

(5) THE PROTECTION, REPAIR, REPLACEMENT, CONSTRUCTION, OR ENHANCEMENT OF PUBLIC FACILITIES SUCH AS UTILITIES, ROADS, RECREATION, AND CONSERVATION FACILITIES ADVERSELY AFFECTED BY COAL MINING PRACTICES;

(6) THE DEVELOPMENT OF PUBLICLY OWNED LAND ADVERSELY AFFECTED BY COAL MINING PRACTICES INCLUDING LAND ACQUIRED AS PROVIDED IN THIS ARTICLE FOR RECREATION AND HISTORIC PURPOSES, CONSERVATION, AND RECLAMATION PURPOSES AND OPEN SPACE BENEFITS.

(B) LANDS AND WATER ELIGIBLE FOR RECLAMATION EXPENDITURES UNDER THIS TITLE ARE THOSE WHICH WERE MINED FOR COAL, OR WHICH WERE AFFECTED BY SUCH MINING, WASTEBANKS, COAL PROCESSING, OR OTHER COAL MINING PROCESSES AND ABANDONED OR LEFT IN AN INADEQUATE RECLAMATION STATUS PRIOR TO AUGUST 3, 1977, AND FOR WHICH THERE IS NO CONTINUING RECLAMATION RESPONSIBILITY UNDER STATE OR FEDERAL LAW.

7-907.

(A) IF THE DEPARTMENT MAKES A FINDING OF FACT THAT:

(1) LAND OR WATER RESOURCES HAVE BEEN ADVERSELY AFFECTED BY PAST COAL MINING PRACTICES; AND

(2) THE ADVERSE EFFECTS ARE AT A STAGE WHERE, IN THE PUBLIC INTEREST, ACTION TO RESTORE, RECLAIM, ABATE, CONTROL, OR PREVENT SHOULD BE TAKEN; AND

(3) THE OWNERS OF THE LAND OR WATER RESOURCES WHERE ENTRY MUST BE MADE TO RESTORE, RECLAIM, ABATE, CONTROL, OR PREVENT THE ADVERSE EFFECTS OF PAST COAL MINING PRACTICES ARE NOT KNOWN, OR NOT READILY AVAILABLE; OR

(4) THE OWNERS WILL NOT GIVE PERMISSION FOR THE DEPARTMENT, ITS AGENTS, EMPLOYEES, OR CONTRACTORS TO ENTER UPON SUCH PROPERTY TO RESTORE, RECLAIM, ABATE, CONTROL, OR PREVENT THE ADVERSE EFFECTS OF PAST COAL MINING PRACTICES.

THEN, THE DEPARTMENT MAY SEEK AN ORDER FROM THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE LAND OR WATER RESOURCES IS LOCATED AUTHORIZING THE DEPARTMENT, ITS AGENTS, EMPLOYEES, OR CONTRACTORS TO ENTER UPON THE PROPERTY ADVERSELY AFFECTED BY PAST COAL MINING PRACTICES AND ANY OTHER PROPERTY TO HAVE ACCESS TO THE AFFECTED PROPERTY AND TO DO ALL THINGS NECESSARY OR EXPEDIENT TO RESTORE, RECLAIM, ABATE, CONTROL, OR PREVENT THE ADVERSE EFFECTS. THE COURT SHALL CONSIDER WHETHER THE ENTRY IS A NECESSARY EXERCISE OF THE POLICE POWER FOR THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ACTIONS OF THE DEPARTMENT PURSUANT TO A COURT ORDER SHALL NOT BE CONSTRUED AS AN ACT OF CONDEMNATION OF PROPERTY NOR OF TRESPASS THEREON. THE MONEYS EXPENDED FOR SUCH WORK AND THE BENEFITS ACCRUING TO ANY SUCH PREMISES SO ENTERED UPON SHALL BE CHARGEABLE AGAINST SUCH LAND AND SHALL MITIGATE OR OFFSET ANY CLAIM IN OR ANY ACTION BROUGHT