

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION



In The Matter of:

Addition of:

Junior Coal Contracting, Inc.	:	SMP No. 17930103, Little Beaver Operation
2330 Sixmile Road	:	Decatur Township, Clearfield County
Philipsburg, PA 16866	:	Alternative Financial Assurance Mechanism
	:	CO&A No. 164001

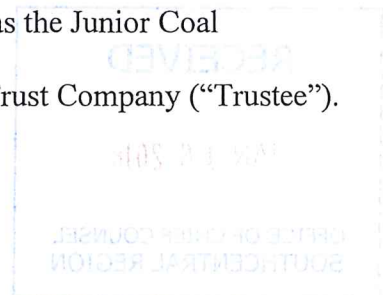
**FIRST AMENDMENT TO POSTMINING TREATMENT TRUST
CONSENT ORDER AND AGREEMENT**

This First Amendment to Postmining Treatment Trust Consent Order and Agreement (“First Amendment”) is entered into this 17th day of January, 2018, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), and Junior Coal Contracting, Inc. (“Junior Coal”). It amends the Post-Mining Treatment Trust Consent Order and Agreement dated May 19, 2016 between the Department and Junior Coal.

The Department has found and determined the following:

A. On May 19, 2016, the Department and Junior Coal entered into a Postmining Treatment Trust Consent Order and Agreement (“2016 COA”) in which Junior Coal agreed to finance a postmining treatment trust to meet its long-term postmining discharge treatment obligations for the Runk Operation, Surface Mining Permit (“SMP”) No. 17980117.

B. On May 19, 2016, the Department, Junior Coal, and Clearfield Bank and Trust Company also signed a Postmining Discharge Treatment Trust Agreement (“2016 Trust Agreement”) which established a post-mining treatment trust known as the Junior Coal Contracting Treatment Trust (the “Trust”) with Clearfield Bank and Trust Company (“Trustee”).



C. Junior Coal is the permittee and operator of the Little Beaver Operation, a surface coal mine, pursuant to SMP No. 17930103, located in Decatur Township, Clearfield County, Pennsylvania. The Little Beaver Operation is not a subject of the 2016 COA or the 2016 Trust Agreement.

D. The Little Beaver Operation is currently an active mine site with a pit open for coal removal, which is associated with post-mining discharge liability.

E. The 2016 COA is being amended to: 1) add the Little Beaver Operation; 2) add the discharge associated with the Little Beaver Operation; 3) address funding of the Primary Trust Account; and 5) amend certain provisions of the 2016 COA. A copy of the 2016 COA is attached hereto as Exhibit A.

F. The Little Beaver SMP was originally issued to E.M. Brown, Inc. on September 1, 1993 and transferred to Junior Coal on February 15, 1996. The SMP was renewed on September 1, 2013.

G. Junior Coal posted the following reclamation bonds for the Little Beaver Operation:

BOND TYPE	FINANCIAL GUARANTOR	BOND INSTRUMENT NO.	CLB INSTRUMENT NO.	BOND AMOUNT
Surety	Lyndon Property Insurance Company	17763	L119917930103	\$ 325,820.00
Financial Guarantee Coal & Waste	DEP	31337	4820170FG	\$ 47,978.00
Financial Guarantee Coal & Waste	DEP	35588	4820198FG	\$ 60,000.00

Land Reclamation Financial Guarantee	DEP	22688	482031CFG	\$ 11,080.00
Collateral Bond/ Letter of Credit	CNB Bank	32603	1217	\$61,006.00
Collateral Bond/ Letter of Credit	CNB Bank	33747	1263	\$ 79,607.00
Collateral Bond/ Letter of Credit	CNB Bank	35712	1347	\$ 61,579.00
Collateral Bond/ Letter of Credit	CNB Bank	37358	1405	\$ 103,710.00
Letter of Credit	CNB Bank	38189	1427	\$ 3,952.00
Remining Bond Credit	DEP	35679	4820-11	\$ 180,700.00
Total:				\$ 935,432.00

Post-Mining Discharge

H. On January 22, 2016, the Department issued Compliance Order No. 164009 to Junior Coal requiring that the operator commence long term treatment of monitoring point MP-LB75, an off-permit discharge, which had been degraded by mining operations on the Little Beaver Operation. MP-LB75 is located at latitude 40° 50' 3.1" and longitude 78° 19' 40.4". An aerial photo depicting the location of MP-LB75 is attached as Exhibit B.

