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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

Forcey Coal, Inc.	:	SMP No. 17010109 (Buterbaugh 2 Mine)
P.O. Box 225	:	SMP No. 17990112 (Buterbaugh 1 Mine)
Madera, PA 16661	:	Bigler Township, Clearfield County
	:	Alternative Financial Assurance Mechanism

POST-MINING TREATMENT TRUST CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 18 day of Aug 2009, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), and Forcey Coal, Inc. ("Forcey Coal").

A. The Department is the agency with authority to administer and enforce 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 Bituminous Mine Subsidence and Land Conservation Act, Act of April 27, 1966, P.L. 31, *as amended*, 52 P.S. §§ 1406.1-1406.21 ("Mine Subsidence Act"); the Coal Refuse Disposal Control Act, Act of September 24, 1968, P.L. 1040, *as amended*, 52 P.S. §§ 30.51-30.206 ("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 ("Rules and Regulations") promulgated thereunder.

B. Pursuant to § 4(d.2) of the Surface Mining Act, 52 P.S. § 1396.4(d.2), the Department may establish alternative financial assurance mechanisms which shall achieve the objectives and purposes of the bonding program. These mechanisms include the establishment

of a site-specific trust fund funded by a mine operator for the treatment of post-mining discharges of mine drainage. The post-mining treatment trust being established by this Consent Order and Agreement and accompanying Post-Mining Discharge Treatment Trust Agreement constitutes an alternative financial assurance mechanism authorized by § 4(d.2) of the Surface Mining Act. Pursuant to Sections 5, 315 and 610 of the Clean Streams Law, 35 P.S. §§ 691.5, 691.315 and 691.610, Section 4.3 of 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, and Section 9 of the Subsidence Act, 52 P.S. § 1406.9, the Department has authority to issue such orders as are necessary to aid in the enforcement of the provisions of these acts, including orders compelling an operator to establish a post-mining discharge treatment trust as an alternative financial assurance mechanism.

C. Forcey Coal is a Pennsylvania corporation with a mailing address of P.O. Box 225, Madera, PA 16661. Forcey Coal, located at 475 Banian Road, is engaged in surface mining of coal in Pennsylvania, and at all times relevant to this Consent Order and Agreement, Forcey has conducted surface mining activities pursuant to Surface Mine Operator's License No. 1436.

D. David D. Forcey is President and Lynn H. Forcey is Vice President and Secretary of Forcey Coal.

E. Forcey Coal is the permittee of the following surface coal mines that are associated with a post-mining discharge:

NAME	PERMIT NO.	TOWNSHIP	COUNTY
Buterbaugh 2 Mine	17010109	Bigler	Clearfield
Buterbaugh 1 Mine	17990112	Bigler	Clearfield

Buterbaugh 2 Mine

F. Surface Mining Permit ("SMP") No. 17010109 was issued to Forcey Coal for the Buterbaugh 2 Mine on February 13, 2002. The Buterbaugh 2 Mine was a mine site with a pre-existing acid mine drainage ("AMD") discharge identified as KB-11. The permit authorized Forcey Coal to conduct surface mining activities at the Buterbaugh 2 Mine pursuant to 25 Pa. Code Chapter 87, Subchapter F ("Subchapter F"). Under Subchapter F, Forcey Coal is responsible for treating any increase in the baseline pollutant load of KB-11.

G. In October 2004, Forcey Coal completed coal removal operations at the Buterbaugh 2 Mine and backfilled and reclaimed the mine site. Forcey Coal's coal removal operations further degraded the KB-11 discharge. Forcey Coal's remaining obligation at the Buterbaugh 2 Mine is continued treatment of KB-11 to the level of the baseline pollution load established in SMP No. 17010109. Treatment of the KB-11 discharge is expected to continue indefinitely.

H. KB-11 is located on the western edge of the permitted mine area near Clearfield Creek as shown on Exhibits 6.2 and 26 that are part of SMP No. 17010109. A topographic map depicting the location of KB-11 is attached hereto as **Exhibit A**. The coordinates for KB-11 are: Latitude: 40 degrees, 49 minutes, 11 seconds; Longitude: 78 degrees, 28 minutes, 56 seconds.

I. On February 13, 2002, the Department issued National Pollution Discharge Elimination System ("NPDES") Permit No. PA0243116 to Forcey Coal authorizing the treatment of anticipated discharges from the active mining operations at Buterbaugh 2 Mine. On November 27, 2006, the Department revised the Permit to authorize the construction of a passive treatment system to address the KB-11 discharge ("Buterbaugh 2 Mine Treatment System"). On February 13, 2007, the Permit was renewed. It is scheduled to expire February 13, 2012.

J. In November 2006, Forcey Coal completed the construction of the Buterbaugh 2 Mine Treatment System which consists of an anoxic limestone drain ("ALD"), a holding pond and a wetland. The KB-11 discharge is collected at the opening of a deep mine, flows to the ALD and then flows into the holding pond and the wetland. The treated effluent from the Treatment System is discharged into Clearfield Creek.

K. The Buterbaugh 2 Mine Treatment System is located on land owned by Buterbaugh Brothers Land and Timber Corporation. Forcey Coal has obtained from Butterbaugh Brothers Land and Timber Corporation a properly executed Consent to Right of Entry form which grants the parties and the trustee access to the Buterbaugh 2 Mine Treatment System. A copy of the executed Consent to Right of Entry is attached hereto as **Exhibit B**.

L. NPDES Permit No. PA0243116 contains discharge limitations for iron, manganese, and net acidity.

The effluent limits applicable to the KB-11 discharge are found in the NPDES permit as a special condition in Part A, Section D6, table D3. The monthly average and daily maximum limits expressed in pounds per day are set forth in the table as follows:

PARAMETER	MONTHLY AVERAGE LBS/day	DAILY MAXIMUM LBS/day
Net acidity	0	0
Iron	38.39	67.67
Manganese	1.80	3.43

Buterbaugh 1 Mine

M. SMP Permit No. 17990112 was issued to Forcey Coal for the Buterbaugh 1 Mine on February 23, 2000.

N. On February 23, 2000, the Department issued NPDES Permit No. PA0238350 (Part A of SMP No. 17990112) authorizing the treatment of anticipated discharges from the active mining operations at Buterbaugh 1 Mine and requiring the treatment of any unanticipated discharges. The NPDES Permit was renewed on February 23, 2005 and, unless renewed, will expire on February 23, 2010. Before then as provided in Paragraph 13 hereof, Forcey Coal agrees to submit an application to revise the Permit in order, among other things, to identify and take into account the BC-3 discharge which is not currently identified and taken into account in the existing NPDES Permit.

O. In August 2002, Forcey Coal completed coal removal operations at the Buterbaugh 1 Mine and backfilled and reclaimed the mine site. Forcey Coal remains legally responsible for the continued treatment of an AMD discharge identified as BC-3. BC-3 was a pre-existing discharge that was further degraded by Forcey Coal when it mined the Buterbaugh 1 Mine.

P. BC-3 is located in the southwest corner of the permitted area near Banian Run Creek as shown on Exhibit 6.2 that is part of SMP No. 17990112. The topographic map attached hereto as Exhibit A depicts the location of BC-3. The coordinates are: Latitude: 40 degrees, 48 minutes, 15 seconds; Longitude: 78 degrees, 27 minutes, 15 seconds.

Q. In October 2007, Forcey Coal constructed the existing passive treatment system which consists of a lined limestone bed ("Buterbaugh 1 Mine Treatment System"). After collection at and neutralization by the limestone bed, the treated BC-3 discharge flows into Banian Run.

R. A summary of the raw water quality of the BC-3 discharge as compiled by the Department on November 6, 2008, for the period from January 13, 2005, to September 24, 2008, is set forth in **Exhibit C**.

S. The Buterbaugh 1 Mine Treatment System is located on land owned by David B. and Gloria A. Shaffer. Forcey Coal has obtained from David B. and Gloria A. Shafer a properly executed Consent to Right of Entry form which grants the parties and the trustee access to the Buterbaugh 1 Mine Treatment System. A copy of the executed Consent to Right of Entry is attached hereto as **Exhibit D**.

T. Forcey Coal agrees it has the legal responsibility, pursuant *inter alia* to the Surface Mining Act and the Clean Streams Law, to properly treat or abate the discharges identified in Paragraphs H and P above.

Forcey Coal's Surface Reclamation Bonds and Financial Guarantees

U. Forcey Coal posted surety bonds ("Bonds") for the Buterbaugh 2 Mine totaling \$184,914.00. The numbers and amounts of the Buterbaugh 2 Mine Bonds which were written by Lyndon Property Insurance Company ("Lyndon Property") are as follows:

L220011701010901	\$ 27,000.00
L0120031701010903	\$157,914.00

Forcey Coal also has on account with the Department Financial Guarantee No. 482069CFG in the amount of \$133,543.00.

V. Forcey Coal posted Bonds for the Buterbaugh 1 Mine totaling \$84,100.00. The numbers and amounts of the Buterbaugh 1 Mine Bonds which were also written by Lyndon

Property are as follows:

L01001799011201	\$ 7,000.00
L02001799011202	\$ 8,600.00
L11001799011203	\$ 3,200.00
L0520011799011205	\$21,500.00
L0720011799011206	\$41,500.00
L1120011799011207	\$ 2,300.00

Forcey Coal also has on account with the Department the following Financial Guarantees totaling \$89,322.00:

482075FG	\$46,800.00
4820108FG	\$12,700.00
482010CFG	\$29,822.00

The Post-Mining Treatment Trust for the Buterbaugh 1 and 2 Mines

W. The parties have agreed that based on actual operating costs in 2008, the estimated annual cost to operate and maintain the Buterbaugh 2 Mine Treatment System is approximately \$4,791.00. The present value recapitalization cost of the Treatment System is approximately \$51,332.00.

X. The parties have agreed that based on actual operating costs in 2008, the estimated annual cost to operate and maintain the Buterbaugh 1 Mine Treatment System is approximately \$3,209.00. The present value recapitalization cost of the Treatment System is approximately \$6,145.00.

Y. Forcey Coal is willing to establish a post-mining treatment trust with the Northwest Savings Bank as an alternative financial assurance mechanism in order to provide for long-term treatment of post-mining discharges, and secure the release of the Financial Guarantees and partial release of the Surety Bonds referenced in Paragraphs U and V, above.

Forcey Coal agrees to establish the Forcey Coal Treatment Trust by executing the Post-Mining Treatment Trust Agreement with Northwest Savings Bank that is referenced in Paragraph 5.a hereof and an executed copy of which is attached hereto as **Exhibit E**.

Z. The parties have discussed the need to obtain accurate and timely information on the costs of operating and maintaining the Treatment Systems in order to maintain the proper amount of financial assurance. The parties have agreed that the combined current annual costs of operating and maintaining the Treatment Systems are approximately \$8,000.00, and the combined current present value re-capitalization costs are approximately \$57,477.00.

AA. Based on the costs set forth in Paragraph Z, above, and the formulas set forth below, the parties have agreed that the present value of the fully funded Forcey Coal Treatment Trust for the discharges covered by this Consent Order and Agreement is \$242,193.00. This sum constitutes the current present value of the estimated future operation and maintenance costs for the Buterbaugh 2 Mine and the Buterbaugh 1 Mine Treatment Systems, and the current present value of the estimated future capitalization costs for the Treatment Systems. The parties have also agreed to use the information and figures which will be provided by the Accounting required in Paragraph 4 to recalculate and adjust the amount of the Forcey Coal Treatment Trust as described in Paragraphs 7 and 9 below.

AB. The parties agree that on or before August 18, 2009, the parties will complete execution of this Consent Order and Agreement, the Consents to Right of Entry attached hereto as **Exhibits B and D** and the Post-Mining Treatment Trust Agreement attached hereto as **Exhibit E** and that Forcey Coal will record the Consents with the Clearfield County Recorder of Deeds within two (2) business days of their complete execution.

The parties further agree that on or before August 18, 2009, the Department will provide Forcey Coal with letters signed by the Department's Bureau of Licensing and Bonding releasing the Bonds and Financial Guarantees identified in Paragraphs U and V ("Letters") with the exception of Buterbaugh 2 Mine Bond No. L12200117010901, which will remain in place after being reduced from \$27,000 to \$17,540 to secure Forcey Coal's Stage 3 reclamation obligations at the Buterbaugh 2 Mine.

Finally, the parties agree that within 48 hours of the full execution of said documents and the exchange of the Letters, Forcey Coal will fund the Forcey Coal Treatment Trust as provided in Paragraph 5 hereof and provide the Department with written notification of said funding from Northwest Savings Bank.

ORDER

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 intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Forcey Coal as follows:

1. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Sections 5 and 610 of the Clean Streams Law, 35 P.S. §§ 691.5 and 691.610; Section 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, and Section 1917-A of the Administrative Code, 71 P.S. § 510-17. The failure of Forcey Coal to comply with any term or condition of this Consent Order and Agreement shall subject Forcey Coal to all penalties and remedies provided by those statutes for failing to comply with an order of the Department.

2. Findings.

a. Forcey Coal agrees that the findings in Paragraphs A through AB are true and correct and, in any matter or proceeding involving Forcey Coal and the Department relating to this Consent Order and Agreement, Forcey Coal 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. Definitions.

a. Accounting. The accounting required by Paragraph 4 of this Agreement.

b. Actual Treatment Cost. The average of three consecutive years of the costs and expenses of treatment, calculated by using the Accountings for those three years.

c. Annual Anniversary Date. Thirty (30) days after the last day of Forcey Coal's fiscal year or thirty (30) days after the last day of any fiscal year which Forcey Coal may adopt in the future.

d. Calculated Treatment Cost. The projected future annual cost of treatment, based on the Actual Treatment Cost, compounded at three and one tenth percent (3.1%) annually.

e. Capital Improvement Account. The sub-account within the Trust that is primarily used to finance anticipated and periodic capital expenditures for the Treatment Systems.

f. Distribution Payment. The Trustee's disbursement of money from the Trust made at the written direction of the Department to a person and in an amount specified by the Department and as provided by this Consent Order and Agreement.

g. Formula. The equation used to calculate the Present Value of the future operation and maintenance ("O&M") of the Treatment Systems. The equation is:

$$PV = (A/[E-I]) + A$$

Where: PV = Present Value of the O&M Costs
A = Current Actual Treatment Cost
E = Expected annual earnings/Interest Rate (assumed to be 8.43 % or 0.0843)
I = Inflation Rate (assumed to be 3.1% or 0.031)

h. Primary Basis Valuation. 100% of the present value of the future cost of treatment as determined by the Formula.

i. Primary Target Valuation. 116% of the present value of the future cost of treatment as determined by the Formula.

j. Primary Trust Account. The sub-account within the Trust that is primarily used to finance annual operating and maintenance costs of the Treatment Systems.

k. Primary Trust Valuation. The cash, cash equivalents, investments at market value of investments currently held by the Trust in the Primary Trust Account.

4. Annual Treatment Costs; Records; Factors; Accounting.

a. Forcey Coal shall keep accurate financial records of all the costs and expenses of annual treatment for each year. The various cost factors fall into several general categories, including, but not limited to: Reagent; Polymer; Electrical; Sludge Removal; Labor, including benefits; Maintenance; Sampling; Overhead; and Miscellaneous. The individual item shall be tracked and reported for each general category.

b. Forcey Coal shall keep separate records for the Buterbaugh 2 Mine and the Buterbaugh 1 Mine Treatment Systems.

c. Forcey Coal shall provide an annual accounting of the costs and expenses of annual treatment ("the Accounting") to the Department on or before the 90th day following the last day of the fiscal year for which the Accounting is being provided. The Accounting shall cover the period beginning October 1 and continuing through September 30 of each year, or other fiscal year as Forcey Coal may adopt for its corporate finances in the future, and shall be in accordance with Generally Accepted Accounting Principles. The Accounting shall be accompanied by an affidavit of the treasurer or other corporate officer responsible for the financial affairs of Forcey Coal and by the President of Forcey Coal attesting to the completeness and accuracy of the records of the costs and expenses of annual treatment as reported in the Accounting.

d. Forcey Coal's obligation to keep records and provide the Accounting shall continue for the period during which Forcey Coal is operating the Treatment Systems.

e. In the event of a dispute about the costs and expenses of treatment incurred by Forcey Coal, Forcey Coal shall bear the burden of proving the accuracy and completeness of the Accounting and the records upon which the Accounting is based. A Special Report prepared under Generally Accepted Accounting Principles as to the treatment costs incurred by Forcey Coal, prepared by an independent licensed public or certified public accountant, shall satisfy Forcey Coal's burden of proof as to any of these matters.

5. Establishment and Funding of the Forcey Coal Post-Mining Treatment Trust and Release of the Forcey Coal Surety Bonds and Financial Guarantees.

a. On or before August 18, 2009:

(i) Forcey Coal shall establish an irrevocable trust to be known as the Forcey Coal Post-Mining Treatment Trust ("Trust") with Northwest Savings Bank by executing

the Forcey Coal, Inc. Post-Mining Treatment Trust Agreement, a copy of which is attached hereto as **Exhibit E**. The Trust shall secure Forcey Coal's obligation to treat discharges KB-11 and BC-3, including its legal obligation to operate and maintain the Buterbaugh 2 Mine and Buterbaugh 1 Mine Treatment Systems in perpetuity or until water treatment is no longer necessary. The Trust shall also secure Forcey Coal's obligation to provide financial resources to the Department and the citizens of the Commonwealth sufficient to maintain and operate the Treatment Systems, and to treat the mine drainage in perpetuity in the event Forcey Coal becomes unable or unwilling to meet its obligations. The Trust shall provide for the demolition of treatment facilities and reclamation of the treatment sites should treatment no longer be needed.

(ii) Forcey Coal shall establish within the Trust two sub-accounts: (1) a sub-account designated as the Primary Trust Account; and, (2) a sub-account designated as the Capital Improvement Account.

The value; i.e. Primary Target Valuation, of the fully funded Trust at the end of each year from 2008 to 2041, assuming annual growth of 8.43%, inflation of 3.1%, and no change in operation and maintenance costs, is set forth in **Exhibit F** attached to this Consent Order and Agreement.

(iii) Forcey Coal shall record the fully executed Consents to Right of Entry with the Clearfield County Recorder of Deeds and provide the Department with copies of the recorded Consents.

b. Following Forcey Coal's establishment of the Trust on or before August 18, 2009, the Department will provide Forcey Coal with letters from the Department's Bureau of Licensing and Bonding releasing the Financial Guarantees and Bonds identified in Paragraphs U

and V ("Letters") hereof with the exception of Buterbaugh 2 Mine Bond No. L12200117010901 which will remain in place after being reduced from \$27,000 to \$17,540. The remaining bond amount of \$17,540.00 will be retained by the Department as bond for Stage 3 reclamation obligations at the Buterbaugh 2 Mine.

c. Within 48 hours of the Department's delivery of the Letters to Forcey Coal, Forcey Coal shall deposit the sum of \$242,193.00 into the Primary Trust Account and provide the Department with written notification of said funding from Northwest Savings Bank. This sum constitutes the current present value of the sum necessary to fully fund the Trust, and includes the current present value of the future operation and maintenance of the Treatment Systems and the current amount needed to finance anticipated and periodic capital expenditures for the Treatment Systems.

6. Annual Distribution or Contribution Payments - Primary Trust Account.

a. All calculations under this Paragraph shall be based on values as determined on the Annual Anniversary Date.

b. If at the end of any year the Primary Trust Valuation is greater than the Primary Target Valuation, then a Distribution Payment shall be made to Forcey Coal. The amount of such Distribution Payment will be equal to the difference between the Primary Trust Valuation and the Primary Target Valuation, or equal to the Calculated Treatment Cost, whichever is less. This amount is depicted graphically at Point 1, 2 and 3 on **Exhibit G**.

c. If the Primary Trust Valuation is less than or equal to the Primary Target Valuation, but greater than or equal to the Primary Basis Valuation, then no Distribution Payment shall be made and no additional contribution shall be required. This provision is depicted graphically as Point 4 on **Exhibit G**.

d. If the Primary Trust Valuation is less than the Primary Basis Valuation, then Forcey Coal shall make an additional contribution into the Primary Trust Account in an amount equal to the difference between the Primary Basis Valuation and the Primary Trust Valuation, or in an amount equal to the Calculated Treatment Cost, whichever is less, except as provided in Paragraph 12.a. This amount is depicted graphically as points 5 and 6 on **Exhibit G**

7. Adjustments to the Primary Target Valuation for Deviations Between Actual Treatment Cost and Calculated Treatment Cost.

a. All calculations under this paragraph shall be based on values as determined on the Annual Anniversary Date and before any Distribution Payment.

b. If the Actual Treatment Cost for any year is greater than or equal to 110% adjusted for inflation at the rate of 3.1% per year, or less than or equal to 90% percent of the Calculated Treatment Cost, the Department will calculate a new Primary Basis Valuation using the Formula and the newly determined Actual Treatment Cost. A new Primary Target Valuation will then be determined by calculating 116% percent of the new Primary Basis Valuation.

Exhibit H is a graphical depiction of the adjustment.

