

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

Junior Coal Contracting, Inc. : SMP # 17980117, "Runk Operation"
2330 Sixmile Road : Decatur Township, Clearfield County
Philipsburg, PA 16866 : Alternative Financial Assurance Mechanism
: C. O. & A # 164001

POSTMINING TREATMENT TRUST CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 19th day of May, 2016, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), and Junior Coal Contracting, Inc. ("Junior Coal").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945, P.L. 1198, 52 P.S. §§ 1396.1 *et seq.* (Surface Mining Act); the Bituminous Mine Subsidence and Land Conservation Act, Act of April 27, 1966, P.L. 31, 52 P.S. §§ 1406.1 *et seq.* (Subsidence Act); the Coal Refuse Disposal Control Act, Act of September 24, 1968, P.L. 1040, 52 P.S. §§ 30.51 *et seq.* (Coal Refuse Disposal Act); the Clean Streams Law, Act of June 22, 1937, P.L. 1987, 35 P.S. §§ 691.1 *et seq.* (Clean Streams Law); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, 71 P.S. § 510-17 (Administrative Code) and the 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 as required by this Consent Order and Agreement through the 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 SMCRA, 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. Junior Coal is a Pennsylvania corporation with an address of 2330 Sixmile Road, Phillipsburg, Pennsylvania, 16866. Junior Coal is engaged in surface mining of coal in Pennsylvania, and at all times relevant to this Consent Order and Agreement, Junior Coal has conducted surface mining activities pursuant to Surface Mine Operator's License No. 4900.

D. The principal and sole officer of Junior is George Cowfer, Jr., who is president, secretary and treasurer.

E. Junior Coal is the permittee of the Runk Operation Coal Mine, a surface coal mine with SMP # 17980117 located in Decatur Township, Clearfield County, Pennsylvania. The Runk Operation permit was issued to Junior Coal on September 20, 1999, along with National Pollution Discharge Elimination System (NPDES) permit PA 0238104. The surface mining permit was renewed on June 23, 2015, and the NPDES permit was renewed on

September 20, 2014. Permit amendments for both the surface mining permit and the NPDES permit are pending approval by the Department at this time. In April of 2009, the Junior Coal completed coal removal operations and had backfilled the site. The current status of the permit is Stage 1/regraded.

F. The Runk Operation is associated with a diffuse post-mining discharge covering a large area. A memorandum from Bill Brusse, P.G., dated January 2, 2015 and attached as Exhibit A, identified discharges at sample points MP-13, MP-14, MP-14N, MP-16, SP-118, SP-127, SP-161, SEQ-039, SEQ-040, SEQ-043, SEQ-044, and SEQ-045 as having been affected by the mining operations which do not meet the effluent limits of 25 Pa Code § 87.102. All of these discharges except MP-16, SP-118 and SP-127 are located off permit. An aerial photo depicting the location of the monitoring points and discharges relative to the permit is attached to Exhibit A as Exhibit A. The physical locations of these sample points are attached as Exhibit B.

G. CO&A #154010, dated April 10, 2015 and attached as Exhibit C, determined that Junior was responsible for meeting the effluent limits delineated in 25 PA Code § 87.102 at the monitoring points identified above. Junior proposed and the Department approved a plan to treat the discharges at point MP46 where all of the above referenced discharges combine. Monitoring point MP-46 is located at 40° 54' 59.49" and -78° 15' 21.12".

H. Junior's remaining obligation under CO&A 154010 is to arrange for water monitoring and treatment at MP 46 in perpetuity or until the water no longer requires treatment to meet effluent limits at the above identified discharges. The establishment of this treatment trust accomplishes this.

I. A summary of the reclamation bonds currently posted for the Runk Operation

is as follows:

PERMIT NO.	BOND TYPE	FINANCIAL GUARANTOR	BOND INSTRUMENT NO.	BOND STATUS	BOND AMOUNT
17980117	Guarantee	DEP Financial Guarantee	15343	Active	\$ 40,400.00
17980117	Surety	Lyndon Property Insurance Co.	17502	Active	\$ 2,100.00
17980117	Surety	Lyndon Property Insurance Co.	18527	Active	\$ 49,500.00
17980117	Guarantee	DEP Financial Guarantee	18841	Active	\$ 39,600.00
17980117	Land Reclamation Financial Guarantee	DEP Land Reclamation Financial Guarantee	160258	Active	\$ 36,793.00
17980117	Letter of Credit	County National Bank	644	Released	\$ 0.00

J. The required effluent limits applicable for the Runk Operation discharges are set forth in NPDES PA0238104, and which expires September 20, 2019. The current limits are set forth in the table below. This Permit is renewed every five years (pursuant to the authority in 25 Pa. Code Chapter 92a) at which time the effluent limits may change.

Discharge Limitations, NPDES Permit PA0238104

	30-day average	Daily Maximum	Instantaneous Maximum
Iron, mg/L	3	6	7
Manganese, mg/L	11.2	22.5	28.1
Aluminum, mg/L	N/A	N/A	11.2
Total Suspended Solids, mg/L	35	70	90
Osmotic Pressure, mOsm/kg	N/A	N/A	50

K. Junior 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 Paragraph F above.

Post-Mining Treatment Trust

L. The treatment system is designed as a passive system, and includes a cement sump, a Tsurumi pump, a baffled limestone ramp treatment pond, a polishing pond and a drying bed. The 1-horsepower Tsurumi pump has a pump capacity of 60 gallons per minute (gpm) at 62 feet of head and a pump rate of 70 gpm. The dimensions of the treatment pond are 6 feet total depth, 9 feet wide by 170.5 feet long at the bottom, and 33 feet wide by 194.5 feet long at the top. The treatment pond contains eight earthen berm baffles and 691 tons of limestone with a thickness of 4.5 feet. The treatment pond is designed to treat a maximum acidity loading of 31.25 pounds per day and the maximum measured flow rate of 100 gpm. The dimensions of the polishing pond are: a total depth of 6 feet, 15 feet wide by 22 feet long at the bottom, and 40 feet wide by 50 feet long at the top. The polishing pond is designed for a retention time of 12 hours at an average flow rate of 14 gpm and a sludge factor of 1.33. With the exception of the pump, these are installed as improvements to the land owned by Judy and Alvin Hughes.

M. The treatment system is situated on land owned by Judy and Alvin Hughes. Junior Coal has obtained from Judy and Alvin Hughes a properly executed Consent to Right of Entry form which grants the parties and the trustee access to the treatment system. A copy of the executed Consent to Right of Entry is attached as Exhibit D.

N. The capital costs for installation of the passive treatment system, as estimated using the AMDTreat software is thirty-three thousand seven hundred forty-one dollars (\$33,741.00) and is attached as Exhibit E.

O. In order to calculate the amount necessary to fully fund the trust, the Department and Junior Coal have agreed to use AMD Treat estimated costs. AMDTreat estimates the annual cost of operating and maintaining the treatment system as six thousand two hundred forty-seven dollars (\$ 6,247.00), as shown in Exhibit E.

P. In order to calculate the amount necessary to fully fund the trust, the Department and Junior Coal have agreed to use recapitalization and demolition cost data generated by the Department's AMDTreat software tool. According to the AMDTreat software tool, the initial value of recapitalization costs is nine thousand two hundred twelve dollars (\$ 9,212.00). Exhibit E contains the AMDTreat Recapitalization Cost schedule for the treatment system.

Q. Junior Coal is willing to establish a post-mining treatment trust with Clearfield Bank and Trust Company as an alternative financial assurance mechanism, in order to provide for the long-term treatment of post-mining discharges and secure the release of reclamation bonds upon completion of all other reclamation requirements. Junior Coal agrees to establish the Junior Coal Contracting Treatment Trust by executing a Post-Mining Treatment Trust Agreement with Clearfield Bank and Trust Company which conforms with the Department's model trust agreement.