I. The raw water quality of the LB-75 discharge, as compiled by Junior Coal from analytical sampling results for the period from September 29, 2015 through December 27, 2016, is set forth in Exhibit C.

J. The treated discharge for LB-75 is identified as Outfall 019 (LB-75T) in NPDES Permit No. PA0207241. The NPDES Permit was revised on October 20, 2017, and will expire

on September 1, 2018. This Permit is renewed every five years. Pursuant to the authority in 25 Pa. Code Chapter 92a, the effluent limits may change at the time of renewal or as required by the Department. The current effluent limits applicable for LB-75T, as set forth in the NPDES Permit, are:

Effluent Limits for Outfall 019 (LB-75T)

Parameter	Monthly Average	Daily Maximum	Instantaneous Maximum
Total Iron, mg/l	3.0	6.0	7.0
Total Manganese, mg/l	3.5	7.0	N/A
Total Suspended Solids, mg/l	35.0	70.0	90.0
Aluminum, mg/l	4.5	4.5	4.5

- Osmotic Pressure, once per Month – Monitoring Only

K. In the summer of 2016, Junior Coal installed an active chemical treatment system (“Treatment System”) which utilizes caustic soda as the treatment agent to treat LB-75T. The Treatment System consists of two gravity-fed settling ponds with synthetic liners. The Treatment System also has a drying bed where sludge from the settling ponds is pumped, as needed, to clean the settling ponds. Untreated water is collected in an existing pond and diverted to the primary settling pond via an 8-inch PVC pipe. Liquid caustic soda is added to the untreated water at an in-line flume which allows the caustic soda to mix with the untreated water before it flows into the primary settling pond. Treated water from the surface of the primary settling pond flows into an 8” PVC standpipe and into the secondary settling pond through an 8” PVC pipe. The final treated effluent flows from the surface of the secondary settling pond into an 8” PVC standpipe and into the receiving stream. The treated effluent discharges to Beaver Run via NPDES Outfall 019 which is located at latitude 40° 50’ 3.4” and longitude 78° 19’ 38.5”. The LB-75T Treatment System is depicted on the diagram attached as Exhibit D.

L. The Treatment System is situated on land owned by J.R. Land Company, Inc.

Junior has obtained from J.R. Land Company, Inc. a properly executed Consent to Right of Entry form which grants the Department, Junior Coal and the Trustee access to the Treatment System. A copy of the executed Consent to Right of Entry form is attached as Exhibit E.

Post-Mining Treatment Trust

M. Junior Coal agrees it has the legal responsibility pursuant to, *inter alia*, the Surface Mining Act and the Clean Streams Law, to properly treat or abate the discharge from the Little Beaver Operation identified in Paragraph H above.

N. Concurrently with the execution and delivery of this First Amendment, Junior Coal is willing to execute and deliver the First Amendment to the 2016 Post-Mining Treatment Trust Agreement (“Amended Trust Agreement”) by and among Junior Coal, the Department and Clearfield Bank and Trust Company as an alternative financial assurance mechanism, (and a financially-backed enforceable contract), in order to provide for the long-term treatment of post-mining discharges connected to the Little Beaver Operation and secure the release of its reclamation bonds upon completion of all other reclamation and bond release requirements and the full funding of the amended Trust. A copy of the Amended Trust Agreement is attached as Exhibit F.

O. In order to calculate the amount necessary to fully fund the Trust as a result of the addition of the Little Beaver Operation, the Department and Junior have agreed to use actual operation and maintenance costs from past operation of the Treatment System, or the AMDTreat computer application (“AMDTreat”) of the Office of Surface Mining Reclamation and Enforcement (“OSMRE”) cost estimates where insufficient operation and maintenance cost data exist and for recapitalization, demolition and other variables not included in the actual operation and maintenance costs of the Treatment System. Based on AMDTreat cost estimates, the current

annual cost of operating and maintaining the Treatment System is \$5,809.00, as shown on Exhibit G.

P. In order to calculate the amount necessary to fully fund the portion of the amended Trust allocable to the Little Beaver Operation, the Department and Junior Coal have agreed to use recapitalization and demolition cost data generated by the AMDTreat software tool. According to the AMDTreat software tool, the present value of recapitalization costs for the Treatment System is \$1,583.00. The AMDTreat Recapitalization Cost schedule for the Little Beaver Operation is attached as Exhibit H.

Q. The parties have discussed the need to obtain accurate and timely information on the costs of operating and maintaining the Treatment System in order to maintain the proper amount of financial assurance.

R. The parties agree that the present value of the portion of the amended Trust allocable to the Little Beaver Operation for the discharge covered by this First Amendment is one hundred thirty-seven thousand nine hundred seventy-one dollars and twelve cents (\$137,971.12.) This sum constitutes the current present value of the estimated future operation and maintenance costs for the Treatment System, and the current present value of the estimated future recapitalization costs for the Treatment System.

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 Junior Coal as follows:

1. This First Amendment to 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 Subsidence Act, 52 P.S. § 1409.9; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17. The failure of Junior Coal to comply with any term or condition of this First Amendment shall subject Junior Coal to all penalties and remedies provided by those statutes for failing to comply with an order of the Department.

2. Paragraph 2 of the 2016 COA is revised as follows:

2. Findings

a. Junior Coal agrees that the findings in Paragraphs A through S of the 2016 COA and Paragraphs A through R of this First Amendment are true and correct, and in any matter or proceeding involving Junior Coal and the Department, Junior Coal shall not challenge the accuracy or validity of these findings. The 2016 COA is attached as Exhibit

b. The parties do not authorize any other persons to use the findings in the 2016 COA and this First Amendment in any matter or proceeding.

c. These findings are hereby incorporated into the 2016 COA and into the 2016 Trust Agreement by reference as if fully set forth therein. The 2016 Trust Agreement is attached as Exhibit F to the 2016 COA.

3. Paragraph 5(a) of the 2016 COA is revised as follows:

5. Treatment Trust

a. Simultaneously with the execution of this First Amendment, Junior Coal shall execute and deliver the Amended Trust Agreement. The Amended Trust Agreement shall secure the obligation of Junior Coal to treat the discharge associated with the Little Beaver Operation under this First Amendment, including its legal obligation to operate and maintain such treatment systems in perpetuity or until water treatment is no longer necessary. The Amended Trust Agreement shall also secure Junior Coal's obligation to provide financial resources to the Department and the citizens of the Commonwealth sufficient to operate and maintain the Treatment System and to treat the mine drainage in perpetuity in the event Junior Coal becomes unable or unwilling to meet these obligations. The Amended Trust Agreement shall provide for the demolition of treatment facilities and reclamation of the treatment site should treatment no longer be needed. The Amended Trust Agreement is hereby incorporated into the 2016 COA and into Exhibit F of the 2016 COA by reference as if fully set forth therein.

4. Paragraphs 6(a) and (b) of the 2016 COA are revised as follows:

6. Funding of the Primary Trust Account

a. Initial Payment to the Primary Trust Account: Upon its execution of this First Amendment, Junior Coal shall deposit thirty-four thousand four hundred ninety-two dollars and seventy-eight cents (\$34,492.78) into the Primary Trust Account.

b. Ongoing Payments to the Primary Trust Account: Junior Coal shall continue to make payments into the Primary Trust Account of thirty-four thousand four hundred ninety-two dollars and seventy-eight cents (\$34,492.78) per quarter by the end of each calendar quarter, beginning with the fourth quarter of 2017 until the trust is fully funded. Payments will be required without notice.

c. A summary of the projected amounts required in the Amended Trust for present and future operations is attached as Exhibit I. Any recalculations made to the Amended Trust shall be deemed an amendment to Exhibit I and this First Amendment, and shall be used in making all future calculations and distributions.

5. Paragraph 14 of the 2016 COA is revised as follows:

14. Real and Personal Property

a. Within 60 days of the effective date of this First Amendment, Junior Coal will create an inventory of all the equipment, facilities, and other personal property used for the treatment of the mine discharge LB-75 associated with the Little Beaver Operation described in Paragraph K, above (“Personal Property”). Upon completion of the inventory, Junior Coal shall submit the inventory to the Department for review and approval in a similar form as the Personal Property attached as Exhibit J. Within 30 days of receipt of written approval of the inventory by the Department, Junior Coal shall transfer and convey to the Trustee, without reservation, all Personal Property including, but

not limited to, the equipment and other property listed in the inventory in order to ensure continued treatment of the discharge in the event Junior Coal enters bankruptcy, ceases to exist, or is unable or unwilling to continue treatment. Said transfer and conveyance shall be substantially in the same form as the Bill of Sale and License Agreement attached here to as Exhibit K.

b. The provisions of Paragraph 14.a. notwithstanding, for so long as Junior Coal is continuing treatment of the discharge that is the subject of this First Amendment, Junior Coal shall be responsible for maintaining and replacing or upgrading, as appropriate, the Personal Property used for the treatment of the mine discharge described above in Paragraph H.

