UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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MEMORANDUM

To: Regional Administrators
Regions I – X

OFFICE OF WATER

FROM: Benjamin H. Grumbles
Assistant Administrator for Water

SUBJECT: Watershed Scale Assessments under the Surface Mining Control and Reclamation Act

The Department of the Interior, Office of Surface Mining (OSM), will soon publish revised regulations addressing the review of proposed surface coal mining activities. EPA has worked hard to ensure this revised rule improves environmental requirements associated with the review of proposed coal mining projects, particularly where such projects may impact streams, rivers, wetlands and other waters of the United States.

EPA is particularly interested in provisions in the OSM rule clarifying the requirements for evaluating all direct, indirect, and cumulative impacts to waters and watersheds from proposed surface mining activities. This analysis is especially important in watersheds affected by previous mining activities or where future mining projects can be reasonably anticipated. As stated in the preamble to the OSM rule, EPA has recommended that mining operators should conduct a watershed scale analysis of potential past, present, and reasonably foreseeable future impacts in their evaluation of project alternatives as a part of their application for a permit under the Surface Mining Control and Reclamation Act:

"EPA encouraged both permit applicants and SMCRA regulatory authorities to use a watershed approach in determining which alternative would have the least overall adverse impact on fish, wildlife, and related environmental values:

> *A watershed approach expands the informational and analytic basis of site selection decisions to ensure impacts are considered on a watershed scale rather than only project by project. The idea being locational factors (e.g., hydrology, surrounding land use) are important to evaluating the indirect and cumulative impacts of the project. Watershed planning efforts can identify and prioritize where preservation of existing aquatic resources are important for maintaining or improving the quality (and functioning) of downstream resources. The objective of this evaluation is to maintain and improve the quantity and quality of the watershed's aquatic resources and to ensure water quality standards (numeric and*

narrative criteria, anti-degradation, and designated uses) are met in downstream waters.

Permit applicants should work with federal and state regulatory authorities to identify appropriate and available information, such as existing watershed plans, or in the absence of such plans, existing information on current watershed conditions and needs, past and current mining (and other development) trends, cumulative impacts of past, present, and reasonable foreseeable future mining activities, and chronic environmental problems (e.g., poor water quality, CWA 303(d)-listed streams, etc.) in the watershed. The regulatory authorities can also provide information on the appropriate watershed scale to consider. The level of data and analysis for implementing a watershed approach should be commensurate with the scale of the project, to the extent appropriate and reasonable.

We agree that the analysis of potential alternatives required under paragraph (d)(1)(ii) should appropriately consider the overall condition of the aquatic resources in the watershed, including any impacts from previous mining activities."

I encourage each Region to coordinate with SMCRA permitting authorities, Corps of Engineers Districts, and coal mining operators within your Region to ensure that watershed plans or similar watershed scale information are being developed as part of the SMCRA review of project impacts and in the consideration of project alternatives that would result in the least overall adverse effects to fish, wildlife, and related environmental values. Watershed scale analyses are the most effective and comprehensive approach for assessing project impacts and for evaluating project alternatives under SMCRA, the National Environmental Policy Act, and the Clean Water Act. Watershed plans and similar information developed as part of the SMCRA permit process improves the effectiveness of the environmental review conducted under each of these statutes and ultimately in the agencies' ability to identify and approve coal mining projects with the least adverse environmental impacts.

I encourage you to coordinate immediately with your relevant State and Federal permitting partners and coal mine operators to ensure development of watershed plans and similar information become routine components of applications for surface coal mining projects under SMCRA and the CWA. These and other improvements to the evaluation of proposed surface coal mines are increasingly important as we work to reduce the adverse effects of such projects on the Nation's rivers, streams, wetlands and watersheds. Please contact me if you have any questions regarding this issue or your staff may call my Chief of Staff, Greg Peck, at 202-564-5778.

cc: Regional Wetlands Program Division Directors
Greg Peck
Craig Hooks
Dave Evans