

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

HAROLD D. WARD, Director, Division of Mining )  
and Reclamation, West Virginia Department of )  
Environmental Protection, )

Plaintiff, )

v. )

ERP ENVIRONMENTAL FUND, INC., )

Defendant. )

CIVIL ACTION NO. 20-C-282

Judge Christopher C. Wilkes

**ORDER CONTINUING TRO AND  
ESTABLISHING BRIEFING SCHEDULE**

By motion dated April 9, 2021, ERP Environmental Fund, Inc. ("ERPEF") moved for the entry of a temporary restraining order and sanctions, asking this Court to, *inter alia*, enjoin Investment Management Group, LLC ("IMG") from attempting to alter, interfere with and/or discontinue the terms of the Reclamation Services Agreement ("Agreement") between the parties, in violation of this Court's Order. On April 12, 2021, the Court entered the "Order Granting Motion for Temporary Restraining Order of ERP Environmental Fund, Inc." This Order directed that any responses to the relief requested be filed on or before April 15, 2021. Consistent with this directive, Investment Management Group, LLC filed its Response on April 15, 2021, preliminarily objecting to entry of the Temporary Restraining Order and requesting until May 3, 2021, to submit a full response to ERPEF's Motion.

The Court held a telephonic status conference on the matter on April 19, 2021. Prior to the status conference, the Court was advised that IMG and ERPEF have agreed to continue the TRO pending further briefing and a hearing on the relief sought by ERPEF without IMG waiving any argument, factual or legal, regarding the scope, extent, or validity of the Temporary Restraining

**SCANNED**

Order and ERPEF's request that it be converted to a preliminary injunction. The Court therefore ORDERS the following:

1. IMG shall respond to ERPEF's April 9, 2021 Motion, on or before May 3, 2021;
2. ERPEF shall file any reply to IMG's response on or before May 13, 2021; and
3. After the conclusion of briefing, the Court will determine whether any further hearing is necessary and, if so, will set the hearing date at that time.

The Court notes the objection of any party aggrieved by this Order.

The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, to any *pro se* parties of record, and to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTERED this 29<sup>th</sup> day of April, 2021



THE HONORABLE CHRISTOPHER C. WILKES  
CIRCUIT JUDGE

Submitted by:

/s/ Christopher D. Pence

Christopher D. Pence (WV Bar # 9095)

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*Counsel for ERP Environmental Fund, Inc.  
and Doss Special Receiver, LLC*

Date: 4/29/21  
Certified copies sent to:  
☒ counsel of record B. Bailey  
☐ parties J. Dixon  
☐ other (please indicate) C. Donnelly  
By: ☒ certified first class mail M. Card  
☐ fax J.T. Maylin  
☐ hand delivery J. Thompson  
☐ interdepartmental R. McCluskey  
Other (directions accomplished): Business Court  
C. Pence  
Deputy Circuit Clerk

2

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, SS  
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY  
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE COPY FROM THE RECORDS OF SAID COURT.  
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 29  
DAY OF Apr 2021  
C. Gatson CLERK  
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA