

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In The Matter Of:

Frontier Insurance Company in : K&J Coal Company  
Rehabilitation and under the : Surety Reclamation  
Supervision of the New York Insurance : Trust Fund Payment  
Department :  
:

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APR 15 2004

BOND CLAIMS

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 29<sup>th</sup> day of April

2004, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Frontier Insurance Company in Rehabilitation and under the Supervision of the New York Insurance Department ("Frontier").

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, as amended, 52 P.S. §1396.1 *et seq.*, ("Surface Mining Act"); The Coal Refuse Disposal Control Act, Act of September 24, 1968, P.L. 1040, as amended, 52 P.S. § 30.51 *et seq.* ("Coal Refuse Disposal Act"); The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 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, *as amended*, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations promulgated thereunder.

B. Frontier is a New York Corporation with a business address of 195 Lake Louise Marie Road, Rock Hill, New York, 12775, whose business prior to August 27, 2001 included among other things, the issuance of surety bonds for mining operations in Pennsylvania.

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C. Gregory V. Serio is the Superintendent of Insurance of the State of New York, acting as Rehabilitator for Frontier Insurance Company (now "Frontier Insurance Company In Rehabilitation and under the Supervision of the New York Insurance Department").

D. On August 27, 2001, the New York Supreme Court for New York County entered an Order to Show Cause, pursuant to which the Superintendent of Insurance of the State of New York was appointed temporary rehabilitator for Frontier Insurance Company.

E. On October 15, 2001, the New York Supreme Court for New York County found that Frontier was insolvent and entered an Order of Rehabilitation for Frontier ("Rehabilitation Order"). See Exhibit "A." Among other provisions, the Rehabilitation Order appointed the Superintendent as Rehabilitator of Frontier and directed the Rehabilitator to take immediate possession of Frontier's property and to conduct Frontier's business.

F. Paragraph 7 of the Rehabilitation Order provides as follows: "All persons are enjoined and restrained from obtaining preferences, prosecuting any actions, lawsuits, or proceedings against Frontier, or the Superintendent as Rehabilitator."

G. Paragraph 8 of the Rehabilitation Order provides as follows: "All persons are enjoined and restrained from obtaining preferences, judgments, attachments or other liens or making any levy against Frontier's assets or any part thereof."

H. Paragraph 2 of the Rehabilitation Order authorizes the Superintendent of the New York Department of Insurance, as Rehabilitator, to settle claims against Frontier in his sole discretion.

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I. The Rehabilitator deems reclamation of the mine sites as addressed under this Consent Order and Agreement to be in the best interests of Frontier, its policyholders, creditors and the general public.

J. The reclamation of the mine sites addressed herein may be accomplished more quickly and effectively through this Consent Order and Agreement than if the Department filed a claim in the Rehabilitation proceedings for the amount due under the bonds with the New York Supreme Court pursuant to New York Insurance Law § 7411 (McKinney 2001) and used any funds it might receive in the future to reclaim the sites.

K. K&J Coal Company, Inc. ("K&J") is a corporation with a business address of P.O. Box 189, Westover, Pennsylvania 16692, whose business included the surface mining of coal in Pennsylvania.

L. K&J filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the Western District of Pennsylvania on July 19, 2002 and is the subject of a Chapter 11 liquidation.

M. At all times material hereto, K&J was authorized to conduct surface mining in Pennsylvania pursuant to Surface Mining Operator's License No. 1613 which is now expired.

N. K&J conducted coal surface mining at a number of sites pursuant to the following permits and reclamation bonds as follows:

Permit	Mine Name	Bond No.	Bond Amt.
4571BSM15	Leigey	144869	\$3,210
17880129	Gaber Brown	128211	\$510,900
17830111	Francis/McCartney	128207	\$6,480
17830117	McIlwaine	138461	\$56,065

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17840117	Ecklund	128206	\$17,340
17850110	Brink I	144870	\$20,925
11920104	Dry Rock Run	128210	\$83,105
11920108	Fox II	128208	\$32,060
17950110	Crooked Run	144871	\$78,550
11960103	Bear	144872	\$7,080
17980111	Dry Rock Run III	144868	\$10,155

O. The Department has forfeited a number of the K&J bonds and has given notice of the intent to forfeit a number of additional bonds as listed below:

Permit	Mine Name	Forfeiture Date (or notice of Intent Date)	Enforcement Action
4571BSM15	Leigey	2/04/03	Failure to provide adequate treatment to a discharge; failure to maintain adequate treatment facilities; failure to maintain liability insurance; failure to show a willingness or intention to comply with applicable laws and regulations; failure to pay outstanding civil penalties.
17880129	Gaber Brown	8/29/02 (intent)	Unauthorized discharges of mine drainage; failure to fill, grade and stabilize rills and gullies which are deeper than 9 inches; failure to maintain liability insurance; failure to pay outstanding civil penalties
17830117	McIlwaine	02/04/03	Failure to plant and reclaim all affected areas of the permit; failure to submit water monitoring reports; failure to maintain liability insurance; failure to show a willingness or intention to comply with applicable laws and regulations; failure to pay outstanding civil penalties.
11920104	Dry Rock Run	7/07/03 (intent)	Failure to conduct surface and ground water monitoring in a manner approved in the surface mining permit; failure to comply with an Order of the Department.

P. On February 25, 2003, Frontier appealed the Department's forfeiture of the bond for the McIlwaine permit, (17830117), to Pennsylvania Environmental Hearing Board. This appeal was docketed as EHB Docket No. 2003-054-MG. K&J did not appeal the forfeiture.

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Q. Under Section 4(h) of the Surface Mining Conservation and Reclamation Act, 52 P.S. § 1396.4(h), a corporate surety issuing bonds that are forfeited by the Department shall have the option of reclaiming the forfeited site upon the consent and approval of the Department.

R. Frontier has submitted and the Department has approved a proposed Reclamation Plan ("Plan") for the K&J permits listed above. The Plan is attached to this Consent Order as Exhibit "B" and is incorporated herein by reference.

S. Frontier is willing to escrow funds to establish a financial guarantee for the operation and maintenance of the discharge treatment system for the Gaber Brown Mine, (Permit 17880129) and to execute the Plan referenced in paragraph R.

T. Reclamation of the K&J mines can be accomplished more quickly and effectively by Frontier under this Consent Order and Agreement than it could if the Department forfeited the bonds and pursued available remedies in the Frontier Rehabilitation proceedings in the New York Supreme Court.

U. Under the terms of this Consent Order and Agreement, the Department and Frontier desire to comprehensively address and conclude all administrative matters concerning K&J and obligations under the reclamation bonds issued by Frontier.

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 Frontier 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. This Consent Order and Agreement is a settlement of claims by Frontier pursuant to paragraph 2 of the Order of Rehabilitation issued by the New York Supreme Court.

3. **Findings.** Frontier and the Department agree that the findings in Paragraph A through U are true and correct and, in any matter or proceeding involving either party, neither shall challenge the accuracy or validity of these findings.

a. Frontier does not authorize any other persons to use the findings in this Consent Order and Agreement in any matter or proceeding.

4. **Bond Forfeiture.**

a. The surety bonds referenced in paragraph N above, other than the McIlwaine and Leigey bonds, in the total amount of \$766,595 are hereby declared forfeited.

b. The McIlwaine and Leigey bonds, in the total amount of \$59,275, remain forfeited.

c. Frontier shall not appeal the forfeitures described in subparagraph 4 .a. above. Upon execution of this Consent Order and Agreement Frontier shall withdraw its appeal described in Paragraph P above.

d. Nothing in this Consent Order and Agreement or in the Department's willingness to negotiate and/or sign it affects K&J's continuing status of a forfeited operator.

5. **Reclamation Plan.** Frontier shall implement the Reclamation Plan which is attached as Exhibit B and shall complete all obligations by December 31, 2004.

6. **Trust Fund Payment.** Within 30 days written notice from the Department, Frontier shall contribute \$200,000 to a treatment trust established in the Clean Streams Foundation or another Trust designated by the Department to ensure long term treatment of the discharges from the Gaber Brown Mine.

7. **Waiver of Bond Collection.**

a. The Department will waive collection on individual bonds upon completion of obligations on each specific mine described in the Reclamation Plan.

b. The Department will waive collection of Bond No. 128211 on SMP 17880129, the Gaber Brown mine upon a demonstration that payment to the Trust described in paragraph 6 has been made.

8. **Limitation of Liability.** For purposes of this Consent Order and Agreement, Frontier shall not by virtue of this Consent Order and Agreement or any activities hereunder; (i) be deemed an "operator of a mine" or an "occupier of land" under Section 315 or 316 of the Clean Streams Law, 35 P.S. §§ 691.315 or 691.316, or under the Surface Mining Act or any regulations promulgated thereunder; or, (ii) be deemed to have assumed any liabilities or obligations of K&J Coal Company, Inc., except to the extent expressly set forth in this Consent

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Order and Agreement. This Consent Order and Agreement is not intended to create rights in any parties other than those who have signed below.

9. **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 mine sites referenced herein or any part thereof.

10. **Force Majeure.** In the event that Frontier in Rehabilitation or its Contractor is unable to comply, after exercise of reasonable diligence and as a result of unforeseen circumstances not reasonably anticipated, Frontier in Rehabilitation may petition the DEP for an extension of time in which to complete the Reclamation Plan. Such extensions will not be unreasonably withheld

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

Michael Smith, P.G.  
Hawk Run District Mining Manager  
Pennsylvania Department of Environmental Protection  
P.O. Box 209 – Empire Road  
Hawk Run, PA 16840-0209

With a copy to:  
Martin H. Sokolow, Esq., Assistant Counsel  
Department of Environmental Protection  
909 Elmerton Avenue, Third Floor  
P.O. Box 8200  
Harrisburg, PA 17110-8200

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12. **Correspondence with Frontier.** All correspondence with Frontier concerning this Consent Order and Agreement shall be addressed to:

Maureen Hardy  
Frontier Insurance Company in Rehabilitation  
195 Lake Louise Marie Road  
Rock Hill, NY 12775-8000

Copy to:

William T. Gorton III, Esq.  
Stites and Harbison PLLC  
250 West Main Street  
Lexington, KY 40507

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.

13. **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.

14. **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.

15. **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.

16. **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.

17. **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.

18. **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 Frontier may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

19. **Counterpart.** This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Facsimile signatures shall be valid and effective.

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 Frontier 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 Frontier and Frontier consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Frontier hereby knowingly waives its rights to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the


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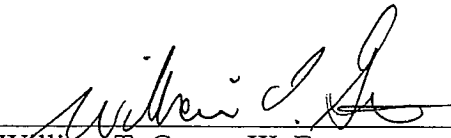
MAY 14 2004

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Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by Frontier's attorney certifies only that the agreement has been signed after consulting with counsel.

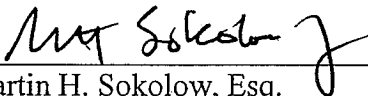
FOR FRONTIER INSURANCE COMPANY  
IN REHABILITATION AND UNDER THE  
SUPERVISION OF THE NEW YORK  
INSURANCE DEPARTMENT

  
\_\_\_\_\_  
Neal Conolly, Esq.  
Administrator

  
\_\_\_\_\_  
William T. Gorton III, Esq.  
Attorney for Frontier

FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
ENVIRONMENTAL PROTECTION:

  
\_\_\_\_\_  
Michael Smith, P.G.  
District Mining Manager

  
\_\_\_\_\_  
Martin H. Sokolow, Esq.  
Assistant Counsel

PENGAD-Bayonne, N.  
Exhibit  
A

At IAS Part 19 of the Supreme Court  
of the State of New York, County of  
New York, at the Courthouse, 60  
Centre Street, New York, New York  
on the 10<sup>th</sup> day of October, 2001.

PRESENT:

HON. EDWARD H. LEHNER

JUSTICE

-----x

In the Matter of

The Application of

GREGORY V. SERIO, as Superintendent of Insurance  
of the State of New York, for an order to take  
possession of the property of and rehabilitate

FRONTIER INSURANCE COMPANY

-----x

Index No.: 405090/01

**ORDER OF  
REHABILITATION**

FILED  
OCT 15 2001  
NEW YORK  
COUNTY CLERK'S OFFICE

Petitioner, Gregory V. Serio, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this Court for an order to take possession of the property of and rehabilitate Frontier Insurance Company ("Frontier");

NOW, upon reading and filing the order to show cause signed August 27, 2001, the petition of Gregory V. Serio, Superintendent of Insurance, by Kevin Rampe, First Deputy Superintendent, duly verified August 24, 2001 and the emergency affidavit of Kevin Rampe sworn to on August 27, 2001; (the exhibits annexed thereto); the cross motion by Frontier Insurance Group dated September 7, 2001, the annexed proposed petition, the affidavit of Suzanne Loughlin sworn to on September 7, 2001, the exhibits annexed thereto; the affirmation in opposition by Mary Nicholls dated September 7, 2001; the affirmation in opposition by Adam J. Glatt dated September 7, 2001; the affidavit of Kevin Rampe sworn to on October 3, 2001, and the exhibits annexed thereto;

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and the reply affidavit of Joseph Termini sworn to on October 3, 2001 and it appearing to my satisfaction that:

1. Frontier was incorporated in New York as a stock property/casualty insurer on November 2, 1962 and commenced business on August 17, 1966;
2. Frontier's principal place of business is located at 195 Lake Louise Marie Road, Rock Hill, New York in Sullivan County. Frontier's tax ID number is 13-2559805;
3. Frontier is subject to the New York Insurance Law and particularly to article 74 thereof;
4. Frontier is insolvent;
5. Frontier has failed to cure its impairment of capital or minimum surplus to policyholders;
6. Frontier has consented to the entry of the order of rehabilitation; and
7. It is in the best interest of Frontiers's policyholders, creditors and the general public that the Superintendent be directed to take possession of Frontier's property and to rehabilitate its business and affairs;

