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**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

CATHY S. OLSON, CLERK
KAWAHAU COUNTY CIRCUIT COURT

**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 GRANTING MOTION OF RECEIVER FOR ENTRY OF ORDER
AUTHORIZING RECEIVER TO ENTER INTO
PERMIT TRANSFER, OPERATING AND MAINTENANCE AGREEMENT**

By motion dated October 23, 2023, the Special Receiver sought permission of the Court to enter into a Permit Transfer, Operating and Maintenance Agreement ("Permit Transfer Agreement") with Investment Management Group, LLC its designee(s), assign(s) or successors (collectively "IMG") concerning the conveyance of three (3) permits, the Point Lick Haulroad permit, which is mine permit number H004200 and NPDES permit number WV0052426; Campbells Creek Complex permit, which is mine permit number P057400 and NPDES permit number WV0052426; and the Campbells Creek No. 4, which is mine permit number U303693 and NPDES permit number WV0052426. The Court, having reviewed the motion, related filings responses thereto, and having heard from such parties as desired to be heard, the Court hereby GRANTS the motion and FINDS and ORDERS as follows:

(i) The Court hereby authorizes the Receiver to enter into the proposed permit transfer agreements and further authorizes the Receiver to execute any and all documents which it deems reasonable and necessary to consummate the permit transfer agreements; and

SCANNED

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(ii) Upon receiving approval for the Permit transfers from the WVDEP and any other essential governmental entities, the Reclamation Services Agreement dated October 18, 2018 is terminated, and any royalties or other funds owed by IMG to ERPEF under that agreement are waived.

(iii) Pursuant to the agreement between the Receiver, ERPEF and IMG, any and all claims made by ERPEF and the Receiver against IMG in the case of Ward v. ERP Environmental Fund, Inc., Civil Action No. 20-C-282 are hereby deemed withdrawn and that case shall be dismissed with prejudice.

(iv) By operation of this Order, the Permit Transfer Agreement shall be free and clear of all liens, encumbrances, and claims, and IMG shall not be subject to any of ERPEF's preexisting agreements or contracts, nor shall IMG's property be subject to any of the preexisting liens, encumbrances, or claims against ERP's property.


The Court also considers and finds that this Order, and the findings made herein, recognizes the existence and enforceability of the federal court's Second Modified Consent Decree, to the extent it is applicable. Further, the Court notes that nothing in this Order should be construed to modify or otherwise affect the terms and conditions of the Second Modified Consent Decree, or its applicability or enforceability.

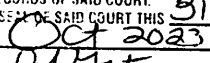
The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, and to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTERED this 31 day of October, 2023.

Date: 10/31/23
Certified copies sent to:
- counsel of record R. McInnis
- parties C. Galt
- other (please indicate) Thompson
By: T. Albright
- certified/1st class mail B. Gault
- fax R. Gault
- hand delivery M. Burr
- interdepartmental Bus. Ct. Cent. off.
Other functions accomplished:

Deputy Circuit Clerk


CHRISTOPHER WILKES
Presiding Judge

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 31
DAY OF Oct 2023

CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA