

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Docket # 113083
ID# 2033645
GW# 279197

In The Matter Of: : Godin & Goden Coal Inc.
: SMP No. 56840111
Godin & Goden Coal Inc. : Lape Strip
: Jenner Township
: Somerset County

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 3rd day of October, 2011, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Godin & Goden Coal Inc ("Godin & Goden").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce 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 regulation ("rules and regulations") promulgated thereunder.

B. Godin & Goden Coal Inc is a Pennsylvania corporation with a business address of RR3 Box 61R 128 Colton Dr., Stoystown Pennsylvania 15563

C. The officers of Godin & Goden were James S Godin, president and Gladys M Godin, Secretary. James Godin died on August 5, 2001. Gladys Godin died on February 2, 2009. Edward A. Hay and Vincent J. Barbera are the executors of the estate of Gladys Godin ("Executors").

D. At all times hereto Godin & Goden was authorized to conduct surface mining in Pennsylvania pursuant to Surface Mine Operators license no. 1292, which expired on November 30, 1990.

E. Godin & Goden has operated a surface mine in Jenner Township, Somerset County, pursuant to permit no. 56840111 ("Lape Strip").

F. Surface Mining Permit No. 56840111 was issued on May 16, 1985, for mining on the Lower and Middle Kittanning coal seams. The permit has been renewed for reclamation only on December 28, 1989, January 3, 1995, November 16, 1999 and December 8, 2004.

G. On or before April 7, 1997, the Department conducted a hydrogeologic investigation and determined that the Lape Strip is located on property now owned by Stacey Maurer Bittner, Edward R. Maurer, John E. Maurer, William B. Maurer c/o John Maurer, PO Box 362, Jennerstown, Pennsylvania 15547 ("Property Owners") and determined that an on-permit mine discharge existed on the Lape Strip known as the "the toe of spoil seep at the northwest corner of the site" (hereinafter referred as the "discharge") which does not meet the effluent limitations set forth in 25 PA Code §87.102.

H. Pursuant to an April 21, 1999 Consent Order and Agreement, Godin & Goden has constructed a Vertical Flow Pond treatment System (hereinafter referred to as the VFP Treatment System) at the Lape Strip site to treat the discharge to meet the required effluent limitations.

I. The VFP Treatment System was installed according to the approved designs and has been meeting the effluent standards outlined in the April 21, 1999 Consent Order and Agreement.

J. The calculated amount of bond being held for the sound financial assurance of the VFP Treatment System is \$22,990.00 and is posted as the following bonds.

Amount	Bond Number	Type	Surety
\$3,870.00	BD2979	Surety	Mid Continent Insurance Company
\$19,120.00	BD3005	Surety	Mid Continent Insurance Company

K. The Executors have contacted the Department and stated that they needed to conclude the administration of the estate of Gladys Godin.

L. The Executors proposed that the estate would be willing to place \$22,990 into Trust in exchange for release of the two surety bonds described in Paragraph J.

M. The Department indicated its willingness to accept the Executors' proposal if the Executors would sign a Participation Agreement with the Clean Streams Foundation, Inc., Trust and so long as the Property Owners would execute a Right of Entry.

N. The Department and the Executors are entering into a Participation Agreement with the Clean Streams Foundation, Inc., the Trustee under a Declaration of Trust dated April 7, 2011, that is receiving the \$22,990.00 and will provide operation and maintenance of the treatment system on the Lape Strip site.

O. A copy of the Right of Entry which is recorded in the Office of the Recorder of Deeds of Somerset County, Pennsylvania, is attached as Exhibit 1.

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 Godin & Goden as follows:

1. Authority. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to 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.

2. Findings.

a. Godin & Goden agrees that the findings in Paragraph A through O are true and correct and, in any matter or proceeding involving Godin & Goden and the Department, Godin & Goden 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. Corrective Action.

a. On or before October 3, 2011, Godin & Goden, acting through the Executors shall sign the Participation Agreement and deposit \$22,990 into the Trust.

b. Once the \$22,990 has been placed in the Trust, the Department will release the surety bonds described in Paragraph J.

c. After the placement by Godin & Goden of \$22,990 into the Trust, Godin & Goden will have no further responsibility to operate the VFP Treatment System.

4. Additional Remedies.

a. In the event Godin & Goden 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. 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.

5. Reservation of Rights. The Department reserves the right to require additional measures to achieve compliance with applicable law. Godin & Goden reserves the right to challenge any action which the Department may take to require those measures.

6. Liability of Operator. Godin & Goden 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. Godin & Goden also shall be liable for any violation of this Consent Order and Agreement caused by, contributed to, or allowed by its successors and assigns.

7. Transfer of Site.

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 Lape Strip or any part thereof.

b. If Godin & Goden intends to transfer any legal or equitable interest in the Lape Strip which is affected by this Consent Order and Agreement, Godin & Goden 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 Cambria District Mining Office of the Department of such intent.

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

John P. Varner District Mining Manager
District Mining Operations, Cambria District Office
286 Industrial Park Road
Ebensburg, PA 15931

9. Correspondence with Godin & Goden. All correspondence with Godin & Goden concerning this Consent Order and Agreement shall be addressed to:

Barbera, Clapper, Beener, Rullo & Melvin, LLP
Gladys Godin Estate
146 West Main Street
Somerset, PA 15501

Godin & Goden 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.

10. Force Majeure.

a. In the event that Godin & Goden 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 circumstance beyond Godin & Goden's control and which Godin & Goden, by the exercise of all reasonable diligence, is unable

to prevent, then Godin & Goden 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 Godin & Goden's control. Godin & Goden'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. Godin & Goden shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) working days by telephone and within ten (10) 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 Godin & Goden to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. Godin & Goden'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 Godin & Goden and other information available to the Department. In any subsequent litigation, the Godin & Goden 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.

11. 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.

12. 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.

13. 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.

14. 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.


15. 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

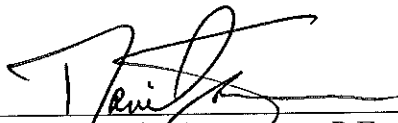
IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of Godin & Goden certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of Godin & Goden; that Godin & Goden consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Godin & Goden hereby knowingly waives its right to appeal this Consent Order and Agreement and to challenge its content or validity, which

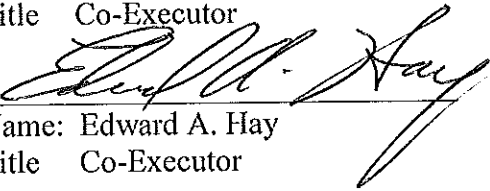
rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. [Signature by Godin & Goden's attorney certifies only that the agreement has been signed after consulting with counsel.]

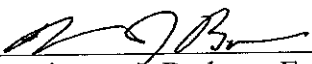
FOR Godin & Goden:

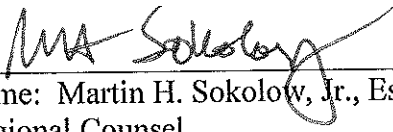
FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:


Name: Vincent J. Barbera
Title Co-Executor


Name: Daniel Sammarco, P.E.
Title: Acting District Mining Manager


Name: Edward A. Hay
Title Co-Executor


Name: Vincent J. Barbera, Esq.
Attorney for Godin & Goden


Name: Martin H. Sokolow, Jr., Esq.
Regional Counsel

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

56840111

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: Stacey Maurer Bittner

Name: John Edward Maurer

Name: Edward R. Maurer

Name: William Bradley Maurer

Address: c/o John Maurer, PO Box 362, Jennerstown, PA 15547

WHEREAS, the Property Owner(s) own surface property containing 37.53 acres located in Jenner Township, Somerset County, Pennsylvania, and described in Deed Book Volume 1230, Page 885, in the Somerset 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, [Operator] conducted surface mining activities on [or adjacent to] the Property pursuant to Surface Mining Permit No. 56840111;

WHEREAS, DEP has determined that mine drainage caused by [Operator'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 [Operator] have entered into a Consent Order and Agreement, dated _____ (COA) which requires [Operator] to construct, operate and maintain mine drainage treatment facilities on a portion of the Property (the Treatment Facility Property), for purposes of treating the pollutional discharge(s);

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

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

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

WHEREAS, [Operator and DEP] have requested and the Property Owner(s) is willing to grant [Operator], 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(s) acknowledge 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(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 grants and conveys to [Operator], 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 [Operator] 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(s) 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 [Operator] in the SOMERSET County Recorder's Office within thirty days of its execution. In the event that the Property Owner(s) intends 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 Owner(s) 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 29th day of March, 2010.

