

**FAYETTE COUNTY CODE ENFORCEMENT AGENCY
FAYETTE COUNTY, WEST VIRGINIA**

RESOLUTION NO. 2021-02-006

**REQUESTING THE FAYETTE COUNTY
PROSECUTING ATTORNEY TO COMMENCE
DILIGENT ENFORCEMENT OF FCoWV CEA FINAL
& BINDING TIME-SENSITIVE ABATEMENT
ACTION ORDER NO. 2021-002-9.5(b) AGAINST
THE REMEDIAL RESPONDENTS TO THAT ORDER,
AND
SUSPENDING UNTIL FURTHER ORDER OF THIS
AGENCY ANY ADMINISTRATIVE ENFORCEMENT
BY THIS AGENCY OF FCoWV CEA FINAL &
BINDING TIME-SENSITIVE ABATEMENT ACTION
ORDER NO. 2021-002-9.5(b) AGAINST THE
REMEDIAL RESPONDENTS NAMED IN THAT
ORDER**



WHEREAS, at its publicly-noticed meeting on May 4, 2021 the Fayette County Code Enforcement Agency issued Final & Binding Time-Sensitive Abatement Action Order No. 2021-02-9.5(b) herein in exercise of its authority under Section IX.V of the Fayette Co. Comprehensive Public Nuisance Abatement Ordinance, FCoWV Ordinance No. 2018-001, requiring, *inter alia*, that the Remedial Respondents named in that Order timely commence and pursue to completion the NCP-compliant Remedial Investigation and Feasibility Study (“RI/FS”) the toxic contamination at and emanating from the **Subject Property** in the Johnson Fork-Loop

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Creek Watershed in Fayette County, West Virginia, and subsequently caused that Order to be served on all the Respondents named in that Order in compliance with the requirements of the Fayette Co. Comprehensive Public Nuisance Abatement Ordinance, FCoWV Ordinance No. 2018-001; and

WHEREAS, on May 18, 2021 the Fayette Co. Prosecuting Attorney acting pursuant to his authority under W. Va. Code § 7-4-1 and Section XXII of the Fayette Co. Comprehensive Public Nuisance Abatement Ordinance, commenced on behalf of the County Commission of Fayette Co., WV a federal civil action entitled *County Commission of Fayette County, WV, ex rel. Anthony Ciliberti, Esq, Fayette Co. Prosecuting Attorney v. National Grid NE Holdings 2 LLC, et al.*, Case No. 2:21-cv-00307 (S.D. WV) (Johnston, C.J.), seeking appropriate judicial abatement, non-exclusively including the timely commencement of an NCP-compliant Remedial Investigation and Feasibility Study (“RI/FS”) of the existing and threatened public nuisance conditions within the Johnson Fork-Loop Creek Watershed within Fayette Co., West Virginia; and

WHEREAS, at its publicly-noticed meeting today, June 22, 2021, the Fayette County Code Enforcement Agency issued Final & Binding Time-Sensitive Abatement Action Order No. 2021-02-9.5(b)-002 herein amending some of the provisions and continuing in full force and effect all other provisions of Final & Binding Time-Sensitive Abatement Action Order No. 2021-02-9.5(b)-00, both of which Orders were issued in exercise of this Agency’s authority under Section IX.V of the Fayette Co. Comprehensive Public Nuisance Abatement Ordinance, FCoWV Ordinance No. 2018-001

WHEREAS, the Fayette County Code Enforcement Agency has determined that it is in the best interest of Fayette County and the public that it serves for it to: (1) forthwith stay any further administrative enforcement by this Agency of the any obligation imposed by any Final & Binding Time-Sensitive Abatement Action Order issued in FCoWV CEA Matter No. 2021-02-9.5(b), non-exclusively including FCoWV CEA Final & Binding Time-Sensitive Abatement Action Order No. 2021-02-9.5(b)-002 issued today, on the Remedial Respondents to any such Order; and (2) forthwith exercise its enforcement discretion under Section XX of the Fayette Co. Comprehensive Public Nuisance Abatement Ordinance to request that the Fayette Co. Prosecuting Attorney diligently prosecute all available claims to secure timely judicial enforcement of all obligations imposed by any FCoWV CEA Final & Binding Time-Sensitive Abatement Action Order issued in Fayette Co. CEA Matter No. 2021-02-9.5(b), non-exclusively including FCoWV CEA Final & Binding Time-Sensitive Abatement Action Order No. 2021-02-9.5(b)-002 issued today, on the Remedial Respondents to any such Order issued in that Matter; and

WHEREAS, the Fayette County Code Enforcement Agency has further determined that it is in the best interest of Fayette County and the public that it serves for it to continue diligent enforcement of all obligations imposed by any Final & Binding Time-Sensitive Abatement Action Orders issued in Fayette Co. CEA Matter No. 2021-02-9.5(b) upon any Insurer Respondents to any such Order;

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NOW, THEREFORE, BE IT RESOLVED that the Fayette County Code Enforcement Agency should, and hereby does, forthwith STAY until further Order of this Agency all further administrative enforcement by this Agency of any obligation imposed by any Final & Binding Time-Sensitive Abatement Action Order issued in FCoWV CEA Matter No. 2021-02-9.5(b), non-exclusively including FCoWV CEA Final & Binding Time-Sensitive Abatement Action Order No. 2021-02-9.5(b)-002 issued today, on any Remedial Respondent to any such Order.

BE IT FURTHER RESOLVED that the Fayette County Code Enforcement Agency should, and hereby does, forthwith exercise its enforcement discretion under Section XX of the Fayette Co. Comprehensive Public Nuisance Abatement Ordinance, Fayette Co. Ordinance No. 2018-001, to request that the Fayette Co. Prosecuting Attorney diligently take all actions necessary and proper to secure timely compliance with, and where appropriate, diligently prosecute all available claims timely to secure judicial enforcement of, all obligations imposed by any FCoWV CEA Final & Binding Time-Sensitive Abatement Action Order issued in Fayette Co. CEA Matter No. 2021-02-9.5(b), non-exclusively including FCoWV CEA Final & Binding Time-Sensitive Abatement Action Order No. 2021-02-9.5(b)-002 issued today, on any Remedial Respondent to any such Order issued in that Matter.

BE IT FURTHER RESOLVED by the Fayette County Code Enforcement Agency that nothing in this Resolution is intended to, nor shall any provision(s) of this Resolution be construed to, stay or suspend in any way any obligation imposed upon any Respondent to any Final & Binding Time-Sensitive Abatement Action Order issued in this Matter, CEA Matter 2021-02-9.5(b), or otherwise relieve any Respondent to any such Order of its obligation timely and competently to comply with all requirements of any such Order.

IT IS SO RESOLVED AND DONE by the [unanimous] [majority] vote of the Members of the Fayette County Code Enforcement Agency present and entitled to vote, a quorum being present, at its duly-noticed Public Meeting on this 22nd day of June 2021.

**FAYETTE COUNTY CODE
ENFORCEMENT AGENCY**

By: Ruth A. Lanier
Ruth A. Lanier
Fayette County Administrator
Its Chairperson

ATTEST:

Aletha L. Stol
Aletha L. Stol, Member (Sto/AA)
Secretary, FAYETTE COUNTY CODE ENFORCEMENT AGENCY

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