

## **PUBLIC NOTICE**

The West Virginia Department of Environmental Protection (WVDEP) has proposed a settlement of an Administrative Penalty Order for Tiger Diversified, LLC which resolves violation(s) of the West Virginia Water Pollution Control Act. In accordance with the Draft Order, Tiger Diversified, LLC has been assessed administrative penalties and must comply with the Act. Final settlement is subject to comments received during the thirty (30) day period ending May 15, 2026. Comments regarding this Administrative Penalty Order may be submitted to: Jamie Hopen, NPDES Enforcement Program Manager; West Virginia Department of Environmental Protection, Division of Mining and Reclamation, Inspection & Enforcement; 601 57<sup>th</sup> Street SE; Charleston, WV 25304; (304) 926-0499. Comments may also be submitted electronically to: [DEP.Comments@wv.gov](mailto:DEP.Comments@wv.gov). The proposed settlement may be viewed at the following address: <http://www.dep.wv.gov/pio/Pages/Settlements,Ordersouttopublicnotice.aspx>.



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west virginia department of environmental protection

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Division of Mining and Reclamation  
601 57<sup>th</sup> Street  
Charleston, WV 25304  
Phone: 304-926-0440/Fax: 304-926-0456

Harold Ward, Cabinet Secretary  
dep.wv.gov

**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Tiger Diversified, LLC  
P.O. Box 2654  
24 Landaplenty Rd.  
Buckhannon, WV 26201

DATE: December 18, 2025

ORDER NO.: M-24-474

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Mining and Reclamation (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Tiger Diversified, LLC (hereinafter "Tiger").

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. Tiger holds West Virginia National Pollution Discharge Permits ("NPDES") issued by the West Virginia Department of Environmental Protection ("WVDEP") for its mining and mining-related operations in West Virginia. Among those WVDEP NPDES Permits WV1029487 ("Permit").
2. The WVDEP NPDES Permits are issued pursuant to the WVDEP's authority under the West Virginia Water Pollution Control Act pursuant to authority delegated to the WVDEP by the United States Environmental Protection Agency under the Federal Clean Water Act for the issuance of WVDEP NPDES Permits.
3. Tiger has failed to submit required monthly Discharge Monitoring Reports ("DMRs") information on its effluent discharge and other information to the WVDEP, pursuant to the terms and conditions of the WVDEP NPDES Permits. This Failure to Submit has occurred through not electronically filing the DMRs as prescribed by the Division of

Promoting a healthy environment.

Mining and Reclamation (“the Division”), or through the submission of paper copies of DMRs.

4. The Division has developed and maintains a database which compiles the information submitted in DMRs by holders of WVDEP NPDES Permits issued for mining and mining-related operations, including the information submitted by Tiger for the Permits (“the Database”). The Database has been used by the WVDEP to track compliance with WVDEP NPDES Permits for coal mining activities.
5. The WVDEP has evaluated agency records beginning with July 2021 through September 2025 regarding Tiger’s Permits, DMRs, and other related information, including information submitted by Tiger at the request of WVDEP, and has completed an evaluation of Tiger’s DMR compliance.
6. Based on its evaluation, the WVDEP has documented the failure to report Monthly DMR information required by the WVDEP NPDES Permits. The results of this investigation are included in Attachment 2 which lists the WVDEP NPDES Permits that have violations.

### **ORDER FOR COMPLIANCE**

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code it is hereby agreed between the parties, and ORDERED by the Director:

1. Tiger shall immediately take all measures to initiate compliance with all terms and conditions of the above-mentioned Permit, Outlets, and Parameters.
2. Tiger shall comply with the Compliance Schedule contained in Attachment 1.
3. Because of Tiger’s WVDEP NPDES violations of the Permit, Tiger shall be assessed a Civil Administrative Penalty of **\$52,060 (fifty-two thousand and sixty dollars)** to be paid to the Department of Environmental Protection. The details of the Payment Agreement are contained in Attachment 3. The penalty amount will be deposited in the Stream Restoration Fund. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or Federal Law.
4. **All payments in the amount of \$52,060 (fifty-two thousand and sixty dollars) shall be mailed to:**

**Jamie Hopen – NPDES Enforcement Program Manager  
Division of Mining and Reclamation  
WV-DEP  
601 57<sup>th</sup> Street SE  
Charleston, WV 25304**

5. The Order for Compliance of this Order satisfies any claim WVDEP has or may have for penalties under the West Virginia Water Pollution Control Act for violations of the effluent limits for outlets which occurred July 2021 through September 2025 in relation to the specified Permits.

## 6. Stipulated Penalties

- a. Beginning with the effective date of this Order, Tiger shall be liable for stipulated penalties for violations of items 2 through 4 of the Order for Compliance of this Order. These stipulated penalties shall be effective until termination of this Order. These stipulated penalties accrue as follows:
  - i. The 31<sup>st</sup> day and all additional days of failing to comply with all terms and conditions of this Order shall result in payment of a stipulated penalty of \$3,000 per day per violation.
- b. For the period beginning October 1, 2025, through the termination date of this Order, Tiger shall be liable for stipulated penalties for non-compliances for Permit, Outlets and Parameters specified above in the following amount:
  - i. \$10,000 for each month for each of the Permits for which Tiger fails to submit a required discharge monitoring report for one or more outlets with limits.

### **OTHER PROVISIONS**

1. Tiger hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Tiger agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Tiger does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Tiger other than proceedings, Administrative or Civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Tiger shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Tiger becomes aware of such a delay, notification shall be provided to the Assistant Deputy Director and shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Tiger intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Tiger (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be

considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Tiger of the obligation to comply with any applicable law, Permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Tiger to additional penalties and injunctive relief in accordance with the applicable law.
5. This Order shall terminate upon the verification of WVDEP that Tiger has met all requirements with the Order and is in full compliance.
6. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
7. This Order is binding on Tiger, its successors and assigns.
8. The effective date of this Order shall be the date the Order is executed by the Director.

*JSR* Managing Member 4-2-2026  
Company Representative, Representative Title Date  
Tiger Diversified, LLC

*Josh Ringer*  
Company Representative, Printed

Public Notice begin date: \_\_\_\_\_

Public Notice end date: \_\_\_\_\_

\_\_\_\_\_  
Jonathan Rorrer, Director Date  
Department of Environmental Protection  
Division of Mining and Reclamation

**Attachment 1**

The Permittee shall achieve compliance with the requirements of the Order in accordance with the following Compliance Schedule:

a. Submit Payment of Civil Administrative Base Penalty	Pursuant to Sections 3 and 4 of the 'Order for Compliance' of this Order
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### Failures To Submit - Tiger Diversified LLC

Permit	Outlet	Quarter
WV1029487	ALL	3Q23
WV1029487	ALL	4Q23
WV1029487	ALL	1Q24
WV1029487	ALL	2Q24
	<b>Total:</b>	<b>4</b>

ATTACHMENT 3

# **Payment Agreement**

## **Tiger Diversified, LLC**

### I. Introduction

This Payment Agreement is made between the West Virginia Department of Environmental Protection (hereafter "DEP") and Tiger Diversified, LLC (hereafter "Tiger"). The purpose of this Agreement is to resolve outstanding civil penalties incurred from violations issued to Tiger pursuant West Virginia Code, Chapter 22, Article 11, Section 1 et seq.

### II. Background

Tiger incurred civil penalties based on enforcement action M-24-474. Tiger requested to enter into a payment agreement. Tiger's civil penalty assessment is determined to be \$52,060.

### III. Payment Terms

A. This Agreement shall become effective upon the date of the WVDEP Director's signature. Tiger agrees to pay \$5,206 as a down payment for all outstanding violations 30 days after receiving the demand for payment letter from the DEP. Then at the end of each subsequent month, Tiger agrees to pay \$2,756 per month for sixteen (16) consecutive months and one (1) final payment of \$2,758. Said payments shall be paid by Cashier's Check or other payment form acceptable to DEP and are due every month until penalty is paid in full.

B. This Agreement is executed without any admission of fact or law as to the merits of any positions either taken or assumed by the parties hereto. This Agreement shall not be admissible in any administrative or judicial proceeding other than an action for enforcement of the Agreement.

C. Failure to meet the payment schedule contained herein will result in penalties being declared delinquent and Tiger may be subject to additional and escalating enforcement action.

## Base Penalty Calculation

(pursuant to 47CSR1-6.1)

**Responsible Party:**

Tiger Diversified

**WVNPDES No.:**

WV1029487

**Treatment System Design Maximum Flow:** N/A MGD

**Treatment System Actual Average Flow:** N/A MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#												
			No T	No T	No T	T	T	T	T AI	T AI	T AI	TI	TI	TI	
a)	Amount of Pollutant Released	1 to 3	1	1	2	1	1	2	1	1	2	1	1	2	
b)	Toxicity of Pollutant	0 to 3	1	1	1	1	1	1	3	3	3	1	1	1	
c)	Sensitivity of the Environment	0 to 3	1	1	1	3	3	3	3	3	3	2	2	2	
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1	
<b>Average Potential for Harm Factor</b>			1	1	1.2	1.4	1.4	1.6	1.8	1.8	2	1.2	1.2	1.4	No
2)	<b>Extent of Deviation Factor</b>	<b>Factor Range</b>													
	Degree of Non-Compliance	1 to 3	1	2	3	1	2	3	1	2	3	1	2	3	

**Potential for Harm Factors:**

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

**Examples/Guidance:**

**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

**Minor** = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

**Moderate** = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

**Major** = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.



		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
No T	Minor	Minor	\$1,000		\$0
No T	Minor	Moderate	\$1,500		\$0
No T	Moderate	Major	\$4,200		\$0
T	Moderate	Minor	\$2,400		\$0
T	Moderate	Moderate	\$3,400		\$0
T	Moderate	Major	\$4,600		\$0
T AI	Moderate	Minor	\$2,800		\$0
T AI	Moderate	Moderate	\$3,800		\$0
T AI	Moderate	Major	\$5,000		\$0
T I	Moderate	Minor	\$2,200		\$0
T I	Moderate	Moderate	\$3,200		\$0
T I	Moderate	Major	\$4,400		\$0
0	FALSE	FALSE	FALSE		\$0
TIAL	Moderate	Minor	\$2,600		\$0
TIAL	Moderate	Moderate	\$3,600		\$0
TIAL	Moderate	Major	\$4,800		\$0
0	FALSE	FALSE	FALSE	1	\$0
FTS	Major	Major	\$10,000	4	\$40,000
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
<b>Total Base Penalty</b>					<b>\$40,000</b>

## Penalty Adjustment Factors

(pursuant to 47CSR1-7.2)

### Penalty Adjustment Factor

7.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

7.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

7.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

7.2.b.7 - Public Interest (increase to be determined)

7.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

7.2.b.9 - Staff investigative costs (increase to be determined)

7.2.b.10 - Other factors

#### **Size of Violator: 0 - 50% decrease**

**NOTE:** This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

**Additional Other factors to be determined for increases or decreases on a case-by-case basis.**

Public Notice Costs (cost for newspaper advertisement)

7.2.b.2 - Good Faith - 10% decrease to 10% increase

7.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

7.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

## Base Penalty Adjustments

(pursuant to 47CSR1-7.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
7.2.b.1 - Willfulness and/or negligence -	10		\$4,000
7.2.b.4 - Compliance/noncompliance history -	10		\$4,000
7.2.b.6 - Economic benefits - (flat monetary increase)	\$4,000		\$4,000
7.2.b.7 - Public Interest - (flat monetary increase)			\$0
7.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
7.2.b.9 - Investigative costs - (flat monetary increase)			\$0
7.2.b.10 - Other factors (size of violator)			\$0
7.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
7.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$60		\$60
7.2.b.2 - Good Faith - Increase			\$0
7.2.b.2 - Good Faith - Decrease			\$0
7.2.b.3 - Cooperation with the Secretary			\$0
7.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>\$12,060</b>
<b>Penalty =</b>			<b>\$52,060</b>

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	\$4,000
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
<b>Estimated Economic Benefit</b>	<b>\$4,000</b>
<b>Comments:</b> Monitoring & Reporting: Failure to Submit DMR x 4 Quarters @ \$1,000 each = \$4,000	