8. Distribution Payments for Adjustments to the Primary Target Valuation.

a. If the newly calculated Primary Target Valuation, which has been adjusted under Paragraph 7 above, is greater than the Primary Trust Valuation, no distribution payment shall be made under this paragraph.

b. If the newly calculated Primary Target Valuation, which has been adjusted under Paragraph 7. above, is based on a reduced Actual Treatment Cost, and the Primary Trust Valuation is greater than the newly calculated Primary Target Valuation, then a Distribution Payment shall be made to Forcey Coal. The amount of such Distribution Payment will be equal

to the percent change in Actual Treatment Cost times the Primary Trust Valuation, or in an amount equal to the difference between the Primary Trust Valuation and the newly calculated Primary Target Valuation, whichever is less. The amount of such Distribution Payment shall be determined by the following formulas:

$$DP = TR (1 - (\text{new ATC}/\text{prior ATC}))$$

Or

$$DP = TR - \text{new TV}$$

Where: DP = Distribution Payment
TR = Primary Trust Valuation
TV = Primary Target Valuation
ATC = Actual Treatment Cost

9. Capital Improvement Account.

a. Assets of the Capital Improvement Account may be commingled with assets of the Primary Trust Account for purposes of investment, but must be accounted for and reported separately as if they are assets of a separate and distinct fund.

b. The required balance of the Capital Improvement Account has been determined by use of the AMDTreat Recapitalization tool based on the following methodology: For each planned capital replacement activity, the current cost and the projected year of replacement are determined. The future cost of each replacement activity is calculated by compounding the present cost at a rate of 3.1% annually. The year in which each replacement activity will be needed is projected based on typical component life cycles. Assuming a net rate of return on investment of 8.43%, the initial amount of the Capital Improvement Account must be sufficient to cover all anticipated expenditures for capital replacement activities for a 75-year period.

c. A schedule for the Capital Improvement Account balance and projected capital expenditures is made a part of this agreement as **Exhibit I**. The required balance in the Capital Improvement Account may be recalculated on an annual basis or each time a Distribution Payment is contemplated under Paragraph 11. Such recalculation shall be deemed an amendment to **Exhibit I** and this Consent Order and Agreement, and shall be used in making all future calculations involving the Capital Improvement Account.

10. Transfer of Funds to the Capital Improvement Account.

If the Primary Trust Valuation after any Distribution Payment under Paragraph 6 above is greater than the Primary Target Valuation, then a transfer of funds to the Capital Improvement Account shall be made if the current balance in the Capital Improvement Account is less than the required balance for the current year as indicated on **Exhibit I**. The amount of such transfer will be equal to the difference between the required balance and the current balance, or in an amount equal to the difference between the Primary Trust Valuation and the Primary Target Valuation, whichever is less.

11. Distribution Payments from the Capital Improvement Account.

a. A distribution payment shall be made to Forcey Coal any time a planned capital replacement is made as indicated on **Exhibit I**. The capital replacement and maintenance activities shall be made as needed, which may be sooner or later than the projected time. The amount of the Distribution Payment shall be equal to the calculated cost of the Capital Improvement as indicated on **Exhibit I**, or in an amount equal to the difference between the current balance in the Capital Improvement Account and the required balance after the capital improvement Distribution Payment, whichever is less.

b. Each time a Distribution Payment from the Capital Improvement Account is contemplated under this Paragraph or Paragraph 12 below, the required balance in the Capital Improvement Account must be recalculated to determine the required balance after the proposed Distribution Payment, and to determine the appropriate Distribution Payment.

12. Miscellaneous Distribution Payments from the Primary Trust Account and the Capital Improvement Account.

If the Primary Trust Valuation exceeds the Primary Target Valuation in the Primary Trust Account, or if the balance in the Capital Improvement Account exceeds the required balance as indicated on **Exhibit I**, then such surplus funds may be used for the following purposes:

a. Surplus funds in the Capital Improvement Account shall be transferred to the Primary Trust Account to reduce or completely satisfy Forcey Coal's obligation to make a contribution payment under Paragraph 6.d. This amount is depicted graphically at Point 5 on **Exhibit G**. However, the amount of surplus funds transferred to the Primary Trust Account may exceed Forcey Coal's obligation under Paragraph 6.d. if additional funds are needed so that the Primary Trust Valuation equals the Primary Basis Valuation. This amount is depicted graphically at Point 6 on **Exhibit G**.

b. Surplus funds in the Capital Improvement Account or the Primary Trust Account may be used by Forcey Coal to pay for unanticipated capital expenditures, or anticipated capital expenditures that exceed the calculated cost of the capital improvement as indicated on **Exhibit G**.

c. Surplus funds in the Capital Improvement Account or the Primary Trust Account may be used by Forcey Coal to finance implementation of a new treatment technology, provided the application of such treatment technology is first approved by the Department.

d. Surplus funds in the Capital Improvement Account or the Primary Trust Account may be used by Forcey Coal to implement remediation or abatement activities to reduce or eliminate the discharge, or to improve the quality of the discharge, provided the Department first approves such activities.

13. NPDES Permit No. PA0238350.

a. No later than ninety (90) days from the date of this Consent Order and Agreement, Forcey Coal shall submit a complete application to revise NPDES Permit No. PA0238350 for the Buterbaugh 1 Mine that will address the BC-3 discharge.

b. Pending the Department's approval of Forcey Coal's application to revise NPDES Permit PA0238350 to take into account the BC-3 discharge. Forcey Coal shall operate and maintain the Buterbaugh 1 Mine Treatment System in accordance with the existing NPDES Permit No. PA0238350. Forcey Coal shall continue to collect monthly samples of the final effluent from the passive treatment system for the BC-3 discharge and take monthly measurements of both the total flow into, and the total flow out of, the Buterbaugh Mine 1 Treatment System. Forcey Coal shall submit said sample and flow measures on a quarterly basis at the same time as Forcey Coal's regular quarterly monitoring.

14. Public Liability Insurance.

a. Forcey Coal shall maintain in effect public liability insurance coverage for the operation, maintenance, improvement and all other activities associated with the Treatment Systems. The Trustee and the Commonwealth of Pennsylvania shall be listed as additional insureds on the policy.

b. In addition to the requirements of Paragraph 14.a. the public liability insurance shall be written on an occurrence basis and shall provide bodily injury and property

damage coverage in the minimum amounts of \$500,000 per person and \$1,000,000 per occurrence. The insurance shall include a rider requiring the insurer to notify the Department thirty days prior to substantive changes being made to the policy or prior to termination or failure to renew. Proof of insurance shall consist of a certificate of insurance filed annually with the Department which certifies Forcey Coal has a public liability insurance policy in force meeting the requirements of this Paragraph.

15. Annual Requirements.

a. The parties will meet on or before the thirtieth day following delivery to the Department of the Accounting of each year: (i) to review and discuss the Accounting for the then completed fiscal year; (ii) to review the effectiveness of the Treatment Systems and any change in the fiscal year; (iii) to resolve any issues which arise as a result of that change or the performance of the Forcey Coal Treatment Trust; (iv) to calculate, recalculate or adjust the size of the Primary Target Valuation, the Calculated Treatment Cost, and distribution payments from or additional payments into the Forcey Coal Treatment Trust; and, (v) to address any other issues that may concern this Consent Order and Agreement or its implementation.

b. Forcey Coal shall provide annually to the Department, on forms furnished by the Department, the information required by 25 Pa. Code §§ 86.62(b) and (c) (relating to identification of interests).

16. Forcey Coal's Continuing Obligation.

Neither Forcey Coal's agreement to fund the Forcey Coal Treatment Trust nor the full nor partial funding of the Forcey Coal Treatment Trust, nor the exhaustion of the Forcey Coal Treatment Trust shall in any way limit Forcey Coal's obligation to operate the Treatment Systems and to treat the discharges covered by this Consent Order and Agreement in a manner

which meets all applicable effluent limitations as required by law. Furthermore, exhaustion of the Forcey Coal Treatment Trust shall not excuse Forcey Coal from Forcey Coal's obligation to adequately treat or to abate the KB-11 and BC-3 discharges.

17. Stipulated Civil Penalties.

a. In the event Forcey Coal fails to comply in a timely manner with any term or provision of this Consent Order and Agreement, Forcey Coal shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty of \$100.00 per day for each violation.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month. The payment shall be by corporate check or the like, made payable to the "Commonwealth of Pennsylvania" and submitted to the:

District Mining Manager
Department of Environmental Protection
Moshannon District Mining Office
186 Enterprise Drive
Philipsburg, PA 16866

c. Any payment under this paragraph shall neither waive Forcey Coal's duty to meet its obligations under this Consent Order and Agreement nor preclude the Department from commencing an action to compel Forcey Coal's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only Forcey Coal's liability for civil penalties arising from the violation of this Consent Order and Agreement for which the payment is made.

d. Stipulated civil penalties shall be due automatically and without notice.

18. Additional Remedies.

a. In the event Forcey Coal fails to comply with any provision of this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. In the event Forcey Coal defaults on the obligations of this Consent Order and Agreement, Forcey Coal will be subject to a permit block on the Department's compliance tracking system and the federal Applicant Violator System and the Department will, in addition to any other remedy or penalty prescribed herein, list Forcey Coal as a violator on the Department's compliance tracking system and on the federal Applicant Violator System.

c. The remedies provided by this Consent Order and Agreement 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 civil penalty is paid.

19. Reservation of Rights.

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

20. Liability of Forcey Coal.

Forcey Coal shall be liable for any violations of the Consent Order and Agreement, including those caused by, contributed to, or allowed by its officers, agents,

employees, or contractors. Forcey Coal also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

21. Transfer of Sites.

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Buterbaugh 1 Mine or the Buterbaugh 2 Mine Treatment Systems sites or any part thereof.

b. If Forcey Coal intends to transfer any legal or equitable interest in the Buterbaugh 1 Mine or Buterbaugh 2 Mine Treatment Systems sites which is affected by this Consent Order and Agreement, Forcey Coal shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Director, District Mining Operations, Department of Environmental Protection, 8205 Route 819, Greensburg, PA 15601, telephone 724-925-5500; facsimile 724-925-5557, and the District Mining Manager identified in Paragraph 22 of such intent.

c. The Department in its sole discretion may agree to modify or terminate Forcey Coal's duties and obligations under this Consent Order and Agreement upon transfer of the Buterbaugh 1 Mine or Buterbaugh 2 Mine Treatment Systems sites. Forcey Coal waives any right that it may have to challenge the Department's decision in this regard.

22. Correspondence with Department.

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

Michael W. Smith, District Mining Manager
Department of Environmental Protection
Moshannon District Mining Office
186 Enterprise Drive
Philipsburg, PA 16866
Telephone: 814 342-8200
Facsimile: 814 342-8216

23. Correspondence with Forcey Coal.

a. All correspondence with Forcey Coal concerning this Consent Order and

Agreement shall be addressed to:

David D. Forcey, President
Forcey Coal, Inc
P. O. Box 225
Madera, PA 16661
Telephone: 814-378-9746
Facsimile: 814-378-7735

b. Forcey Coal 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.

24. Force Majeure.

a. In the event that Forcey Coal 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, or other circumstances beyond Forcey Coal's control and which Forcey Coal, by the exercise of all reasonable diligence, is unable to prevent, then Forcey Coal

may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this Consent Order and Agreement shall not constitute circumstances beyond Forcey Coal's control. Forcey Coal's economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time.

b. Forcey Coal shall only be entitled to the benefits of this paragraph if it notifies the Department within ten (10) working days by telephone and within twenty (20) working days in writing of the date it becomes aware, or reasonably should have become aware, of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by Forcey Coal to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within thirty (30) working days of its submission. Forcey Coal's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by Forcey Coal and other information available to the Department. In any subsequent litigation, Forcey Coal shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

25. 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.

26. 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.

27. 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.

28. Modifications.

Except as provided in Paragraph 9, 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.

29. 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.

30. Decisions under Consent Order.

Any decision which the Department makes under the provisions of this Consent Order and Agreement is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an

adjudication under 2 Pa. C.S. § 101. Any objection, which Forcey Coal may have to the decision, will be preserved until the Department enforces this Consent Order and Agreement.

31. Successors.

This Consent Order and Agreement shall be fully and completely binding upon any successor of Forcey Coal. For purposes of this Paragraph, successor shall mean any corporation or entity: 1) Forcey Coal consolidates with or merges into or permits to merge with it and Forcey Coal is not the surviving corporation or entity; or 2) which acquires, by purchase or otherwise, all or substantially all of Forcey Coal's properties or assets which include, but is not limited to, voting stock of Forcey Coal. Successor does not include any corporation or other entity to which Forcey Coal transfers or assigns all or substantially all of its financial or non-financial liabilities.

Forcey Coal shall notify the Department, without delay, of any successor as defined herein and shall provide such successor with a copy of this Consent Order and Agreement.

32. Counterpart Signatures.


The parties agree to execute this Consent Order and Agreement by counterpart signatures transmitted via facsimile.

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 Forcey Coal 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 Forcey Coal; that Forcey Coal consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Forcey Coal 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, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law. Signature by Forcey Coal's attorney certifies only that the agreement has been signed after consulting with counsel.

FOR FORCEY COAL, INC.:

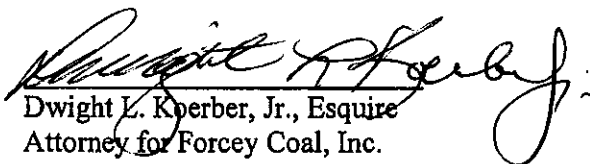
FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:


David D. Forcey
President

Michael W. Smith
Manager
Moshannon District Mining Office


Lynn H. Forcey
Vice President, Secretary

Gail A. Myers
Assistant Counsel
Southwest Region



Dwight L. Koerber, Jr., Esquire
Attorney for Forcey Coal, Inc.

available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law. Signature by Forcey Coal's attorney certifies only that the agreement has been signed after consulting with counsel.

FOR FORCEY COAL, INC.:

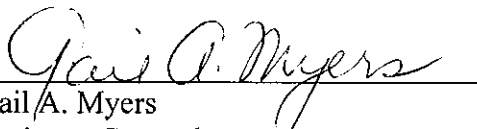
FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

David D. Forcey
President



Michael W. Smith
Manager
Moshannon District Mining Office

Lynn H. Forcey
Vice President, Secretary



Gail A. Myers
Assistant Counsel
Southwest Region

Dwight L. Koerber, Jr., Esquire
Attorney for Forcey Coal, Inc.

LIST OF EXHIBITS

- Exhibit A: Topographic map showing locations of KB-11 (Buterbaugh 2 Mine) and BC-3 (Butterbaugh 1 Mine)
- Exhibit B: Consent to Right of Entry - Buterbaugh 2 Mine
- Exhibit C: Summary of Raw Water Quality of Buterbaugh 1 Mine Discussed in Paragraph R
- Exhibit D: Consent to Right of Entry - Butterbaugh 1 Mine
- Exhibit E: The Post-Mining Treatment Trust Agreement between Forcey Coal and Northwest Bank Discussed in Paragraph 5.a.i.
- Exhibit F: Value of the Fully Funded Treatment Trust Under Certain Assumptions from 2008 to 2041 As Discussed in Paragraph 5.a.ii.
- Exhibit G: Graphical Depiction of Distribution or Contribution Payment Amounts Discussed in Paragraph 6.b.
- Exhibit H: Graphical Depiction of Adjustments to the Primary Target Valuation for Deviations between Actual Treatment Cost and Calculated Treatment Costs Discussed in Paragraph 7
- Exhibit I: Required Annual Balance of the Capital Improvement Account for a 75 Year Period Discussed in Paragraph 10

Exhibit B

Consent to Right of Entry

Buterbaugh 2 Mine

**CLEARFIELD COUNTY
RECORDER OF DEEDS**

COPY

**Maurene E. Inlow, Recorder
Betty L. Lansberry - Chief Deputy**

P.O. Box 361

1 North Second Street, Suite 103
Clearfield, Pennsylvania 16830

***RETURN DOCUMENT TO:**

DWIGHT KOERBER
110 NORTH 2ND ST
CLEARFIELD, PA 16830

Instrument Number - 200912692

Recorded On 8/27/2009 At 3:17:17 PM

* Instrument Type - AGREEMENT

* Total Pages - 11

Invoice Number - 208235

* Mortgagor - BUTERBAUGH BROTHERS LAND AND TIMBER CORP

* Mortgagee - COMM OF PENNA-DEPT OF ENV PROTECTION

* Customer - DWIGHT KOERBER

*** FEES**

STATE WRIT TAX \$0.50

RECORDING FEES - \$25.00

RECORDER

RECORDER IMPROVEMENT \$3.00

FUND

COUNTY IMPROVEMENT FUND \$2.00

TOTAL PAID \$30.50

I hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.



Maurene E. Inlow

Maurene E. Inlow
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF MINING AND RECLAMATION

SMP No. 17010109 (Buterbaugh 2 Mine)

Permit No. _____

**CONSENT TO RIGHT OF ENTRY FOR OPERATION AND
MAINTENANCE OF MINE DRAINAGE TREATMENT FACILITY
COVERED BY A POST-MINING DISCHARGE TREATMENT TRUST**

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

Name: Buterbaugh Brothers Land and Timber Corp.

Address: P.O. Box 245, Cherry Tree, PA 15724

WHEREAS, the Property Owner owns surface property containing 672.58 acres located in Bigler Township, Clearfield County, Pennsylvania, and described in Deed Book Volume 275, Page 230, in the Clearfield County Recorder's Office (the Property);

WHEREAS, the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP) is authorized to administer and enforce the Surface Mining Conservation and Reclamation Act, 52 P.S. §§ 1396.1—1396.19a, the Clean Streams Law, 35 P.S. §§ 691.1—691.1001, and their implementing regulations, including requiring the construction, operation and maintenance of facilities designed to remediate the effects of mine drainage;

WHEREAS, Forcey Coal, Inc. (Forcey Coal) conducted surface mining activities on [or adjacent to] the Property pursuant to Surface Mining Permit No. 17010109;

WHEREAS, DEP has determined that mine drainage caused by Forcey Coal's mining activities is discharging from or passing through the Property, and the mine drainage on the Property is causing pollution, or a danger of pollution, to waters of the Commonwealth;

WHEREAS, DEP and Forcey Coal have entered into a Consent Order and Agreement, dated _____ (COA) which requires Forcey Coal to construct, operate and maintain mine drainage treatment facilities on a portion of the Property (the Treatment Facility Property), for purposes of treating the polluttional discharge(s);

WHEREAS, a map showing the boundaries of the Treatment Facility Property is attached as Exhibit A;

WHEREAS, Forcey Coal has established a trust with a financial institution, managed by a trustee (the Trustee), in order provide sufficient funds to guarantee Forcey Coal's legal obligation to operate and maintain the mine drainage treatment facilities on the Property and the Forcey Coal's obligation for long-term treatment, or abatement, of the post-mining polluttional discharge(s) on the Property;

WHEREAS, to comply with the COA, Forcey Coal, DEP and the Trustee must have access to the Treatment Facility Property to conduct and/or oversee the activities required by the COA;

WHEREAS, Forcey Coal and DEP have requested and the Property Owner is willing to grant Forcey Coal, DEP and the Trustee a right of entry into, under, over and upon the Treatment Facility Property to construct, operate and maintain mine drainage treatment facilities;

WHEREAS, the Property Owner acknowledges that treatment of the mine drainage on the Property will provide benefits to the Property Owner 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 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 hereby grants and conveys to Forcey Coal, DEP and the Trustee, its employees, agents, servants, contractors and subcontractors, a right of entry into, under, over and upon the Treatment Facility Property. This right of entry includes all necessary rights of ingress, egress and regress with all personnel, materials, and equipment needed to perform the discharge treatment activities.

2. Duration of Right of Entry. The term of this Right of Entry shall extend for the length of time necessary to complete the discharge treatment activities described in the COA. 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 on the Treatment Facility Property, and shall only terminate when such treatment facilities are no longer necessary to remediate or prevent pollution to waters of the Commonwealth.

3. Insurance. DEP will require Forcey Coal and the Trustee to obtain and keep in force insurance coverage sufficient to protect against damage or injury associated with the operation and maintenance of the mine drainage treatment facilities on the Property.

4. Property Use. During the term of this Right of Entry, the Property Owner will not, without the written consent of DEP, make any use of the Property which will interfere with the construction, operation or maintenance of the mine drainage treatment facilities installed on the Treatment Facility Property.

5. Notification. This Consent to Right of Entry shall be recorded by Forcey Coal in the Clearfield County Recorder's Office within thirty days of its execution. In the event that the Property Owner intends to sell, lease, or otherwise transfer any interest in the Property

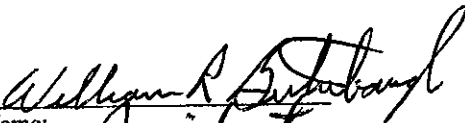
prior to the termination of this Right of Entry, the Property Owner shall advise the prospective owner or lessee of the terms and conditions of this Right of Entry. The Property Owner shall advise DEP of the intent to sell the Property prior to any sale.

6. Representation of Interests. The Property Owner represents that it is the only person authorized to grant access to the Treatment Facility Property.

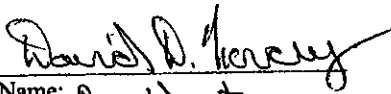
7. Binding on Successors. All the covenants, representations, consents, waivers and agreements contained herein shall be binding upon and inure to the benefit of the parties and their heirs, successors and assigns.

IN WITNESS WHEREOF, each of the parties set its respective hand and seal, for itself, its heirs, executors, administrators, successors and assigns, intending to be legally bound, this 18th day of August, 2009.

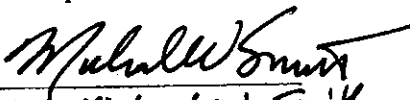
Buterbaugh Brothers Land and Timber Corp.


Name: William R. Buterbaugh
Title: President

For Forcey Coal, Inc.


Name: David D. Forcey
Title: President

For the Department of Environmental Protection:


Name: Michael W. Smith
Title: District Mining Manager

ACKNOWLEDGEMENT

STATE OF Pennsylvania :
COUNTY OF Clearfield : ss

On this, the 11th day of August, 2009, before me, the undersigned Notary,
personally appeared

William R Buterbaugh
(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) Constance L Smith
Notary Public

My Commission Expires NOTARIAL SEAL
CONSTANCE L. SMITH, Notary Public
Bigler Township, Clearfield Co., PA
My Commission expires October 24, 2009

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF CENTRE :

On this, the 18 day of August, 2009, before me, a notary public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Michael W. Smith, who acknowledged himself to be the District Mining Manager of The Department of Environmental Protection of the Commonwealth of Pennsylvania, and that as such, he/she, being authorized by such organization to do so, executed the foregoing document for the purpose contained by signing his/her name thereon as such.

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

Breck D. Neep
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Breck D. Neep, Notary Public
Lawrence Twp., Clearfield County
My Commission Expires Sept. 15, 2009
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA

:


: SS

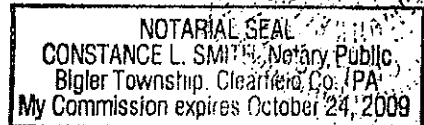
COUNTY OF CLEARFIELD

:

On this, the 11th day of August, 2009, before me, a notary public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared David D. Forcey, who acknowledged himself to be the President of Forcey Coal, Inc., the foregoing corporation, and that as such, he, being authorized by such corporation to do so, executed the foregoing document for the purpose contained by signing his name thereon as such.

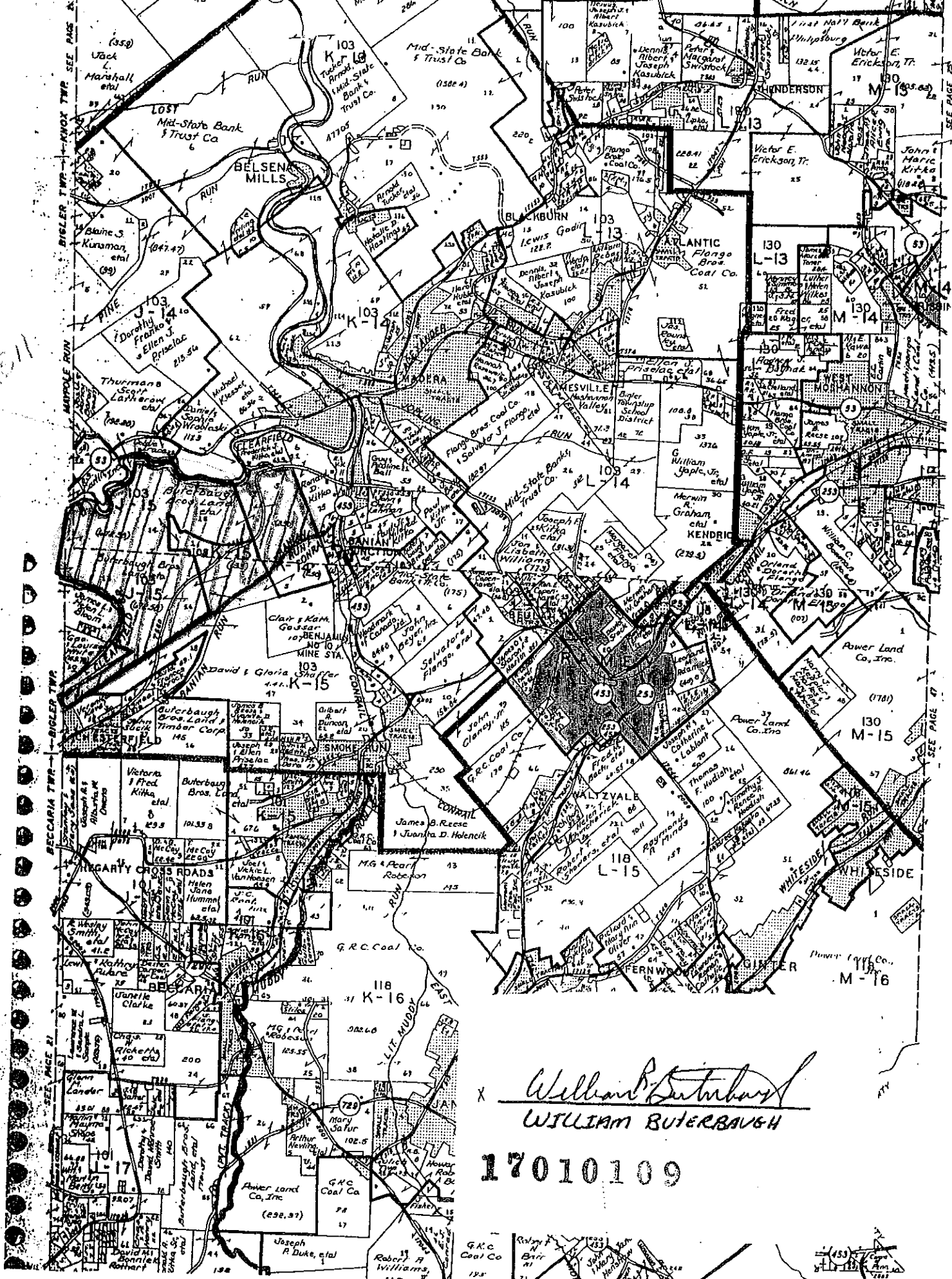
IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.


NOTARY PUBLIC



KB11

STATE OF FLORIDA
MAY 17 2016 10:04
BURKHAMPTON 2 Mine
Burkhampton Area 1 and 2 (Line 1, 2, 3)



x *William Buterbaugh*
WILLIAM BUTERBAUGH

17010109

G.R.C. Coal Co
Robert Williams

(453)
17010109

Concentrations And Loads Report For 17990112 / BUTERBAUGH 1 MINE

Monitoring Point ID:	Number Of Samples:		Excluded:	Total:
	Usable	Dry:		
BC3	9	6	0	15
Concentration Information				
	Max:	Average:	Median:	
	28.00	6.68	3.00	
Load Information				
	Max:	Average:	Median:	
Acidity (mg/L-CaCO3):	103.60	12.60	-102.00	
Alkalinity (mg/l):	153.20	45.09	10.00	
Iron (mg/l)	35.60	4.22	0.03	
Manganese (mg/l):	12.40	5.56	2.32	
Aluminum (mg/l):	12.40	5.26	0.87	
pH:	7.10	5.72	4.50	
SO4:	1160.90	892.31	664.20	
Load Information				
	Max:	Average:	Median:	
Acidity (Lbs/Day):	10.61	2.05	-3.71	
Alkalinity (Lbs/Day):	8.62	3.80	0.51	
Iron (Lbs/Day):	7.03	0.81	0.00	
Manganese (Lbs/Day):	0.88	0.53	0.21	
Aluminum (Lbs/Day):	1.09	0.54	0.03	
SO4 (Lbs/Day):	225.40	103.93	37.29	

Exhibit C

Summary of raw water quality of BC-3 Discharge
(Buterbaugh 1 Mine)

Concentrations And Loads Report For 17990112 / BURRBAUGH I MINE

Samples Used

MP ID	Collector ID	Sample ID	Date Collected	Flow (Gal/Min)	AL	ATK	%	Hot A	PH	PH	SOD	Excludes
BC3	4156	979	4/20/2005	2.2	12.40	10.40	0.91	103.60	12.40	5.58	6.10	589.70
BC3	4156	0	5/17/2005	0								906.20
BC3	4156	0	8/10/2005	0								
BC3	4156	546	1/4/2006	17.5	2.03	13.60	0.30	33.60	2.32		5.40	760.30
BC3	4156	887	1/17/2007	16.3	5.53	30.40	35.60	-15.00	4.45		6.40	719.80
BC3	4158	947	3/21/2007	28	2.03	25.40	0.10	4.00	2.17		6.00	664.20
BC3	4156	924	4/3/2007	9.1	9.80	10.00	0.30	96.28	7.46		4.60	1090.40
BC3	4156	0	5/22/2007	5	1.20	8.40	0.39	95.00	8.70		4.40	113.80
BC3	4156	145	9/20/2007	0		131.50	0.03	102.00	5.88		7.10	1025.50
BC3	4156	242	4/23/2008	3	0.87	153.20	0.03	-117.20	3.09		7.00	1160.90
BC3	4150	0	9/24/2008	0								

Exhibit D

Consent for Right of Entry

Buterbaugh 1 Mine

**CLEARFIELD COUNTY
RECORDER OF DEEDS**

COPY

**Maurene E. Inlow, Recorder
Betty L. Lansberry - Chief Deputy**

P.O. Box 361
1 North Second Street, Suite 103
Clearfield, Pennsylvania 16830

***RETURN DOCUMENT TO:**

**DWIGHT KOERBER
110 NORTH 2ND ST
CLEARFIELD, PA 16830**

**Instrument Number - 200912693
Recorded On 8/27/2009 At 3:17:18 PM
* Instrument Type - AGREEMENT
* Total Pages - 11
Invoice Number - 208235
* Mortgagor - SHAFFER, DAVID B
* Mortgagee - COMM OF PENNA-DEPT OF ENV PROTECTION
* Customer - DWIGHT KOERBER**

*** FEES**

STATE WRIT TAX	\$0.50
RECORDING FEES - RECORDER	\$25.00
RECORDER IMPROVEMENT FUND	\$3.00
COUNTY IMPROVEMENT FUND	\$2.00
TOTAL PAID	\$30.50

I hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.



Maurene E. Inlow

**Maurene E. Inlow
Recorder of Deeds**

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF MINING AND RECLAMATION

SMP No. 17990112 (Buterbaugh 1 Mine)

Permit No.

CONSENT TO RIGHT OF ENTRY FOR OPERATION AND
MAINTENANCE OF MINE DRAINAGE TREATMENT FACILITY
COVERED BY A POST-MINING DISCHARGE TREATMENT TRUST

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

Name: David B. Shaffer and Gloria A. Shaffer

Address: R.R. Box 82, Houtzdale, PA 16651

WHEREAS, the Property Owners own surface property containing 441.5 acres located in Bigler Township, Clearfield County, Pennsylvania, and described in Deed Book Volume 699, Page 309, in the Clearfield County Recorder's Office (the Property);

WHEREAS, the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP) is authorized to administer and enforce the Surface Mining Conservation and Reclamation Act, 52 P.S. §§ 1396.1—1396.19a, the Clean Streams Law, 35 P.S. §§ 691.1—691.1001, and their implementing regulations, including requiring the construction, operation and maintenance of facilities designed to remediate the effects of mine drainage;

WHEREAS, Forcey Coal, Inc. (Forcey Coal) conducted surface mining activities on [*or adjacent to*] the Property pursuant to Surface Mining Permit No. 17990112;

WHEREAS, DEP has determined that mine drainage caused by Forcey Coal's mining activities is discharging from or passing through the Property, and the mine drainage on the Property is causing pollution, or a danger of pollution, to waters of the Commonwealth;

WHEREAS, DEP and Forcey Coal have entered into a Consent Order and Agreement, dated _____ (COA) which requires Forcey Coal to construct, operate and maintain mine drainage treatment facilities on a portion of the Property (the Treatment Facility Property), for purposes of treating the polluttional discharge(s);

WHEREAS, a map showing the boundaries of the Treatment Facility Property is attached as Exhibit A;

WHEREAS, Forcey Coal has established a trust with a financial institution, managed by a trustee (the Trustee), in order provide sufficient funds to guarantee Forcey Coal's legal obligation to operate and maintain the mine drainage treatment facilities on the Property and the Forcey Coal's obligation for long-term treatment, or abatement, of the post-mining polluttional discharge(s) on the Property;

WHEREAS, to comply with the COA, Forcey Coal, DEP and the Trustee must have access to the Treatment Facility Property to conduct and/or oversee the activities required by the COA;

WHEREAS, Forcey Coal and DEP have requested and the Property Owners are willing to grant Forcey Coal, DEP and the Trustee a right of entry into, under, over and upon the Treatment Facility Property to construct, operate and maintain mine drainage treatment facilities;

WHEREAS, the Property Owners acknowledge that treatment of the mine drainage on the Property will provide benefits to the Property Owners 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 Owners 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 Owners hereby grant and convey to Forcey Coal, DEP and the Trustee, its employees, agents, servants, contractors and subcontractors, a right of entry into, under, over and upon the Treatment Facility Property. This right of entry includes all necessary rights of ingress, egress and regress with all personnel, materials, and equipment needed to perform the discharge treatment activities.

2. Duration of Right of Entry. The term of this Right of Entry shall extend for the length of time necessary to complete the discharge treatment activities described in the COA. 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 on the Treatment Facility Property, and shall only terminate when such treatment facilities are no longer necessary to remediate or prevent pollution to waters of the Commonwealth.

3. Insurance. DEP will require Forcey Coal and the Trustee to obtain and keep in force insurance coverage sufficient to protect against damage or injury associated with the operation and maintenance of the mine drainage treatment facilities on the Property.

4. Property Use. During the term of this Right of Entry, the Property Owners will not, without the written consent of DEP, make any use of the Property which will interfere with the construction, operation or maintenance of the mine drainage treatment facilities installed on the Treatment Facility Property.

5. Notification. This Consent to Right of Entry shall be recorded by Forcey Coal in the Clearfield County Recorder's Office within thirty days of its execution. In the event that the Property Owners intend to sell, lease, or otherwise transfer any interest in the Property

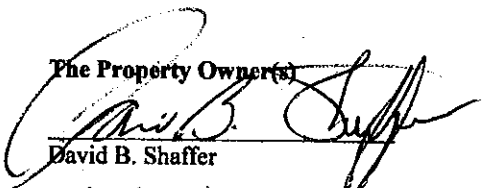
prior to the termination of this Right of Entry, the Property Owners shall advise the prospective owner or lessee of the terms and conditions of this Right of Entry. The Property Owners shall advise DEP of the intent to sell the Property prior to any sale.

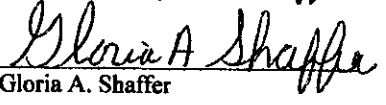
6. Representation of Interests. The Property Owners represent that they are the only persons authorized to grant access to the Treatment Facility Property.

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.

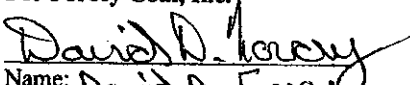
IN WITNESS WHEREOF, each of the parties set its respective hand and seal, for itself, its heirs, executors, administrators, successors and assigns, intending to be legally bound, this 11th day of August, 2009.

The Property Owner(s)

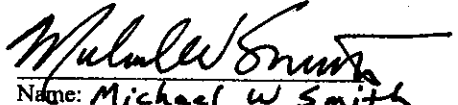

David B. Shaffer


Gloria A. Shaffer

For Forcey Coal, Inc.


Name: David D. Forcey
Title: President

For the Department of Environmental Protection:


Name: Michael W Smith
Title: District Mining Manager

COMMONWEALTH OF PENNSYLVANIA

:
: SS
:

COUNTY OF CENTRE

On this, the 18 day of August, 2009, before me, a notary public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Michael W Smith, who acknowledged himself to be the District Mining Manager of The Department of Environmental Protection of the Commonwealth of Pennsylvania, and that as such, he/she, being authorized by such organization to do so, executed the foregoing document for the purpose contained by signing his/her name thereon as such.

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


NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal:
Breck D. Nepper, Notary Public
Lawrence Twp., Clearfield County
My Commission Expires Sept. 15, 2009
Member, Pennsylvania Association of Notaries

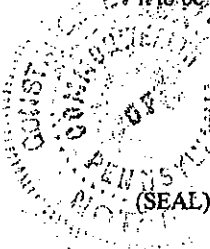
ACKNOWLEDGEMENT

STATE OF Pennsylvania :
COUNTY OF Clearfield : ss

On this, the 1st day of August, 2009, before me, the undersigned Notary,
personally appeared

David B. Shaffer & Gloria A. Shaffer
(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.

Constance L. Smith
Notary Public

My Commission Expires:

NOTARIAL SEAL
CONSTANCE L. SMITH, Notary Public
Bigler Township, Clearfield Co., PA
My Commission expires October 24, 2009

COMMONWEALTH OF PENNSYLVANIA

:

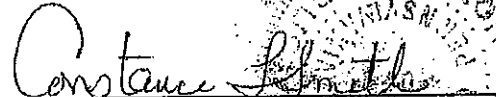
: SS

COUNTY OF CLEARFIELD

:

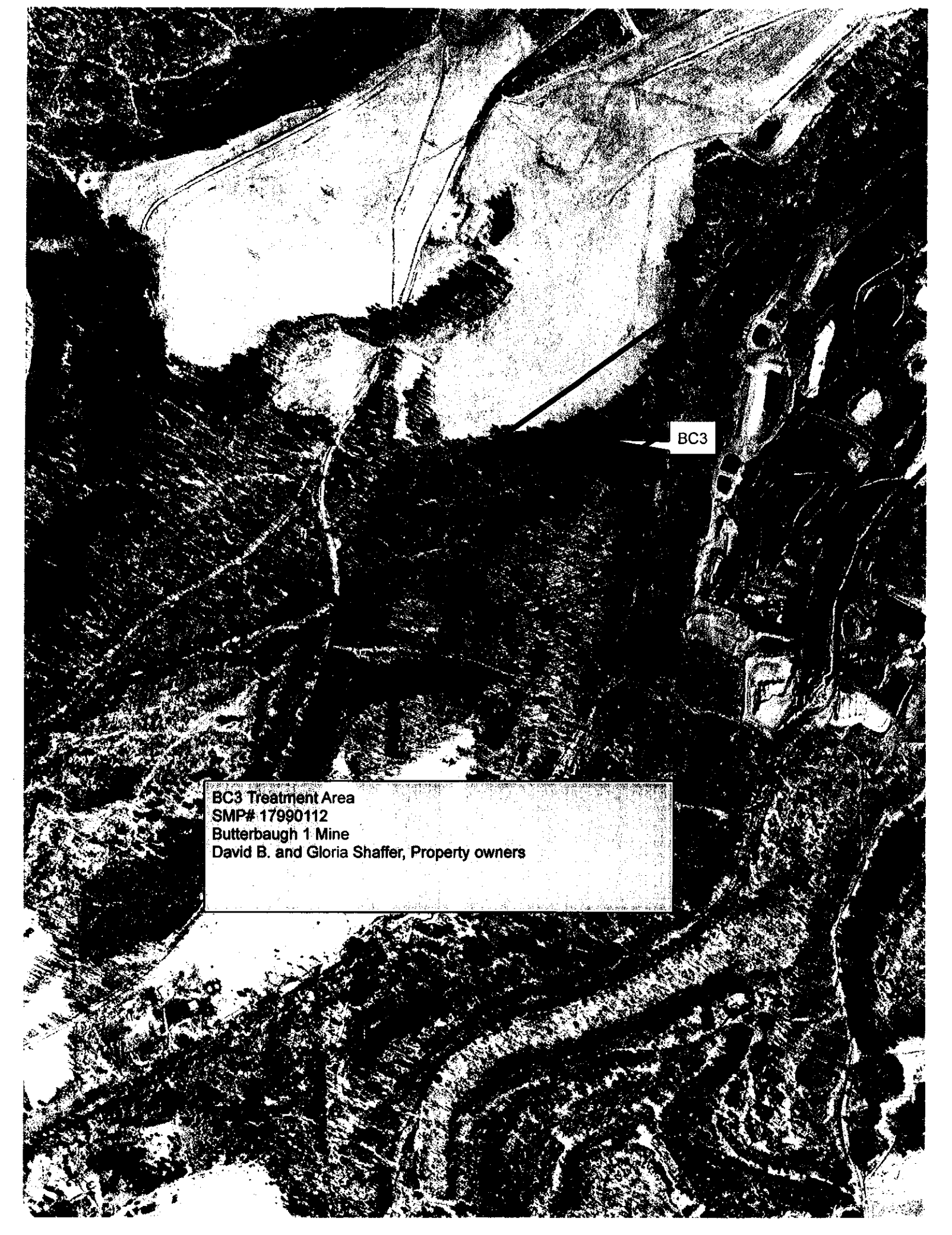
On this, the 14th day of August, 2009, before me, a notary public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared David D. Forcey, who acknowledged himself to be the President of Forcey Coal, Inc., the foregoing corporation, and that as such, he, being authorized by such corporation to do so, executed the foregoing document for the purpose contained by signing his name thereon as such.

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



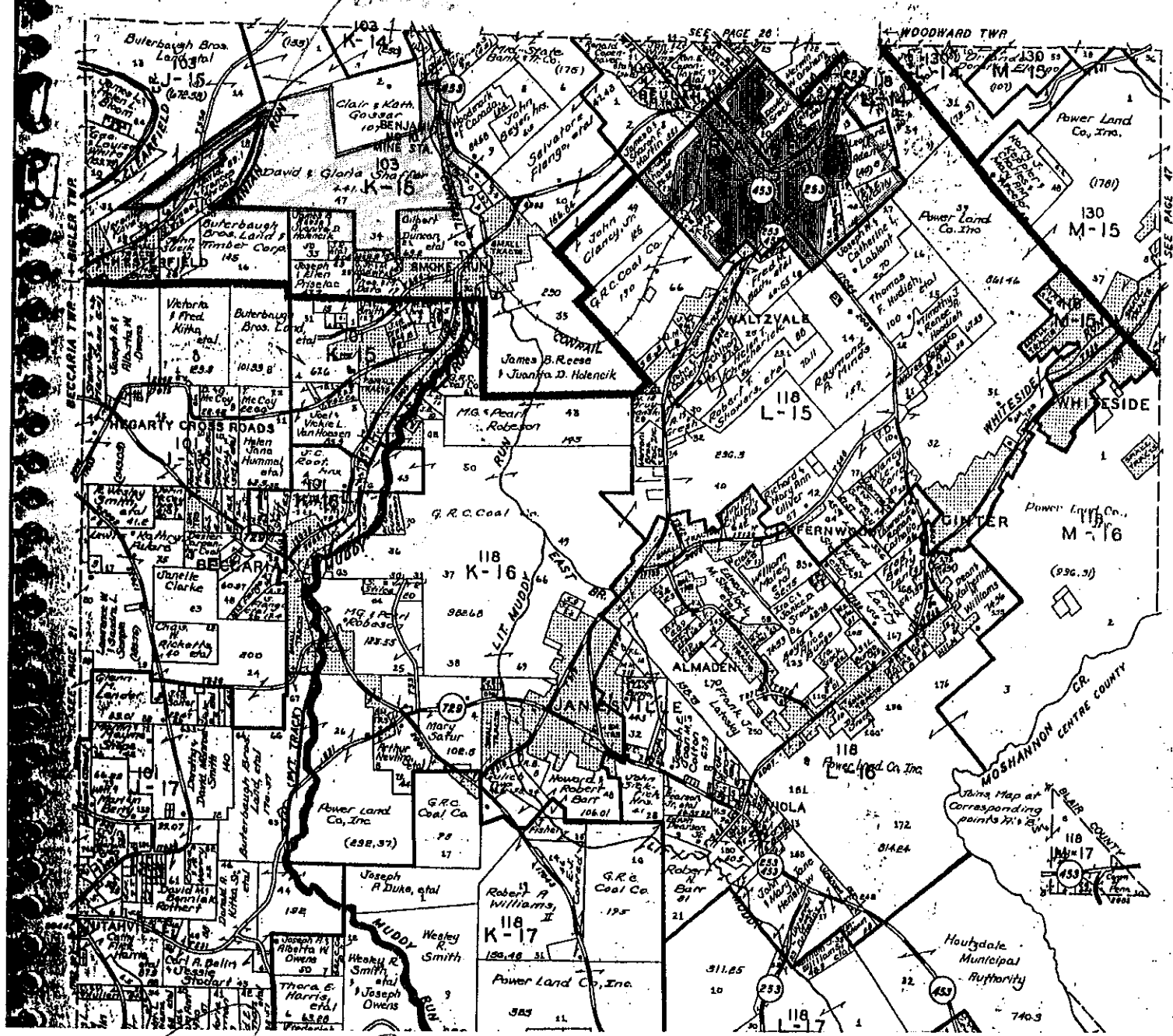
NOTARY PUBLIC

NOTARIAL SEAL
CONSTANCE L. SMITH, Notary Public
Bigler Township, Clearfield Co., PA
My Commission expires October 24, 2009

An aerial photograph showing a large, irregularly shaped area of land, likely a mine site. The terrain is rugged and appears to be a mix of cleared and wooded areas. A prominent feature is a large, light-colored, irregularly shaped area in the upper left quadrant, which is identified as the BC3 Treatment Area. A line points from a label 'BC3' to this area. The surrounding area is dark and appears to be heavily wooded or overgrown. The overall image is in black and white, with high contrast.

BC3 Treatment Area
SMP# 17990112
Butterbaugh 1 Mine
David B. and Gloria Shaffer, Property owners

BC3



David Shaffer
 DAVID SHAFFER

Gloria Shaffer
 GLORIA SHAFFER

Dept. of Env. Protection
 Hawk Run District Office

ACCEPTED

17990112

MAY 21 1999

MAY 26 1999

RECEIVED

HAWK RUN DISTRICT OFFICE

Void
 KAREN L. STARK
 CLERK AND RECORDER
 EARLSDALE COUNTY, PA
 PENNSYLVANIA
 INSTRUMENT NUMBER
 17990112
 RECORDED ON 5/26/99
 BY 267

VOID
 2:13:40 PM
 CODING FEES - \$13.00
 CORDER \$1.00
 UNITY IMPROVEMENT \$1.00
 CORDER \$1.00
 PROCEMENT FUND \$0.50
 ATE WRIT TAX \$15.50
 TAL

Exhibit E

**Post-Mining Treatment Trust Agreement
Between Forcey Coal
and
Northwest Bank**

Forcey Coal			
Amount Required for Full Funding of Trust by Year			
Date	Year	Amount	Annual O&M Cost
31-Dec	2008	\$242,193	\$8,000
31-Dec	2009	\$249,701	\$8,248
31-Dec	2010	\$257,442	\$8,504
31-Dec	2011	\$265,422	\$8,767
31-Dec	2012	\$273,651	\$9,039
31-Dec	2013	\$282,134	\$9,319
31-Dec	2014	\$290,880	\$9,608
31-Dec	2015	\$299,897	\$9,906
31-Dec	2016	\$309,194	\$10,213
31-Dec	2017	\$318,779	\$10,530
31-Dec	2018	\$328,661	\$10,856
31-Dec	2019	\$338,850	\$11,193
31-Dec	2020	\$349,354	\$11,540
31-Dec	2021	\$360,184	\$11,897
31-Dec	2022	\$371,350	\$12,266
31-Dec	2023	\$382,861	\$12,646
31-Dec	2024	\$394,730	\$13,039
31-Dec	2025	\$406,967	\$13,443
31-Dec	2026	\$419,583	\$13,859
31-Dec	2027	\$432,590	\$14,289
31-Dec	2028	\$446,000	\$14,732
31-Dec	2029	\$459,826	\$15,189
31-Dec	2030	\$474,081	\$15,660
31-Dec	2031	\$488,777	\$16,145
31-Dec	2032	\$503,929	\$16,646
31-Dec	2033	\$519,551	\$17,162
31-Dec	2034	\$535,657	\$17,694
31-Dec	2035	\$552,262	\$18,242
31-Dec	2036	\$569,383	\$18,808
31-Dec	2037	\$587,033	\$19,391
31-Dec	2038	\$605,232	\$19,992
31-Dec	2039	\$623,994	\$20,611
31-Dec	2040	\$643,338	\$21,250

Exhibit F

Value of the Fully Funded Treatment Trust under Certain Assumptions from 2008 to 2041 as Discussed in Paragraph 6

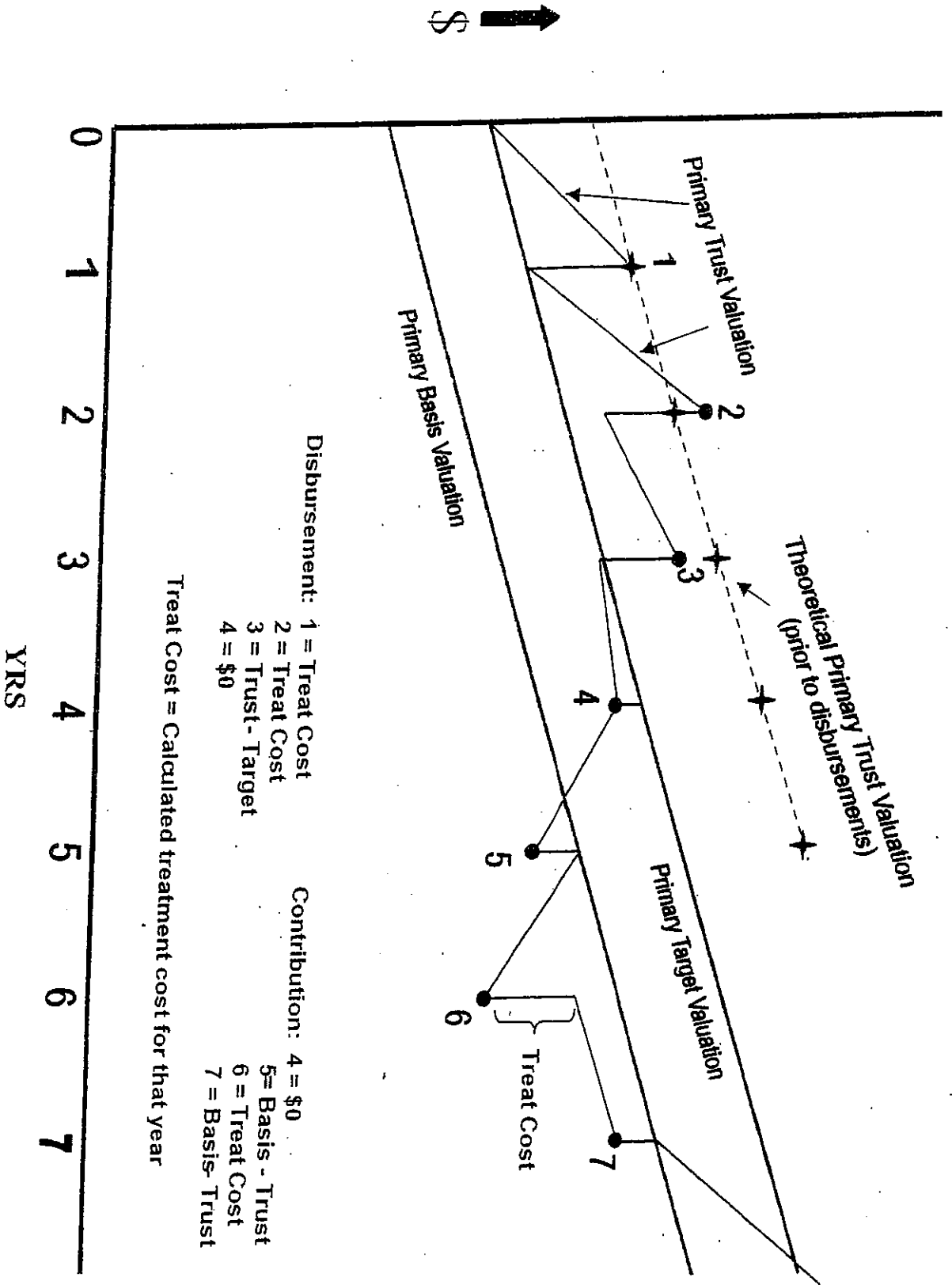


Exhibit G

Graphical Depiction of Distribution or Contribution Amounts Discussed in Paragraph 6.b

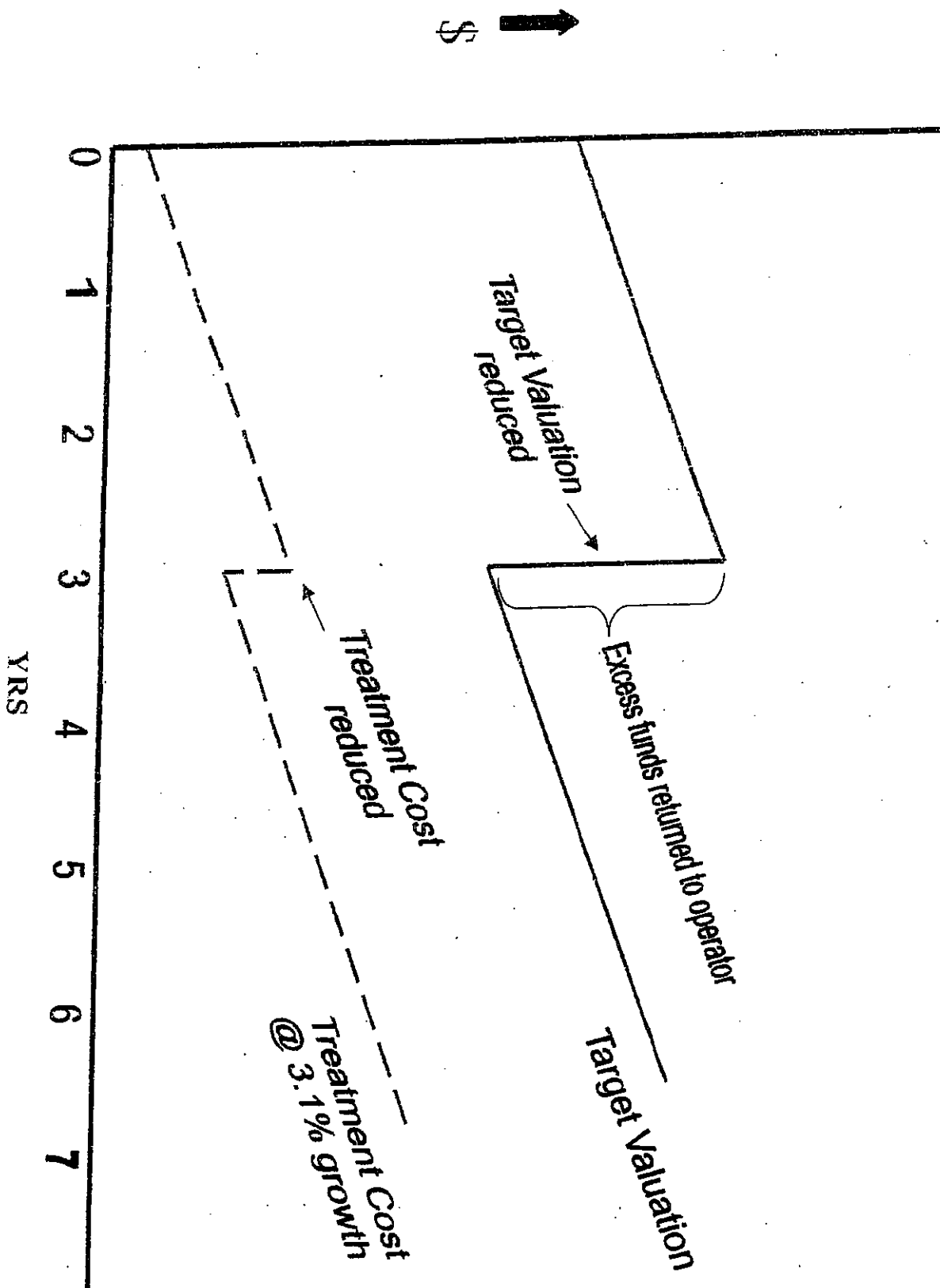


Exhibit H

Graphical Depiction of Adjustments to the Primary Target Valuation for Deviations between Actual Treatment Cost and Calculated Treatment Cost Discussed in Paragraph 7

Company Name Forcey Coal

Printed on 10/20/2008

Project Forcey Coal

Site Name KB11



Life of Trust Fund	75	yrs
Inflation Rate	3.10	%
Return Rate	8.43	%

AMD TREAT RECAPITIALIZATION COST

AMDTREAT

Year	Trust Fund Growth Fund Before Payout	Trust Fund Growth Fund After Payout	Payout Schedule	Year	Trust Fund Growth Fund Before Payout	Trust Fund Growth Fund After Payout	Payout Schedule
	17,028	17,028	Initial Fund Amount				
1	18,463	18,463	0	51	93,892	93,892	0
2	20,020	20,020	0	52	101,808	101,808	0
3	21,708	21,708	0	53	110,390	110,390	0
4	23,538	23,538	0	54	119,696	119,696	0
5	25,522	25,522	0	55	129,786	129,786	0
6	27,673	27,673	0	56	140,727	140,727	0
7	30,006	30,006	0	57	152,591	152,591	0
8	32,536	32,536	0	58	165,454	165,454	0
9	35,279	35,279	0	59	179,402	179,402	0
10	38,253	38,253	0	60	194,526	-0	194,526
11	41,477	41,477	0	61	-0	-0	0
12	44,974	44,974	0	62	-0	-0	0
13	48,765	48,765	0	63	-0	-0	0
14	52,876	52,876	0	64	-0	-0	0
15	57,334	57,334	0	65	-0	-0	0
16	62,167	62,167	0	66	-0	-0	0
17	67,408	67,408	0	67	-0	-0	0
18	73,090	73,090	0	68	-0	-0	0
19	79,252	79,252	0	69	-0	-0	0
20	85,933	28,570	57,362	70	-0	-0	0
21	30,978	30,979	0	71	-0	-0	0
22	33,590	33,590	0	72	-0	-0	0
23	36,422	36,422	0	73	-0	-0	0
24	39,492	39,492	0	74	-0	-0	0
25	42,821	42,821	0	75	-0	-0	0
26	46,431	46,431	0	76	0	0	0
27	50,346	50,346	0	77	0	0	0
28	54,590	54,590	0	78	0	0	0
29	59,192	59,192	0	79	0	0	0
30	64,182	64,182	0	80	0	0	0
31	69,592	69,592	0	81	0	0	0
32	75,459	75,459	0	82	0	0	0
33	81,820	81,820	0	83	0	0	0
34	88,717	88,717	0	84	0	0	0
35	96,196	96,196	0	85	0	0	0
36	104,306	104,306	0	86	0	0	0
37	113,099	113,099	0	87	0	0	0
38	122,633	122,633	0	88	0	0	0
39	132,971	132,971	0	89	0	0	0
40	144,181	38,546	105,634				
41	41,796	41,796	0				
42	45,319	45,319	0				
43	49,140	49,140	0				
44	53,282	53,282	0				
45	57,774	57,774	0				
46	62,644	62,644	0				
47	67,925	67,925	0				
48	73,651	73,651	0				
49	79,860	79,860	0				
50	86,593	86,593	0				

Exhibit I

Required Annual Balance of the Capital Improvement Account for a 75 Year Period Discussed in Paragraph 10

Company Name Forcey Coal
 Project Forcey Treatment Trust (BC3)
 Site Name Buterbaugh #1

Printed on 10/20/2008



AMD TREAT RECAPITALIZATION COST

AMDTREAT

Life of Trust Fund	75	yrs
Inflation Rate	3.10	%
Return Rate	8.43	%

Year	Trust Fund Growth Fund Before Payout	Trust Fund Growth Fund After Payout	Payout Schedule	Year	Trust Fund Growth Fund Before Payout	Trust Fund Growth Fund After Payout	Payout Schedule
	5,218	5,218	Initial Fund Amount				
1	5,657	5,657	0	51	26,722	26,722	0
2	6,134	6,134	0	52	28,975	28,975	0
3	6,651	6,651	0	53	31,417	31,417	0
4	7,212	7,212	0	54	34,066	34,066	0
5	7,820	7,820	0	55	36,938	36,938	0
6	8,479	8,479	0	56	40,052	40,052	0
7	9,194	9,194	0	57	43,428	43,428	0
8	9,969	9,969	0	58	47,089	47,089	0
9	10,809	10,809	0	59	51,059	51,059	0
10	11,720	11,720	0	60	55,363	17,688	37,674
11	12,708	12,708	0	61	19,179	19,179	0
12	13,780	13,780	0	62	20,796	20,796	0
13	14,941	14,942	0	63	22,549	22,549	0
14	16,201	16,201	0	64	24,450	24,450	0
15	17,567	8,030	9,537	65	26,511	26,511	0
16	8,707	8,707	0	66	28,746	28,746	0
17	9,441	9,441	0	67	31,170	31,170	0
18	10,237	10,237	0	68	33,797	33,797	0
19	11,100	11,100	0	69	36,646	36,646	0
20	12,036	12,036	0	70	39,736	39,736	0
21	13,050	13,050	0	71	43,085	43,085	0
22	14,150	14,150	0	72	46,718	46,718	0
23	15,343	15,343	0	73	50,656	50,656	0
24	16,637	16,637	0	74	54,926	54,926	0
25	18,039	18,039	0	75	59,557	0	59,557
26	19,560	19,560	0	76	0	0	0
27	21,209	21,209	0	77	0	0	0
28	22,997	22,997	0	78	0	0	0
29	24,936	24,936	0	79	0	0	0
30	27,038	11,961	15,076	80	0	0	0
31	12,970	12,970	0	81	0	0	0
32	14,063	14,063	0	82	0	0	0
33	15,249	15,249	0	83	0	0	0
34	16,534	16,534	0	84	0	0	0
35	17,928	17,928	0	85	0	0	0
36	19,440	19,440	0	86	0	0	0
37	21,078	21,078	0	87	0	0	0
38	22,855	22,855	0	88	0	0	0
39	24,782	24,782	0	89	0	0	0
40	26,871	26,871	0	90	0	0	0
41	29,137	29,137	0	91	0	0	0
42	31,593	31,593	0	92	0	0	0
43	34,256	34,256	0	93	0	0	0
44	37,144	37,144	0	94	0	0	0
45	40,275	16,443	23,832	95	0	0	0
46	17,829	17,829	0	96	0	0	0
47	19,332	19,332	0	97	0	0	0
48	20,961	20,961	0	98	0	0	0
49	22,728	22,728	0	99	0	0	0
50	24,645	24,645	0	100	0	0	0