6. Paragraph 15 of the 2016 COA is revised as follows:

15. Public Liability Insurance

a. Junior Coal shall maintain public liability insurance coverage for the operation, maintenance, improvement and all other activities associated with the Treatment System and the real and personal property which is identified in the Amended Trust Agreement as part of the Trust Principal. The Trustee and the Commonwealth of Pennsylvania shall be listed as additional insureds on the policy.

b. In addition to the requirements of Paragraph 15.a., above, Junior Coal shall ensure that the public liability insurance policy is at all times consistent with the requirements of 25 Pa. Code § 86.168(a) - (f). Pursuant to the requirement set forth at 25 Pa. Code § 86.168(a) that a

permittee submit proof which certifies that a public liability insurance policy is in force meeting the requirements of Chapter 86, Junior Coal shall submit such proof to the Department at the Annual Meeting described in Paragraph 16.

7. Paragraph 22 of the 2016 COA is revised to add the following:

22. Transfer of Sites

a. The duties and obligations under this First Amendment shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in Junior Coal or the Little Beaver Operation or any part thereof.

b. If Junior Coal intends to transfer any legal or equitable interest in Junior Coal or the Little Beaver Operation which is affected by this First Amendment, Junior Coal shall serve a copy of this First Amendment to 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 District Mining Operations, Department of Environmental Protection, 186 Enterprise Drive, Philipsburg, PA 16866 and the District Mining Manager identified in Paragraph 23 of such intent.

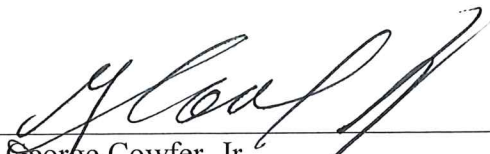
c. The Department in its sole discretion may agree to modify or terminate Junior Coal's duties and obligations under this First Amendment upon transfer of Junior Coal or the Little Beaver Operation. Junior Coal waives any right that it may have to challenge the Department's decision in this regard.

8. Except as modified herein by this First Amendment, all the other provisions of the 2016 COA shall remain in full force and effect.

9. This document may be executed through counterpart signatures transmitted via electronic means.


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

**FOR
JUNIOR COAL CONTRACTING, INC.:**

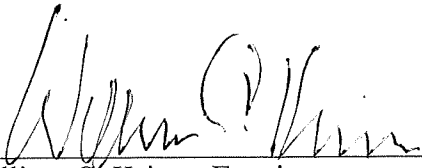


George Cowfer, Jr.
President and Treasurer

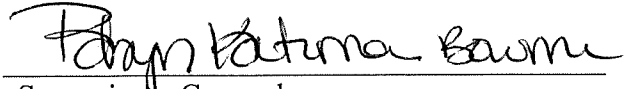
**FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:**



Nathan Houtz
District Mining Manager
Moshannon District Mining Office



William C. Kriner, Esquire
Attorney for Junior Coal Contracting, Inc.



Supervisory Counsel
Southcentral Region
Office of Chief Counsel

EXHIBIT LIST

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|-----------|---|
| EXHIBIT A | Copy of 2106 Post-Mining Treatment Trust Consent Order and Agreement dated May 19, 2016 |
| EXHIBIT B | Aerial Photo Showing Location of Discharge LB-75 |
| EXHIBIT C | LB-75 Raw Water Quality Sample Results |
| EXHIBIT D | Diagram depicting LB-75T Treatment System |
| EXHIBIT E | Consent to Right of Entry from J.R. Land Company for LB-75T Treatment System |
| EXHIBIT F | Copy of First Amendment to the 2016 Post-Mining Treatment Trust Agreement |
| EXHIBIT G | AMD Treatment Trust Calculator for LB-75T |
| EXHIBIT H | AMDTreat Recapitalization Cost Schedule |
| EXHIBIT I | Full Funding Spreadsheet |
| EXHIBIT J | Inventory of Personal Property |
| EXHIBIT K | Bill of Sale and License Agreement for Personal Property to Trust |