

(a) (1) [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] 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, IF THE DEPARTMENT MAKES A FINDING OF FACT THAT:

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

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

(III) 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:

1. ARE NOT KNOWN, OR NOT READILY AVAILABLE; OR

2. WILL NOT GIVE PERMISSION FOR THE DEPARTMENT, ITS AGENTS, EMPLOYEES, OR CONTRACTORS TO ENTER ON THE PROPERTY TO RESTORE, RECLAIM, ABATE, CONTROL, OR PREVENT THE ADVERSE EFFECTS OF PAST COAL MINING PRACTICES.

(2) 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] UNDER a court order shall not be construed as an act of condemnation of OR TRESPASS ON property [nor of trespass thereon]. The [moneys] MONEY expended for [such] THE work and the benefits