

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

ROCKWOOD CASUALTY : Ferlitch Construction Company, Inc.
INSURANCE COMPANY : Round Knob Mine, SMP 31070101
:
:
:

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 27th day of February
2019 by and between the Commonwealth of Pennsylvania, Department of Environmental
Protection ("Department"), and Rockwood Casualty Insurance Company ("Rockwood").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Bituminous Mine Subsidence and Land Conservation Act, Act of April 27, 1966, Sp. Sess. No. 1, P.L. 31, 52 P.S. §§ 1406.1-1406.21 ("Mine Subsidence Act"); the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945, P.L. 1198, *as amended*, 52 P.S. §§ 1396.1-1396.19a ("Surface Mining Act"); the Coal Refuse Disposal Control Act, Act of September 24, 1968, P.L. 1040, *as amended*, 52 P.S. §§ 30.51-30.66 ("Coal Refuse Disposal Act"); the Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§ 691.1-691.1001 ("Clean Streams Law"); 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 promulgated thereunder.

B. Ferlitch Construction Company, Inc. (“Ferlitch”) is a Pennsylvania corporation with a last known address of 117 Tree Lane, Duncansville, PA 16635, whose business included the mining of coal by the surface method.

C. Ferlitch’s sole principal officer is the company president, Paul Ferlitch.

D. At all times material hereto, Ferlitch was authorized to conduct surface mining in Pennsylvania pursuant to Surface Mining Operator’s License No. 6965, which expired January 31, 2015.

E. Ferlitch conducted surface mining of coal under the Surface Mining Permit No. 31070101 (“SMP 31070101”) in Wood Township, Huntingdon County.

F. Coal removal and backfilling have been completed on the Round Knob Mine. The site requires sediment pond removal, abandoned equipment removal, revegetation including seeding and tree planting, construction of a passive treatment bioreactor and wetland, and installation of spillways, diversions, and a seep drain. A long-term treatment trust will be established for maintaining the treatment system (“Trust”). There are no affected water supplies relating to the site.

G. Rockwood is a Pennsylvania corporation whose business includes, among other things, the issuance of reclamation surety bonds on behalf of surface coal mine operations, as principal, in favor of the Commonwealth, as obligee. Rockwood’s business address is 654 Main Street, Rockwood, PA 15557.

H. In support of, and as a condition to, the Department’s issuance of the surface mining permit identified in Paragraph E above, Rockwood posted the two reclamation surety bonds totaling \$62,339 and one Water Loss bond in the amount of \$3,500:

<u>Corporate Surety Bonds</u>		<u>Bond/CD No.</u>	<u>Amount</u>
Rockwood Casualty	Reclamation	ISM2515	\$ 1,493
	Reclamation	ISM2697	<u>\$60,846</u>
			\$62,339
	Water Loss	ISM2538	<u>\$ 3,500</u>
		Total	<u>\$65,839</u>

I. The Department issues Remining Financial Guarantees pursuant to 25 Pa. Code § 86.281 for sites with significant remining to be undertaken as an incentive to encourage remining operations at those sites. The Department issued the following Remining Financial Guarantees for the Round Knob Mine:

<u>Government</u>	<u>Bond No.</u>	<u>Amount</u>
Remining Financial Guarantee	4840163FG	\$14,311
	4840157FG	<u>\$83,333</u>
	Total	<u>\$97,644</u>

J. As identified in Paragraphs H and I above, the Round Knob Mine has both Rockwood corporate surety reclamation bonds and Department issued Remining Financial Guarantees (collectively “the Bonds”), both of which provide financial assurance for reclamation of the mine site in a total amount of \$159,983 and establish a co-surety relationship between the Department and Rockwood. Rockwood and the Department will

cooperate to fund the Reclamation Plan as described herein. There are no claims associated with the Rockwood Water Loss bond.

K. The Bonds may be forfeited for any unabated violation of the law and regulations including, but not limited to, the Surface Mining Act, the Clean Streams Law, the Coal Refuse Disposal Act, and the regulations promulgated pursuant to those statutes.

L. After SMP 31070101 was issued, Ferlitch constructed sediment pond SP-1 (Outfall 002). In 2011, a mine seep labeled RKE was sampled along the access road above this pond at location latitude 40-10-23, longitude 78-06-00. The Department has determined that the seep is hydrologically connected to the mining area. This mine seep exceeds effluent limits for pH, iron, aluminum, and manganese, acidity exceeds alkalinity, and the mine seep leaves the permit area which is in violation of applicable law.

M. By correspondence dated June 8, 2018, Ferlitch was notified that the Department was suspending Ferlitch's SMP 31070101 and that the Department intended to forfeit the Bonds identified in Paragraphs H and I above. The Department's action was based upon Ferlitch's outstanding violations of the Surface Mining Act, The Clean Streams Law, and the rules and regulations promulgated thereunder, including but not limited to: Failure to properly design, construct or maintain impoundments; failure to conduct groundwater monitoring; failure to make annual payments for an approved financial guarantee bond; conducting mining activities without a permit; failure to submit an NPDES permit application; and failure to comply with an order of the Department.

N. Pursuant to the Surface Mining Act, 52 P.S. § 1396.4(h), Rockwood has elected to participate with the Department in reclamation and related activities at the site as described in this Consent Order and Agreement. Rockwood, with cooperation of the Department, has prepared a Reclamation Plan attached as Attachment A to reclaim the site including construction of a mine drainage passive treatment system and establishment of a mine drainage treatment trust.

O. The Round Knob Mine Permit and the area identified as the RKE seep is situated on property owned by East Broad Top Railroad and Coal Company. Rockwood has obtained a properly executed Consent to Right of Entry form from the landowner granting access to the work areas including the treatment systems, drainage channels and wetland areas within and outside of the permit area. A copy of the executed Consent to Right of Entry form is attached as Attachment B.

P. The discharge described in paragraph L will require treatment in perpetuity. A long-term treatment trust as described herein will be established to provide funds to maintain the treatment system.

Q. The Department and Rockwood agree that developing the Reclamation Plan, conducting the work described in the Reclamation Plan for the Round Knob Permit and payment of \$55,000.00 into a site-specific mine drainage treatment trust constitute an efficient, expeditious method of addressing outstanding regulatory compliance issues.

R. Reclamation of the Round Knob Permit can be accomplished more quickly and effectively by Rockwood under this Consent Order and Agreement than it could if the Department forfeited and collected the bonds.

S. The Department and Rockwood desire to resolve the foregoing matters without resorting to litigation.

T. Pursuant to this Consent Order and Agreement, Rockwood and the Department will perform the activities described herein and the Department will irrevocably waive collection of Rockwood's bonds according to the conditions described herein.

After full and complete negotiation of all matters set forth in this 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 Rockwood as follows:

1. Authority.

This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Sections 4.2 and 4.3 of the Surface Mining Act, 52 P.S. § 1396.4c; Sections 3.1 and 9 of the Coal Refuse Disposal Act, 52 P.S. §§ 30.53a and 30.59; Section 9 of the Mine Subsidence Act, 52 P.S. § 1409.9; Section 5 of the Clean Streams Law, 35 P.S. § 691.5; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17. The failure of Rockwood to comply with any term or condition of this Agreement shall subject Rockwood to all penalties and remedies provided by these statutes for failing to comply with an order of the Department.

2. Findings.

a. Rockwood and the Department agree that the findings in Paragraphs A through T are true and correct and, in any matter or proceeding involving Rockwood and the Department, they shall not challenge the accuracy or validity of these findings.

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. The Bonds/Co-surety Obligations.

a. Rockwood voluntarily consents to the forfeiture of the reclamation surety bonds posted by Rockwood listed in Paragraph H above.

b. The reclamation Bonds referenced in Paragraphs H and I above are hereby declared forfeit and final.

c. Rockwood shall not appeal the forfeiture.

d. As is more fully described in Paragraph 7 below, the Department agrees to release or waive collection of the forfeited Rockwood reclamation surety bonds posted on the Round Knob Mine upon funding of the Ferlitch Trust described in paragraph 4.

e. The costs relating to the implementation of the Reclamations Plan, Tasks 1-6 and the Ferlitch treatment trust for the Round Knob Mine will be paid by Rockwood and the Department as co-sureties based on proportionate share of the Bonds posted for the mine site as follows:

Mine	Rockwood	Department
Round Knob	39%	61%

f. The project cost of \$ 141,025.64 includes both the work described in the Reclamation Plan, Tasks 1-6 and establishment of the Ferlitch Trust. The Department and Rockwood agree that conducting the work described in the Reclamation Plan, Tasks 1-6 and payment by Rockwood of \$ 55,000.00 into the Ferlitch Trust (as discussed below) constitute an efficient, expeditious method of addressing outstanding regulatory compliance issues. Conducting the reclamation as described in paragraph 5 and the payment of \$55,000 into the Ferlitch Trust fully satisfies Rockwood’s reclamation obligations.

4. Treatment Trust.

An irrevocable trust to be known as the Ferlitch Treatment Trust Account (“Ferlitch Trust”) has been established as a sub-account in the Clean Streams Foundation, Inc. Master Trust, an executed Participation Agreement with the Clean Streams Foundation, Inc. The Ferlitch Trust shall provide financial resources to the Department and citizens of the Commonwealth to maintain and operate the treatment system. The Participation Agreement with the Clean Streams Foundation, Inc. establishing the Ferlitch Trust is attached as Attachment B.

5. Reclamation Plan and Schedule.

a. The Reclamation Plan for the Round Knob Mine is hereby approved by the Department, and Tasks 1-6 of the Reclamation Plan are incorporated herein as an obligation of Rockwood under this Consent Order and Agreement.

b. Tasks 7 (“ARRI Tree Planting”) and 8 (“Biosolid Application”) of the Reclamation Plan involve third parties providing materials and services which will be coordinated solely by the Department.

c. With the Department’s consent, the Reclamation Plan may include or be amended to include proposed land use changes or requests for retention ponds, ditches or other facilities to remain as permanent structures if accompanied by the landowner requests on forms approved by the Department.

d. Rockwood shall contract to complete the construction and reclamation activities at the site as described in the Reclamation Plan Tasks 1-6 by no later than May 30, 2019, unless a later date is agreed to by both parties.

6. Reclamation Plan Contracting and Payments.

a. Rockwood will select and engage a reclamation contractor and coordinate Reclamation Plan Tasks 1-6 activities with the approval of the Department. Following receipt of its reclamation contractors’ monthly invoices, Rockwood will compile relevant documentation related to each task accompanied by a short status report regarding efforts to date, percent complete per task and estimated completion date, to submit with its monthly progress payment invoices to the Department. Invoices

will have been verified by an independent engineer and the Department prior to submittal. The Department shall issue a reimbursement check payable to Rockwood within thirty (30) days of receipt.

b. Prior to demobilization by Rockwood's reclamation contractor, and with at least 5 working days' notice from Rockwood, the Department will conduct a final inspection to determine whether the work is consistent with the Reclamation Plan Tasks 1-6. If not, the inspector will advise Rockwood of any deficiencies to be corrected and shall re-inspect upon completion. Within ten (10) days following notice by the Department that the Reclamation Plan Tasks 1-6 have been satisfied by a final inspection report. Rockwood shall deposit \$ 55,000.00 into the Ferlitch Trust.

7. Waiver of Permit Requirements.

Pursuant to 32 P.S. § 693.7 and its implementing regulation at 25 Pa. Code § 105.12(a)(15), for the activities conducted under the Reclamation Plan, permit requirements for conducting activities in the waters of the Commonwealth are waived, subject to the conditions described in the letter dated November 30, 2018, attached hereto as Attachment C, from the Department to Rockwood and incorporated into the Reclamation Plan by reference.

8. Waiver of Bond Collection/Release of Bond.

The Department will waive collection of the Rockwood reclamation surety bonds and release the Water Loss bond as identified in Paragraph H within fifteen (15) after Rockwood deposits \$55,000.00 into the Ferlitch Trust.

9. Remedies.

a. In the event Rockwood fails to comply with any provision of this Consent Order and Agreement, the Department may pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

10. Reservation of Rights.

The Department reserves the right to require additional measures to achieve compliance with applicable law. Rockwood reserves the right to challenge any action which the Department may take to require those measures.

11. Liability of Rockwood.

Rockwood shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by their respective officer's agents, or employees. Rockwood shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by their respective successors and assigns.

12. Limitation of Liability.

Rockwood's performance of reclamation obligations under this Consent Order and Agreement shall be in Rockwood's capacity as surety. Rockwood shall not, by virtue of this Consent Order and Agreement or any of its contractor's activities hereunder: (a) be deemed an owner, occupier, permittee or operator of any surface mine site or mine drainage treatment system under the Clean Streams Law or the SMCRA or any regulations promulgated hereunder; or (b) be deemed to have assumed any liabilities or obligations of Ferlitch, except as expressly set forth in this Consent Order and Agreement. This Consent Order and Agreement is not intended to create rights in any party other than Rockwood and its contractors.

13. Decisions Under the Consent Order and Agreement.

With the exception of any determinations by the Department under Paragraphs 8, 10 or 11 of this Consent Order and Agreement (i.e., waivers of collection of the Rockwood bonds), any decision or determination made by the Department regarding the terms and obligations of this Consent Order and Agreement shall not be deemed to be a final action of the Department and shall not be appealable to the Environmental Hearing Board or to any court. Any objection which Rockwood may have to the decision will be preserved until the Department enforces this Consent Order and Agreement. In the event of any appeal of a determination by the Department under Paragraph 8 or 11 of this Consent Order and Agreement, the Department agrees not to take action to collect the Rockwood bonds unless and until the appeal is resolved in favor of the Department.

14. Force Majeure.

In the event that Rockwood is prevented from complying in a timely manner with any time limit imposed in this Consent Order and Agreement solely because of a strike, fire, flood, act of God, weather or other circumstances beyond Rockwood's control and which Rockwood, by the exercise of all reasonable diligence is unable to prevent, then Rockwood may petition the Department for an extension of time. The Parties will cooperate to redefine a schedule to successfully accomplish the reclamation activities under this Agreement. An increase in the cost of performing the obligation set forth in this Consent Order and Agreement shall not constitute circumstances beyond Rockwood's control.

15. Settlement and Release.

The Department accepts Rockwood's performance of the Round Knob Mine Reclamation Plan as full settlement and compromise of the Department's claims concerning Rockwood's bonds so long as Rockwood complies with this Consent Order and Agreement. Upon Rockwood's completion of the Round Knob Mine Reclamation Plan to the Department's satisfaction and Rockwood's compliance with this Consent Order and Agreement, the Department release and forever discharges Rockwood and its officers, shareholder, agent, attorneys, employees, successors and assigns from any and all claims and demands of whatsoever nature or kind, at law or in equity Rockwood's bonds and the Round Knob Mine.

16. Correspondence with Department.

All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to:

Daniel Sammarco P.E.
District Mining Manager
Cambria District Office
286 Industrial Park
Ebensburg, PA 15931
Phone: 814-472-1900
Fax: 814-471-1898

With a copy to:

Craig S. Lambeth, Esq.
Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110
Phone: 717-787-8790
Fax: 717-772-2400

17. Correspondence with Rockwood.

All correspondence with Rockwood concerning this Consent Order and Agreement shall be addressed to:

Randall Livingston
Rockwood Casualty Insurance Company
654 Main Street
Rockwood, PA 15557
Phone: 814-926-5275
Fax: 814-926-4681

With a copy to:

William T. Gorton III, Esq.
Stites & Harbison PLLC
250 W. Main Street, Suite 2300
Lexington, KY 40507
Phone: 859-226-2241
Fax: 859-253-9144

Rockwood shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first class mail to the above address.

18. Severability.

The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

19. Entire Agreement.

This 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.

20. Attorney Fees.

The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

21. Modifications.

No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the parties hereto.

22. Titles.

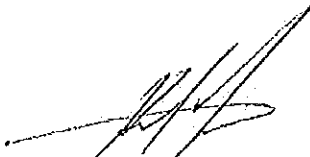
A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph, but shall not be treated as controlling.

23. Counterparts.


This Consent Order and Agreement or amendments thereto may be executed in multiple counterparts, each of which shall be deemed an original agreement, and all of which shall constitute one agreement between the parties.

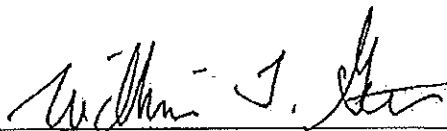
IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of Rockwood certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of Rockwood; that Rockwood consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Rockwood hereby knowingly waives its rights to appeal this 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 Rockwood's attorney certifies only that the agreement has been signed after consulting with counsel.


FOR ROCKWOOD:



Kurt Tipton
President, Rockwood

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:


Daniel Sammarco, P.E.
Cambria District Mining Manager


Attorney for Rockwood
William T. Gorton III
Stites & Harbison PLLC
Lexington, KY


Anna Maria Kiehl
Comptroller for Department


Craig S. Lambeth
Assistant Counsel

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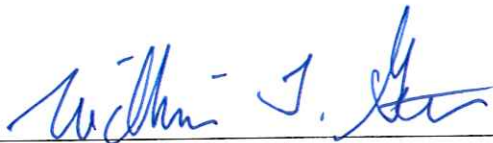


Kurt Tipton
President, Rockwood

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Daniel Sammarco, P.E.
Cambria District Mining Manager



Attorney for Rockwood
William T. Gorton III
Stites & Harbison PLLC
Lexington, KY

Anna Maria Kiehl
Comptroller for Department

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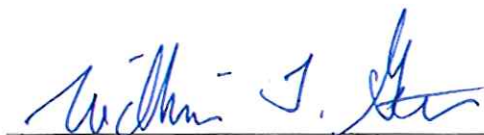


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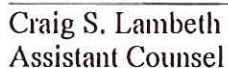
Daniel Sammarco, P.E.
Cambria District Mining Manager



Attorney for Rockwood
William T. Gorton III
Stites & Harbison PLLC
Lexington, KY



Anna Maria Kiehl
Comptroller for Department



Craig S. Lambeth
Assistant Counsel

Attachment A

RECLAMATION PLAN
FOR
FERLITCH CONSTRUCTION COMPANY INC.

SMP# 31070101– Round Knob Mine
Wood Township, Huntingdon County

January 29, 2019

TASK NO. 1 - MOBILIZATION / SCRAP ACCUMULATION / DEMOBILIZATION

Mobilization - This work refers to the delivery and assembly, at the project site, of all plant, machinery, and equipment required to complete the Reclamation Plan.

Equipment and Scrap Aggregation – All remaining equipment on the site shall be gathered and placed on a stable area of the site such that it does not interfere with reclamation activities. It shall be placed in a manner to support loading and removal by third parties.

Demobilization - This work refers to the removal of all the Contractor's plant and equipment from the project site upon completion of the reclamation plan. The work also includes cleanup and restoration of all work areas or any other area disturbed as a result of the project.

TASK NO. 2 - PREPARATION OF POND 1

This task consists of furnishing all labor and equipment and performing all operations in association with the preparation for construction of the Bioreactor and include: removal of trees on Pond 1 embankment, grading affected area, dewatering of Pond 1, the removal of sediment from the Bioreactor section of Pond 1, the construction of an earthen baffle to separate the Bioreactor cell, and preparation of the underdrain bed as depicted on Exhibit 1.

Pond 1 water shall be treated to a pH between a 6.0 to 7.0 upon dewatering. The dewatering operation shall be performed at a controlled rate that will prevent erosion of the existing stream channels, transportation of sediment outside the project area and damage to the aquatic life and habitat. Excavated sediment shall be blended into other graded areas of the mine which are subject to revegetation.

TASK NO. 3 - CONSTRUCTION OF BIOREACTOR

This task consists of furnishing all labor and equipment and performing the construction of the Bioreactor as per the plan-specifications attached as Exhibit 1. The 4" PVC underdrain manifold shall be bedded in durable sandstone or limestone with a controlled riser outlet as shown. The Bioreactor mix shall be 50% limestone chips, (mixture of AASHTO #57 and 1B with greater than 82% CaCO₃), 30% hardwood chips with no bark, and 20% mushroom compost. The Bioreactor mix shall be blended in the proper amounts prior to placement in the pond. The mixed material shall be placed so as to avoid any compaction of the material in order to maintain porosity of material. No equipment is to drive over the Bioreactor mix once placed.

TASK NO. 4 - CONSTRUCTION OF BIOREACTOR OUTLET

This task consists of furnishing all labor and equipment and performing of constructing the outlet from the bioreactor. The level spreader lip shall be effective in spreading the relatively low base flow of 12 gpm. A minimum six inch layer of topsoil shall be spread evenly where needed across bare areas and shall be placed so as to avoid any compaction of the topsoil in order to maintain a loose growing medium. Wetland vegetation clumps and wetland seed shall be spread between the level lip spreader and the downslope wetland area to assist in establishment of the vegetation.

TASK NO. 5 - SPILLWAYS, SEEP DRAIN, DIVERSIONS

This task consists of furnishing all labor and equipment and performing of constructing two emergency spillways, the seep Drain, two diversions, and crossbars, as needed, as per the attached Exhibit 1.

TASK NO. 6 - RECLAMATION OF POND 2

This task consists of furnishing all labor and equipment and performing of reclaiming and seeding of Sedimentation Pond SP-2. The pond area shall be backfilled to AOC, covered with best available material, and seeded and mulched with a seed mix suitable for wildlife habitat .

TASK NO. 7 - ARRI TREE PLANTING

This task consists of furnishing all labor and equipment and performing a tree planting of approximately 600 trees per acre by the ARRI (Appalachian Region Reforestation Initiative) method on approximately 32 acres.

TASK NO. 8 - BIOSOLID APPLICATION

This task consists of furnishing all labor and equipment and performing of an application of biosolids to the backfilled area which lacks effective topsoil and a light planting of grasses/legumes which will not compete with tree growth.

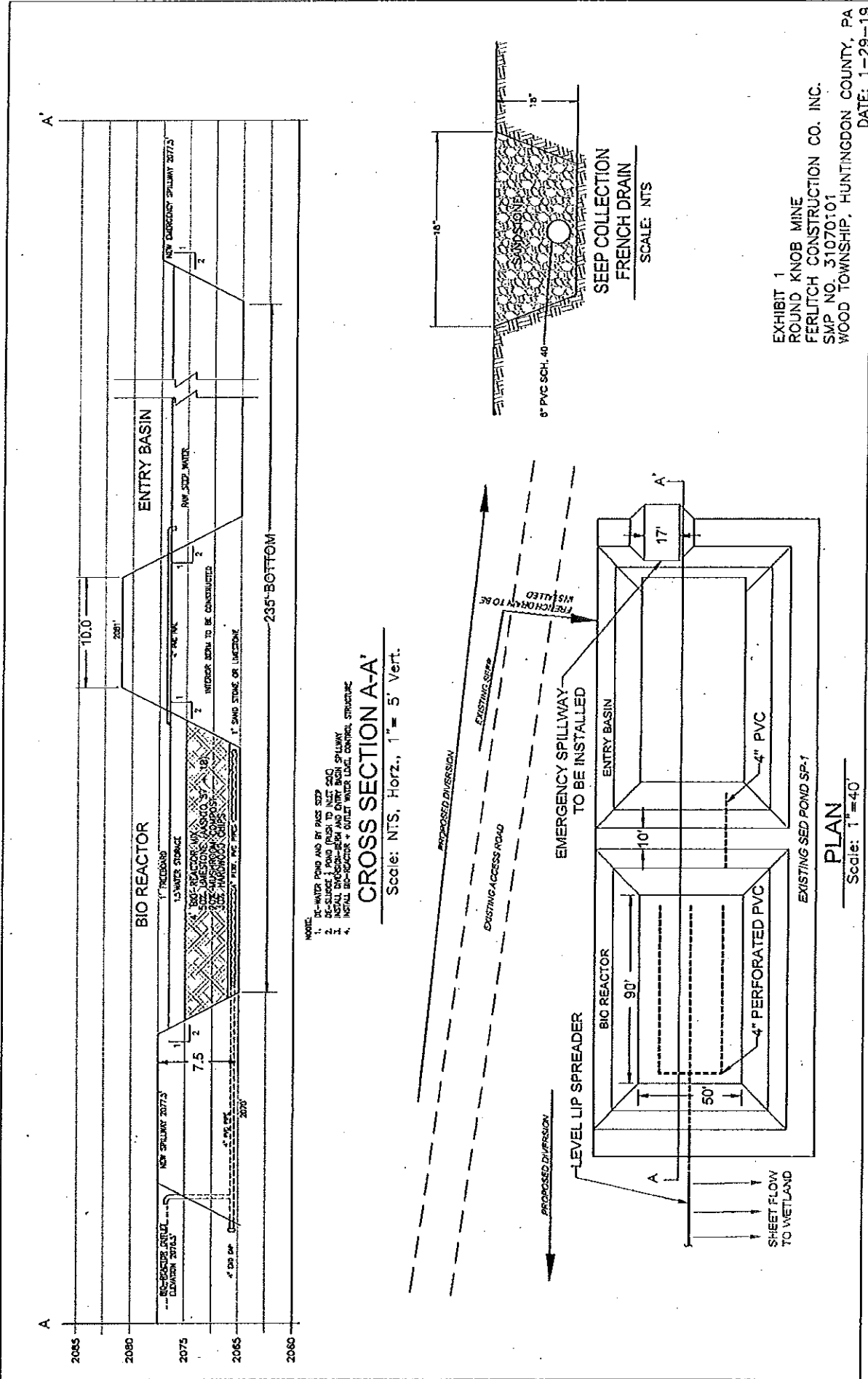


EXHIBIT 1
 ROUND KNOB MINE
 FERLITCH CONSTRUCTION CO. INC.
 SMP NO. 31070101
 WOOD TOWNSHIP, HUNTINGDON COUNTY, PA
 DATE: 1-29-19

SURETY RECLAMATION COST ESTIMATE
FERLITCH CONSTRUCTION CO., INC.
SMP# 31070101 - ROUND KNOB MINE

TASK	DESCRIPTION	EST. COST
1	MOBILIZATION /SCRAP ACCUMULATION / DEMOBILIZATION	\$ 8,400.00
2	PREPARATION OF POND 1	\$ 21,000.00
3	CONSTRUCTION OF BIOREACTOR	\$ 31,400.00
4	CONSTRUCTION OF BIOREACTOR OUTLET	\$ 5,000.00
5	SPILLWAYS, SEEP DRAIN, DIVERSIONS	\$ 7,000.00
6	RECLAMATION OF POND 2	\$ 13,226.64

TOTAL	\$ 86,026.64
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NOTE: This estimate does not include any projected costs for ARRI tree planting, biosolids application or removal of scrap equipment. No costs were included for grading and repair of existing access road from SR 913 back to site.



SMP 31070101

Permit No.

**CONSENT TO RIGHT OF ENTRY FOR DESIGN AND STUDY AND
FOR CONSTRUCTION, OPERATION AND
MAINTENANCE OF MINE DRAINAGE TREATMENT FACILITY**

Property Owner(s): List everyone with an ownership interest in the property which is the subject of this Agreement.

Name: East Broadtop Railroad & Coal Co. Name: _____

Address: 1060 Wayne Ave. Indiana PA 15701 Address: _____

WHEREAS, the Property Owner(s) own surface property (map/parcel number – 54-06-10, control number - _____), containing ~13,950 acres located in Wood Township, Huntingdon County, Pennsylvania, and described in Deed Book Volume 30, Page 378, in the Huntingdon County Recorder's Office (the Property);

WHEREAS, the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP) is authorized, pursuant to the Surface Mining Conservation and Reclamation Act, 52 P.S. § 1396.1 et seq. (SMCRA), the Clean Streams Law, 35 P.S. § 691.1 et seq., and their implementing regulations, to perform mine reclamation activities on mine sites for which the bond has been forfeited, including the construction, operation and maintenance of facilities designed to remediate the effects of abandoned mine drainage;

WHEREAS, the Property has been affected by a mine site for which the bond was forfeited and reclamation of the mine site was not completed in accordance with the requirements of SMCRA and the Clean Streams Law;

WHEREAS, DEP has requested and the Property Owner(s) is/are willing to grant DEP a right of entry into, under, over and upon the Property to conduct mine reclamation activities on the Property, including study, design, construction, operation and maintenance of abandoned mine drainage treatment facilities, as more fully described in the attached Scope of Work;

WHEREAS, DEP has determined that abandoned mine drainage is discharging from or passing through the Property, and that the abandoned mine drainage on the Property is causing pollution, or a danger of pollution, to waters of the Commonwealth;

WHEREAS, pursuant to Section 316 of the Clean Streams Law, 35 P.S. § 691.316, whenever DEP finds that pollution, or a danger of pollution, to waters of the Commonwealth exists on land within the Commonwealth, DEP may order the landowner to correct the condition in a manner satisfactory to DEP (such as by constructing and operating a mine drainage treatment facility); or, DEP may order the landowner to allow DEP or DEP's agent access to the land to take action to remediate the pollution (such as by constructing and operating a treatment facility);

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WHEREAS, pursuant to Section 8106 of the Environmental Good Samaritan Act, 27 Pa. C.S. § 8106, a landowner who provides access to the land, without charge or other consideration, for purposes of enabling installation of a water pollution abatement project shall be immune from liability for the operation, maintenance or repair of the water pollution abatement facilities installed during the project, unless the landowner negligently damages or destroys the facilities or denies access to those persons who operate, maintain or repair the facilities;

WHEREAS, pursuant to Section 8106 of the Environmental Good Samaritan Act, 27 Pa. C.S. § 8106, a landowner who provides access to the land, without charge or other consideration, for purposes of enabling installation of a water pollution abatement project shall not be deemed to assume legal responsibility for any pollution resulting from a water pollution abatement project, and shall not be subject to a citizen suit filed under the Clean Streams Law for pollution resulting from a water pollution abatement project;

WHEREAS, DEP proposes to undertake mine reclamation activities on the Property, either through Commonwealth employees or through a third-party contractor, which include study and design, and constructing, operating and maintaining facilities for treating abandoned mine drainage to improve the quality of water discharging from or passing through the Property, and thereby abating pollution in accordance with the applicable provisions of SMCRA, the Clean Streams Law, and their implementing regulations;

WHEREAS, DEP has determined that the abandoned mine drainage treatment facilities to be constructed on the Property qualify as a water pollution abatement project under the Environmental Good Samaritan Act and the Property Owner(s) will be subject to protection under that Act by providing access, at no charge, to the Department for purposes of constructing, operating and maintaining the treatment facilities on the Property;

WHEREAS, the Property Owner(s) acknowledge that completion of mine reclamation on the Property and treatment of the abandoned mine drainage on the Property will provide benefits to the Property Owner(s) and to the Commonwealth through abatement of a nuisance, restoration of land affected by mining operations, and prevention of pollution to waters of the Commonwealth;

NOW THEREFORE, in consideration of the benefits which the Property Owner(s) and the general public will receive, and with the intention of being legally bound, it is agreed as follows:

1. Right of Entry. The Property Owner(s) hereby grant(s) and convey(s) to DEP, its employees, agents, servants, grantees, trustees, contractors, and subcontractors; a right of entry into, under, over and upon the Property. This consent gives the Commonwealth the right to enter, inspect, study, sample, monitor water quality, and perform all other actions reasonably necessary to complete the design of mine drainage treatment facilities adequate to treat any abandoned mine drainage discharging from or passing through the Property. This right of entry includes all necessary rights of ingress, egress and regress with all personnel, materials, and equipment needed to perform the mine reclamation activities described in the attached Scope of Work. It is specifically agreed and understood that this contractual consent gives the Commonwealth, or its agent, the right to construct, operate and maintain all treatment facilities necessary to remediate pollution from any abandoned mine drainage discharging from or

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passing through the Property. This contractual consent does not constitute any ownership interest by the Commonwealth in the Property.

2. Duration of Right of Entry. The term of this Right of Entry shall extend for the length of time necessary to complete the reclamation activities described in the attached Scope of Work. It is specifically understood and agreed that the term of this Right of Entry extends for the length of time necessary to operate and maintain all mine drainage treatment facilities to be constructed on the Property, in furtherance of the goal of remediating water pollution, and shall only terminate when such treatment facilities are no longer necessary to remediate or prevent pollution to waters of the Commonwealth.

3. Insurance. In the event that the mine reclamation activities described in the attached Scope of Work are conducted by DEP contractors, DEP will require its contractors to obtain and keep in force insurance coverage sufficient to protect DEP and the Property Owner(s) against damage or injury resulting from the negligence or fault of its contractors. DEP will also require its contractors to name the Property Owner(s) as an additional insured under the insurance coverage.

4. Property Use. During the term of this Right of Entry, the Property Owner(s) will not, without the written consent of DEP, make any use of the Property which will interfere with the reclamation activities performed by the Department on the Property or with the construction, operation or maintenance of the mine drainage treatment facilities installed on the Property.

5. Notification. This Consent to Right of Entry shall be recorded by DEP in the Huntingdon County Recorder's Office within thirty (30) days of its execution. In the event that the Property Owner(s) intend(s) to sell, lease, or otherwise transfer any interest in the Property prior to the termination of this Right of Entry, the Property Owner(s) shall advise the prospective owner or lessee of the terms and conditions of this Right of Entry. The Property Owner(s) shall advise DEP of the intent to sell the Property prior to any sale.

(a) Prior to installation of the mine drainage treatment facilities on the Property as described in the attached Scope of Work, DEP or its agent will provide reasonable notice to the Property Owner(s) prior to entering the Property.

6. Representation of Interests. The Property Owner(s) represent(s) that he/she/they is/are the only person(s) or entit(y)(ies) who has/have any legal interest in the Property, including any easements or rights-of-way, and that the Property Owner(s) is/are authorized to grant access to the Department or its agent for construction, operation and maintenance of the mine drainage treatment facility. A map of the proposed facility and the existing property boundaries is attached as part of the Scope of Work.

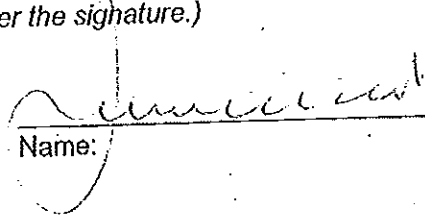
7. Binding on Successors. All the covenants, representations, consents, waivers and agreements contained herein shall be binding upon and inure to the benefit of the parties and their heirs, successors and assigns.

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IN WITNESS WHEREOF, the Property Owner sets its hand and seal, for itself, its heirs, executors, administrators, successors and assigns, intending to be legally bound, this 10 day of Dec 2018.

The Property Owner(s)
(Each owner sign and print or type their name under the signature.)

Name:



Name:

Name:

Joe Kovalchick
Name:

President
Title:

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ACKNOWLEDGMENT

STATE OF Pennsylvania

ss

COUNTY OF

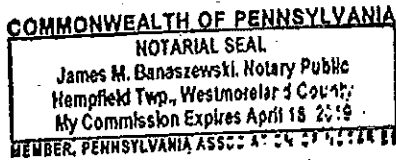
On this, the 10 day of Dec, 2018, before me, the undersigned Notary, personally appeared

East Broadtop Railroad & Coal Co. / Joe Kovalchick - President
(Name (s))

known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to this instrument, and who acknowledged that (he, she or they) have executed the same and desire it to be recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

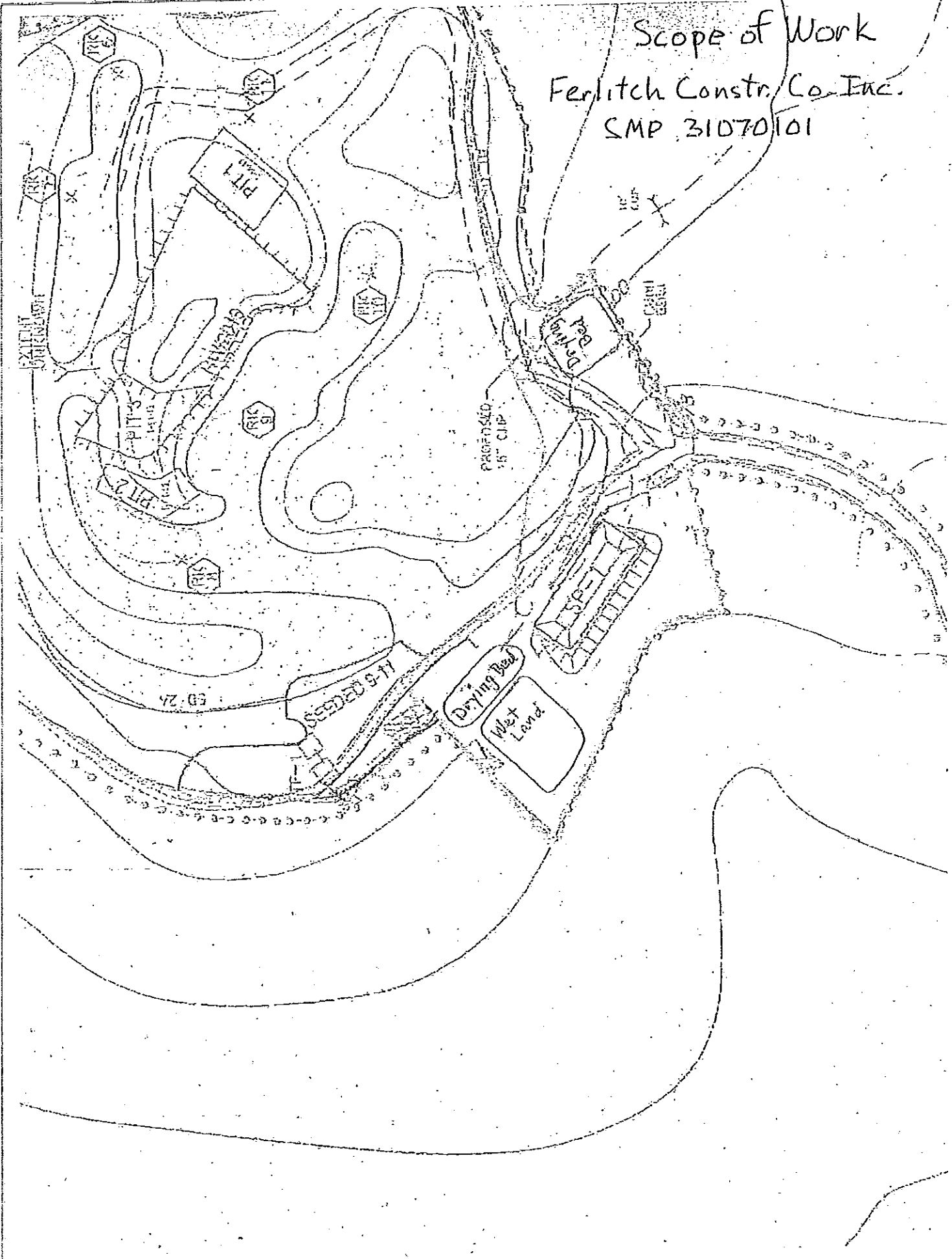
(SEAL) James M. Banaszewski My Commission Expires: 04/18/2019
Notary Public



012181310 Office DECEMBER 18 2018

Scope of Work

Ferlitch Constr. Co. Inc.
SMP 31070101





February 4, 2019

Rockwood Casualty Insurance Co.
Randy Livingston
654 Main Street
Rockwood, PA 15557-1029

Re: Ferlitch Construction Company, Inc.
Permit No.: 31070101
Township: Woods
County: Huntingdon

Dear Mr. Livingston:

As per Pa. Code Chapter 105.12(a) the requirements for an encroachment and water obstruction permit are waived. This waiver is for the construction and maintenance of the acid mine drainage treatment system and for reclamation that Rockwood has proposed for the forfeited mine site at Ferlitch Construction Company, Inc., Round Knob Mine, SMP 31070101.

In addition to the treatment system design shown in your Reclamation Plan dated January 29, 2019, this project will be conditioned by the following limitations and provisions:

- Limit the disturbance when providing access to install the E/S controls
- New wetland construction is adjacent to the wetlands that developed along the toe of spoil backfill and shall be integrated into this edge area.
- Earthen fill material shall not be disposed within any wetland areas
- Construction work will be performed from dry to wet areas and only in appropriate weather
- Critical areas will be seeded upon completion

If you have any questions or need any additional information, please call me at 814.472.1900.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Sammarco".

Daniel Sammarco, P.E.
District Mining Manager
Bureau of District Mining Operations

Attachment

cc: Malcolm Crittenden, Watershed Manager
file

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SURETY RECLAMATION COST ESTIMATE
FERLITCH CONSTRUCTION CO., INC.
SMP# 31070101 - ROUND KNOB MINE

TASK	DESCRIPTION	EST. COST
1	MOBILIZATION /SCRAP ACCUMULATION / DEMOBILIZATION	\$ 8,400.00
2	PREPARATION OF POND 1	\$ 21,000.00
3	CONSTRUCTION OF BIOREACTOR	\$ 31,400.00
4	CONSTRUCTION OF BIOREACTOR OUTLET	\$ 5,000.00
5	SPILLWAYS, SEEP DRAIN, DIVERSIONS	\$ 7,000.00
6	RECLAMATION OF POND 2	\$ 13,226.64

TOTAL

\$ 86,026.64

NOTE: This estimate does not include any projected costs for ARRI tree planting, biosolids application or removal of scrap equipment. No costs were included for grading and repair of existing access road from SR 913 back to site.