R. 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.

S. The parties have agreed to use the formulas set forth below to calculate the present value of the Junior Coal Contracting Treatment Trust. The parties agree that the present value of the fully-funded Junior Coal Contracting Treatment Trust, as defined in

Section 5, below, for the discharges covered by this Consent Order and Agreement is One hundred fifty five thousand nine hundred and nine dollars and sixty-six cents (\$ 155,909.66). This sum constitutes the current present value of the estimated future operation and maintenance costs for the treatment system, insurance, and the current present value of the estimated future recapitalization costs for the treatment system. The parties have also agreed to use the information and figures which will be provided by the Accounting required by Paragraph 4 to recalculate and adjust the amount of the Junior Coal Contracting Treatment Trust as described in Paragraphs 8 and 10 below.

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 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 Consent Order and Agreement shall subject Junior Coal to all penalties and remedies provided by those statutes for failing to comply with an order of the Department.

2. Findings

a. Junior Coal Contracting, Inc. agrees that the findings in Paragraphs A through S 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.

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 Junior Coal's fiscal year or thirty (30) days after the last day of any fiscal year which Junior Coal Contracting, Inc. may adopt in the future. Junior Coal's fiscal year is January 1st through December 31st, so the anniversary date would be January 31st of each year.

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 system.

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 system. 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%**)
I = Inflation Rate (assumed to be 3.1% or .031)

** {The expected annual earnings of the trust will depend on the trust’s investment parameters, including the amount of the trustee’s fee. The Department will consider a fairly aggressive investment strategy consisting of up to 80% stocks and 20% bonds, however the operator can select a more conservative investment strategy. The trustee’s fee schedule must be negotiated by the operator. The rate of return used to calculate a trust amount is determined as part of the negotiation process for the COA and accompanying Trust Agreement. }*

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% percent 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 system.

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

4. Annual Treatment Costs; Records; Factors; Accounting

a. Junior 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. Junior Coal shall keep separate records for the treatment system.

c. Junior Coal shall provide an annual accounting of the costs and expenses of annual treatment 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 on January 1 and continuing through December 31 of each year, or other fiscal year as Junior 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 Junior Coal and by the President of Junior Coal attesting to the completeness and accuracy of the records of the costs and expenses of annual treatment as reported in the Accounting.

d. Junior Coal's obligation to keep records and provide the Accounting shall continue for the period during which Junior Coal is operating the treatment system.

e. In the event of a dispute about the costs and expenses of treatment incurred by Junior Coal Contracting, Inc., Junior 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 Junior Coal prepared by an independent licensed public or certified public accountant, shall satisfy Junior Coal's burden of proof as to any of these

matters.

5. Treatment Trust

a. Junior Coal shall establish an irrevocable trust to be known as the Junior Coal Contracting Treatment Trust by executing a Post-Mining Treatment Trust Agreement with Clearfield Bank and Trust Company. The Junior Coal Contracting Treatment Trust shall secure Junior Coal Contracting, Inc.'s obligation to treat the Runk Operation discharge, including its legal obligation to operate and maintain the treatment system in perpetuity or until water treatment is no longer necessary. The Junior Coal Contracting Treatment Trust 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 Junior Coal Contracting Treatment Trust shall provide for the demolition of treatment facilities and reclamation of the treatment site should treatment no longer be needed. The agreement establishing the Junior Coal Contracting Treatment Trust is attached as Exhibit F.

b. Junior Coal shall establish within the Junior Coal Contracting Treatment Trust two sub-accounts: (i) a sub-account designated as the Primary Trust Account; and, (ii) a sub-account designated as the Capital Improvement Account.

c. Upon 30 days prior notice to the Department, Junior Coal may post an appropriate bond or bonds with the Department, in the amount determined by the Department in accordance with applicable bonding requirements, in order to guarantee Junior Coal's obligation to treat or abate the Runk Operation discharge, and Junior Coal may subsequently petition the Department to terminate the Junior Coal Contracting Treatment Trust. Upon

termination of the Trust following the posting of sufficient bonds to guarantee the Junior Coal's obligation, the Department shall direct the Trustee to distribute any residuum, less final trust administration expenses of the Trustee, to the Settlor in accordance with Articles 4 and 12 of the Post-Mining Discharge Treatment Trust Agreement attached as Exhibit F.