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

Name: Stacey Maurer Bittner
Stacey Maurer Bittner

Name: John Edward Maurer
John Edward Maurer

Name: Edward R. Maurer
Edward R. Maurer
Edward R. Maurer

Name: William Bradley Maurer
William Bradley Maurer

For [Operator]

Edward A. Hay
Name: Edward A. Hay,
Title: Executor, Gladys M. Godin Estate

For the Department of Environmental Protection:

Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF Pennsylvania :
COUNTY OF Somerset : ss

On this, the 29 day of March, 20 10, before me, the undersigned Notary, personally appeared

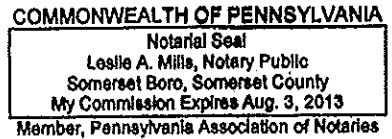
Stacey Maurer Bittner
(Name (s))

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 hereunder set my hand and official seal.

(SEAL) Leslie A. Mills
Notary Public

My Commission Expires: _____



STATE OF Pennsylvania :
COUNTY OF Somerset : ss

On this, the 29 day of March, 20 10, before me, the undersigned Notary, personally appeared

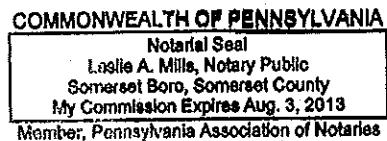
Edward R. Maurer, John Edward Maurer, William Bradley Maurer
(Name (s))

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 hereunder set my hand and official seal.

(SEAL) Leslie A. Mills
Notary Public

My Commission Expires: _____



ACKNOWLEDGEMENT

STATE OF Pennsylvania :
COUNTY OF SOMERSET : ss

On this, the 12th day of APRIL, 2010, before me, the undersigned Notary, personally appeared

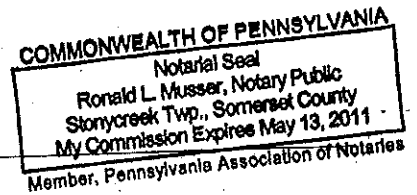
EDWARD A. HAY, EXECUTOR, Gladys M. Godin ESTATE
(Name (s))

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 hereunder set my hand and official seal.

(SEAL) Ronald L. Musser
Notary Public

My Commission Expires: _____



ACKNOWLEDGEMENT

STATE OF PENNSYLVANIA :
COUNTY OF SOMERSET : ss

On this, the 27th day of APRIL, 2010, before me, the undersigned Notary, personally appeared

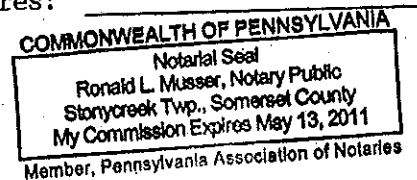
EDWARD R. MAURER
(Name (s))

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 hereunder set my hand and official seal.

(SEAL) Ronald L. Musser
Notary Public

My Commission Expires: _____



SOMERSET COUNTY RECORDER OF DEEDS
PATRICIA A. BRANT, RECORDER
300 NORTH CENTER AVENUE
SUITE 400
SOMERSET, PENNSYLVANIA 15501
Phone: (814) 445-1547
Fax: (814) 445-1563



RETURN DOCUMENT TO:
MUSSER ENGINEERING INC
7785 LINCOLN HIGHWAY
CENTRAL CITY, PA 15926

Instrument Number - 2010003283
Recorded On 4/28/2010 At 9:56:35 AM
* Instrument Type - LANDOWNER CONSENT
Invoice Number - 175270 User ID - CMK
* Total Pages - 6
* Grantor - BITTNER, STACEY MAURER
* Grantee - GODIN, GLADYS M-EST
* Customer - MUSSER ENGINEERING INC

* FEES
STATE WRIT TAX \$0.50
RECORDING FEES \$15.00
ROD IMPROVEMENT FUND \$3.00
COUNTY IMPROVEMENT FUND \$2.00
TOTAL PAID \$20.50

This is a certification page
DO NOT DETACH
This page is now part
of this legal document.

I hereby CERTIFY that this
document is recorded in the
Recorder of Deeds Office of
SOMERSET COUNTY,
PENNSYLVANIA



A handwritten signature in cursive script that reads "Patricia A. Brant". The signature is written in black ink and is positioned to the right of the official seal.

Patricia A. Brant
Recorder Of Deeds

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