

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Neiswonger Construction, Inc.	:	Violations of the Noncoal Surface Mining
17592 Route 322	:	Conservation and Reclamation Act &
Strattanville, PA 16258	:	Permit No.: 63100401
	:	Permit No.: 63192001
	:	Docket No.: 241042A

**FIRST AMENDMENT TO CONSENT ORDER AND AGREEMENT**

This First Amendment to Consent Order and Agreement (“First Amendment”) is entered into this 3rd day of March, 2025, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and Neiswonger Construction, Inc. (“Neiswonger”).

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 (“Clean Streams Law”); the Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1984, P.L. 1093, *as amended*, 52 P.S. §§ 3301 - 3326 (“Noncoal Surface Mining Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations (“rules and regulations”) promulgated thereunder.

B. On November 18, 2024, the Department and Neiswonger executed a Consent Order and Agreement (“2024 Consent Order and Agreement”) under Noncoal Surface Mining Permit No. 63100401 (“SMP”), known as the Maggie Lynn Quarry.

C. On January 21, 2025, the Department issued Noncoal Underground Permit No. 63192001 to Neiswonger, known as the Maggie Lynn Underground mine. The issuance of this new permit encompasses and replaces SMP No. 63100401.

D. The purpose of this First Amendment is to revise all corrective actions to be completed under Underground Permit No. 63192001. The pit numbers referenced in the corrective actions below have been updated to reflect Underground Permit No. 63192001 pit numbers. All references except as otherwise indicated in this First Amendment and all findings and terms of the 2024 Consent Order and Agreement remain in full effect and are fully incorporated herein.

### **ORDER**

After full and complete negotiation of all matters set forth in this First Amendment to Consent Order and Agreement and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Neiswonger as follows:

1. **Authority.** This First Amendment is an Order of the Department authorized and issued pursuant to Section 21 of the Noncoal Surface Mining Act, 52 P.S. §3321, and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. **Findings.**

a. In any matter or proceeding between Neiswonger and the Department, Neiswonger shall not challenge or deny the Department's assertion of the truth, accuracy, or validity of Paragraphs A through D, above.

b. The parties do not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding.

3. ***Corrective Action.***

a. Within 15 days of the date of this First Amendment, Neiswonger shall contact the Department of Conservation and Natural Resources (DCNR) to seek approval by letter from DCNR to add all off-permit area in Pit 1.

b. Within 365 days of the date of the 2024 Consent Order and Agreement, Neiswonger shall reclaim and backfill Pit # 2 where mining off-permit occurred.

**If approval is obtained by DCNR to add Pit # 1 to the permit:**

c. Within 6 months of approval, Neiswonger shall submit an application for a major mining permit revision, which includes the new acreage to the Department.

**If approval is NOT obtained by DCNR to add Pit # 1 to the permit:**

d. Within 365 days of the denial, Neiswonger shall reclaim and backfill Pit # 1 where mining off-permit occurred.

e. Within 6 months of the denial, Neiswonger shall submit an application for a major mining permit revision, which includes all necessary modules, exhibits, and bond updates to reflect current off-permit reclamation and future plans for final reclamation in Pit # 1.

**Wetland Mitigation Plan:**

f. Wetland mitigation plan: Within 90 days of the 2024 Consent Order and Agreement, Neiswonger shall revise Module 14 by submitting a wetland mitigation plan for Wetland E in accordance with 25 Pa. Code §105.20a through:

1. Purchasing credits from an approved wetland mitigation banker.
2. Providing a plan for on-site or off-site wetland replacement.

4. All provisions of the 2024 Consent Order and Agreement that are not modified by Paragraph 3, above, of this First Amendment remain in full force and effect.

13. ***Entire Agreement.*** This First Amendment, along with the 2024 Consent Order and Agreement, shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

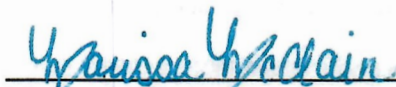
18. ***Execution of Agreement.*** This First Amendment may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Counterpart signatures may be transmitted electronically using portable document format (.pdf).

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of Neiswonger certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this First Amendment to Consent Order and Agreement on behalf of Neiswonger; that Neiswonger consents to the entry of this First Amendment to Consent Order and Agreement as a final ORDER of the Department; and that Neiswonger hereby knowingly waives its right to appeal this First Amendment to Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. (Signature by Neiswonger's attorney certifies only that the agreement has been signed after consulting with counsel.)

FOR NEISWONGER  
CONSTRUCTION, INC.:



Vincent Neiswonger  
President



Marissa McClain  
Secretary

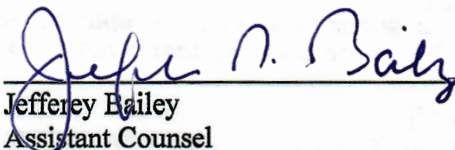
WAIVED

Attorney for Neiswonger Construction, Inc.  
(If waiving opportunity for attorney review,  
write "waived" on the attorney signature line)

FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:



Chad A. Meyer  
Environmental Program Manager



Jeffrey Bailey  
Assistant Counsel