<b>2.195</b>
020	Jan-22	Al	2.12	1.21	1.505	<b>1.538</b>	1.571
020	Aug-21	Al	2.12	1.21	0.591	<b>2.624</b>	<b>4.657</b>
020	Jul-21	Al	2.12	1.21	< 0.1	<b>1.92</b>	<b>4.364</b>
020	May-25	Mn	4	2	0.41	2.745	<b>5.08</b>

020	Mar-25	pH	6	10	<b>5.66</b>	5.67	<b>5.68</b>
020	Feb-25	pH	6	10	<b>5.76</b>	5.76	<b>5.76</b>
020	Dec-24	pH	6	10	<b>4.16</b>	4.2	<b>4.24</b>
020	Nov-24	pH	6	10	4.16	4.16	<b>4.16</b>
020	Oct-24	pH	6	10	<b>4.08</b>	4.08	<b>4.08</b>
020	Sep-24	pH	6	10	<b>4.08</b>	4.085	<b>4.09</b>
020	Aug-24	pH	6	10	<b>4.08</b>	4.08	<b>4.08</b>
020	Jul-24	pH	6	10	<b>4.09</b>	4.09	<b>4.09</b>
020	Jun-24	pH	6	10	<b>4.07</b>	4.24	<b>4.41</b>
020	May-24	pH	6	10	<b>4.14</b>	4.275	<b>4.41</b>
020	Aug-23	pH	6	10	<b>5.02</b>	5.02	<b>5.02</b>
020	May-23	pH	6	10	<b>5.35</b>	5.35	<b>5.35</b>
020	Feb-23	pH	6	10	<b>5.44</b>	6.745	8.05
020	Oct-22	pH	6	10	<b>5.07</b>	5.13	<b>5.19</b>
020	Sep-22	pH	6	10	<b>4.8</b>	5.75	6.7
020	Aug-22	pH	6	10	<b>5.01</b>	5.52	6.03
020	Jul-21	pH	6	10	<b>5.97</b>	6.32	6.67
020	Feb-23	TSS	70	35	10	<b>45</b>	<b>80</b>