

April 7, 2006

Mr. Glenn Rider, Chief
Division of Watershed Protection
Bureau of Watershed Management
Pennsylvania Department of Environmental Protection
11th Floor, Rachel Carson State Office Building
P.O. Box 8467
Harrisburg, PA 17105-8467

**Re: Total Maximum Daily Load (TMDL) for Mahanoy Creek Watershed
N & L Coal Company Point Source Discharge
NPDES Permit No. PA05956080
West Mahanoy Township, Schuylkill County**

Dear Mr. Rider:

This week's Pennsylvania Bulletin contains a notice of N & L Coal Company's application for renewal of Surface Mining Permit No. 54753035R4 and NPDES Permit No. PA05956080. 36 Pa. Bull. 1673 (April 8, 2006). The notice lists the receiving stream as Mahanoy Creek. Although page 6 of the Department's October 1, 2002 draft Mahanoy Creek Watershed TMDL lists this mine (by the Surface Mining Permit number) as one of the active mining operations in the watershed, neither the draft TMDL nor the Environmental Protection Agency's 2005 draft Decision Rationale identifies the mine's NPDES-permitted discharge as a point source, and neither document contains a wasteload allocation (WLA) for that discharge. If the final TMDL does not contain a WLA for the N & L discharge, then in order to satisfy the requirement of 40 C.F.R. § 122.44(d)(1)(vii)(B) that NPDES permits be consistent with the assumptions and requirements of WLAs, N & L's NPDES permit would have to contain effluent limits of zero pounds per day (non-detect) for iron, manganese, and aluminum.

Sincerely,

Kurt J. Weist
Senior Attorney
Harrisburg Office

cc: Keith A. Laslow, P.G., Chief, Permits Section, Pottsville DMO
Michelle M. Moses, Bureau of Regulatory Counsel