6. Funding of the Primary Trust Account

a. Initial Payment to the Primary Trust Account: Upon its execution of this Consent Order and Agreement, Junior Coal shall deposit an amount of thirty-eight thousand nine hundred seventy-seven dollars and forty-two cents (\$ 38,977.42) into the Primary Trust Account.

b. Ongoing Payments to the Primary Trust Account: Junior Coal will make payments to the Trust of thirty-eight thousand nine hundred seventy-seven dollars and forty one cents (\$ 38,977.41) per quarter by the end of each calendar quarter, beginning with the second quarter of 2016 until the trust is fully funded in accordance with Exhibit K. This sum constitutes the current present value of the amount necessary to fully fund the Treatment Trust, and includes the current present value of the future operation and maintenance of the treatment system and the current amount needed to finance anticipated and periodic capital expenditures for the treatment system.

7. 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 Junior Coal Contracting, Inc. 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 Junior 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 13.a. This amount is depicted graphically as points 5 & 6 on Exhibit G.

8. 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% percent 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.

9. Distribution Payments for Adjustments to the Primary Target Valuation

a. If the newly calculated Primary Target Valuation which has been adjusted under Paragraph 8 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 8. 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 Junior 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

10. 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 in 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 K. 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 12. Such recalculation shall be deemed an amendment to Exhibit K and this Consent Order and Agreement, and shall be used in all future calculations involving the Capital Improvement Account.

11. Transfer of Funds to the Capital Improvement Account

a. The provisions of this Paragraph do not apply if the Primary Trust Valuation includes the value of surety bonds.

b. If the Primary Trust Valuation after any Distribution Payment under paragraph 7 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 K. 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.

12. Distribution Payments from the Capital Improvement Account

a. A distribution payment shall be made to Junior Coal any time a planned capital replacement is made as indicated on Exhibit K. 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 K, 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 13 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.

13. 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 K, 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 Junior Coal's obligation to make a contribution payment under Paragraph 7.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 Junior Coal's obligation under paragraph 7.g. 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 Junior Coal to pay for unanticipated capital expenditures, or anticipated capital expenditures that exceed the calculated cost of the capital improvement as indicated on Exhibit K.

c. Surplus funds in the Capital Improvement Account or the Primary Trust Account may be used by Junior 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 Junior 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.

14. Real and Personal Property

a. Within 60 days of the effective date of this Consent Order and Agreement, Junior Coal will create an inventory of all the equipment, facilities, and other personal property used for the treatment of the mine discharges described in Paragraph L (“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 here to as Exhibit I. 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 discharges 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 J.

b. The provisions of Paragraph 14.a. notwithstanding, for so long as Junior Coal is continuing treatment, Junior Coal shall be responsible for maintaining and replacing/upgrading, as appropriate, the Personal Property used for the treatment of the mine discharges described above in Paragraph F. Junior Coal's replacement/upgrade of any of the Personal Property previously conveyed as set forth in Paragraph 14.a. to the Trustee shall only be done with the express written consent of the Trustee and the Department. All parts, additional equipment, replacements, and upgrades to the Personal Property shall immediately and automatically become the property of the Clearfield Bank and Trust Company as Trustee of the Junior Coal Trust.

c. If any portion of a property subject to a Right of Entry is sold, Junior Coal shall obtain properly executed Consent to Right of Entry form from the new owner and submit it to the Department and the Trustee within 90 days of the sale. Each Right of Entry shall be substantially in the same form as the Right of Entry attached hereto as Exhibit B.

15. Public Liability Insurance

a. Junior Coal shall maintain in effect 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 Post Mining

Treatment 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. 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 Junior Coal has a public liability insurance policy in force meeting the requirements of this Paragraph.

16. Annual Requirements

a. The parties will meet on or before the sixtieth 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 system 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 Junior Coal Contracting 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 Junior Coal Contracting Treatment Trust; and, (v) to address any other issues that may concern this Consent Order and Agreement or its implementation.

b. Junior 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).

17. Junior Coal's Continuing Obligation

Neither Junior Coal's agreement to fund the Junior Coal Contracting Treatment Trust nor the full or partial funding of the Junior Coal Contracting Treatment Trust, nor the exhaustion of the Junior Coal Contracting Treatment Trust shall in any way limit Junior Coal's obligation to operate the treatment system and to treat the discharge(s) covered by this Consent Order and Agreement in a manner which meets the effluent limitations described in Paragraph I above. Furthermore, exhaustion of the Junior Coal Contracting Treatment Trust shall not excuse Junior Coal from Junior Coal's obligation to adequately treat or to abate the discharges.

18. Stipulated Civil Penalties

a. In the event Junior Coal fails to comply in a timely manner with any term or provision of this Consent Order and Agreement, Junior Coal shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount 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, and shall be forwarded to:

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

c. Any payment under this paragraph shall neither waive Junior Coal's duty to meet its obligations under this Consent Order and Agreement nor preclude the

Department from commencing an action to compel Junior Coal's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only Junior 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.

19. Additional Remedies

a. In the event Junior 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 Junior Coal defaults on the obligations of this Consent Order and Agreement, Junior 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 Junior 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.

20. Reservation of Rights

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

21. Liability of Junior Coal

Junior 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. Junior 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.

22. 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 Junior Coal sites or any part thereof.

b. If Junior Coal intends to transfer any legal or equitable interest in the Junior Coal site which is affected by this Consent Order and Agreement, Junior 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 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 Consent Order and Agreement upon transfer of the Junior Coal Sites. Junior Coal waives any right that it may have to challenge the Department's decision in this regard.

23. Correspondence with Department

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

District Mining Manager
Department of Environmental Protection
Moshannon District Mining Office
186 Enterprise Drive
Phillipsburg, PA 16866
Telephone: 814-342-8200
Facsimile: 814-342-8216

24. Correspondence with Junior Coal

a. All correspondence with Junior Coal concerning this Consent Order and Agreement shall be addressed to:

George Cowfer, President
Junior Coal Contracting, Inc.
2330 Sixmile Road
Phillipsburg, PA 16866
Telephone: 814-342-2012

b. Junior 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.

25. Force Majeure

a. In the event that Junior 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 Junior Coal's control and which Junior Coal, by the exercise of all reasonable diligence, is unable to prevent, then Junior 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 Junior Coal's control. Junior 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. Junior Coal 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 Junior Coal to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten (10) working days of its submission. Junior 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 Junior Coal, Inc. and other information available to the Department. In any subsequent litigation, Junior 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

26. 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.

27. 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.

28. 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.

29. Modifications

Except as provided in Paragraph 10, 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.

30. 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.

31. 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 Junior Coal may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

32. Successors

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

Junior 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.

33. Counterpart Signatures

The parties agree that this Consent Order and Agreement may be executed by counterpart signatures transmitted via electronic means.

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 Junior 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 Junior Coal that Junior Coal consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Junior 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 Junior Coal's attorney certifies only that the agreement has been signed after consulting with counsel.

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



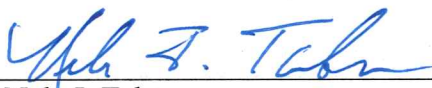
George Cowfer, Jr.
President

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



Michael W. Smith
District Mining Manager
Moshannon District Mining Office

Attorney for Junior Coal Contracting, Inc.



Nels J. Taber
Regional Counsel

List of Exhibits

- Exhibit A: January 2, 2015 Memorandum from Bill Brusse
- Exhibit B: Locations of AMD points
- Exhibit C: CO&A 154010
- Exhibit D: Right of Entry from Judy and Alvin Hughes
- Exhibit E: AMDTreat estimated costs
- Exhibit F: Treatment Trust Agreement
- Exhibit G: Graphical Depiction of Primary Trust Valuation and Primary Target Valuation
- Exhibit H: Graphical Depiction of Adjustment to Primary Basis Valuation
- Exhibit I: List of Personal Property of Trust
- Exhibit J: Bill of Sale for Personal Property to Trust
- Exhibit K: Schedule of Capital Improvement Account