

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE KIMMEL’S COAL AND PACKAGING, INC., <i>et al.</i> ,	:	Civil No. 1:23-CV-00351
	:	
Debtors-in-Possession	:	
	:	
FULTON BANK, N.A.,	:	
	:	
Appellant,	:	Related Bankruptcy Case No.
	:	1:18-BK-01609-HWV
v.	:	
	:	
RAUSCH CREEK LAND, L.P.,	:	
	:	
Appellee.	:	Judge Jennifer P. Wilson

ORDER

AND NOW, on this 17th day of January 2024, for the reasons stated in the accompanying memorandum, **IT IS ORDERED THAT:**

1) Appellant’s appeal is **GRANTED** in part and **DENIED** in part. (Doc. 1.)

Specifically, the court grants Appellant’s appeal to the extent that Appellant believes that the bankruptcy court erred in finding that the sale documents and stipulation are unambiguous and therefore do not require Appellee to assume the at-issue reclamation liability. The court denies the remainder of Appellant’s appeal.

2) The February 17, 2023 order of the bankruptcy court is **VACATED**.

(Doc. 8-17.)

- 3) This case is remanded to the bankruptcy court for further proceedings consistent with the memorandum.
- 4) The Clerk of Court is directed to close this case.

s/Jennifer P. Wilson
JENNIFER P. WILSON
United States District Judge
Middle District of Pennsylvania