PART II - B. Compliance Information

§2307. Compliance Information

A. Each application shall contain:

1. a statement of whether the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant has had a federal or state mining permit suspended or revoked in the last five years; or forfeited a mining bond or similar security deposited in lieu of bond;

2. if any such suspension, revocation or forfeiture has occurred, a statement of the facts involved, including:

a. identification number and date of issuance of the permit or date and amount of bond or similar security;

b. identification of the authority that suspended or revoked a permit or forfeited a bond and the stated reasons for that action;

c. the current status of the permit, bond or similar security involved;

d. the date, location and type of any administrative or judicial proceedings initiated concerning the suspension, revocation or forfeiture; and

e. the current status of these proceedings;

3. for any violation of a provision of the Act, or of any law, rule or regulation of the United States, or of any state law, rule or regulation enacted pursuant to federal law, rule or regulation pertaining to air or water environmental protection incurred in connection with any surface coal mining operation, a list of all violation notices received by the applicant during the three year period preceding the application date, and a list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant. For each violation notice or cessation order reported, the lists shall include the following information, as applicable:

a. any identifying numbers for the operation, including the federal or state permit number and MSHA number, the dates of issuances of the violation notice and MSHA number, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department or agency;

b. a brief description of the particular violation alleged in the notice;

c. the date, location and type of any administrative or judicial proceedings initiated concerning the violation including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the violations;

d. the current status of the proceedings and of the violation notice; and

e. the actions, if any, taken by the applicant to abate the violation;

4. after an applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall, as applicable, update, correct or indicate that no change has occurred in the information previously submitted under this Section.

RESPONSE: Neither Five Forks Mining, LLC nor any subsidiary, affiliate, or persons controlled by or under common control with the Five Forks Mine has had any federal or state mining permits suspended or revoked within the past three years, or any mining bond or similar securities forfeited, nor has Demery Resources Company, LLC, the operator. Five Forks Mining, LLC has had one notice of violation (NOV 19-01-01) within the past three years. Demery Resources, L.L.C., the operator has had one notice of violation (NOV 19-01-01) within the past three years. Notice of violation 19-01-01 was issued on October 30, 2019, for failure to construct and maintain appropriate sediment control measures. Abatement actions in response to NOV 19-01-01 included construction of silt fence to reduce sediment flow, and the addition of stormwater control BMP's along the permit boundary to prevent offsite impacts. The LOC terminated NOV 19-01-01 on January 14, 2020. The record of violation notices for owners and controllers of the operator, Demery Resources Company, L.L.C., and its affiliates or persons controlled by or under common control with Demery Resources, L.L.C., a wholly owned subsidiary of The North American Coal Corporation (NACC), are submitted directly to the OSM as applicable. The OSM enters this information on behalf of the States in which NACC operates.