And, the Petitioner, having appeared by the Hon. Eliot Spitzer, Attorney General of the State of New York, and due deliberation having been had;

NOW, on motion of Hon. Eliot Spitzer, Attorney General of the State of New York, it is ORDERED as follows:

1. The petition is granted and the cross-motion is withdrawn;
2. Gregory V. Serio, Superintendent, and his successors in office as Superintendent, is appointed Rehabilitator of Frontier and is authorized and directed to immediately take possession of its property, conduct its business, including but not limited to settling claims within his sole discretion, take such steps toward the removal of the causes and conditions which made this proceeding necessary as he shall deem wise and expedient, and deal with the property and business of Frontier in its name or in the name of the Superintendent as Rehabilitator;

3. Notice to all persons having claims against Frontier to file or present their claims to the Superintendent as Rehabilitator is deferred until further order of this court;
4. Frontier, its officers, directors, depositories, trustees, agents, servants, employees, and all other persons, having any property or records belonging or relating to Frontier, including, but not limited to insurance policy, loss claim and legal files are directed, upon request of the Superintendent as Rehabilitator to assign, transfer, set over and deliver to him all such property or records;
5. Any persons, firms, corporations, or associations having any books, papers or records relating to the business of Frontier shall preserve them and submit them to the Superintendent as Rehabilitator for examination and copying at all reasonable times;
6. All persons including, but not limited to the officers, directors, shareholders, trustees, agents, servants, employees, attorneys, and managers of Frontier, are enjoined and restrained from the transaction of Frontier's business, the waste or disposition of its property, interfering with the Superintendent as Rehabilitator in the possession, control and management of Frontier's property or in the discharge of his duties;
7. All persons are enjoined and restrained from commencing or prosecuting any actions, lawsuits, or proceedings against Frontier, or the Superintendent as Rehabilitator;
8. All persons are enjoined and restrained from obtaining preferences, judgments, attachments or other liens or making any levy against Frontier's assets or any part thereof.
9. All parties to actions, lawsuits, and special or other proceedings in which Frontier is obligated to defend a party pursuant to an insurance policy, bond, contract or otherwise are enjoined and restrained from proceeding with any discovery, court conferences including but not limited to pre-trial conference, trial, application for judgment or proceedings on settlements or judgments for a period of one hundred and eighty days from the date of entry of this order.
10. Those persons who may have first-party or New York Comprehensive Automobile Insurance Reparations Act (No-Fault) policyholder loss claims against Frontier coming within the purview of Article 76 of the Insurance Law are enjoined from presenting and filing such claims in this proceeding for 90 days from the date of entry of this order.

11. In addition to the powers enumerated above and those delegated to the Rehabilitator in the New York Insurance Law, the Rehabilitator, by Order to Show Cause on notice to interested parties, including without limitation Frontier's sole shareholder, and subject to court approval, may sell or otherwise dispose of all or any part of the real and personal property of Frontier, sell any line of insurance, and take such other actions as set forth in Section 7428 of the New York Insurance Law.
12. That the Superintendent of Insurance, as Rehabilitator, may at any time make further application at the foot of this Order to this Court for such further and different relief as he sees fit.
13. All further papers in this proceeding shall bear the caption:

In the Matter of  
The Rehabilitation of  
FRONTIER INSURANCE COMPANY

ENTER

\_\_\_\_\_  
J.S.C.

FILED  
OCT 15 2004  
NEW YORK  
COUNTY CLERK'S OFFICE

RehOrder 1

Sir: Please take notice that the within is a true copy of duly filed and entered in the office of the clerk of County, on the day of . 2001

Yours, etc.,  
**ELIOT SPITZER**  
Attorney General,

Attorney for  
Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

To: . Esq.  
Attorney for

Sir: Please take notice that the within

will be presented for settlement and signature herein to the Hon. one of the Judges of the within named Court, at

In the Borough of City of New York, on the day of . 2001.  
Date, N.Y., Yours, etc. . 2001

**ELIOT SPITZER**  
Attorney General,

Attorney for  
Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

To: Esq.  
Attorney for

**SUPREME COURT : NEW YORK COUNTY**

In the Matter of  
the Application of

**GREGORY V. SERIO, as Superintendent of Insurance of the State of New York, for an order to take possession of the property of and rehabilitate**

**FRONTIER INSURANCE COMPANY**

**ORDER OF REHABILITATION**

**ELIOT SPITZER**  
Attorney General

Attorney for the Superintendent of Insurance  
Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

Tel.  
Personal Service of a copy of

within.....day of  
is admitted this.....day of

.....2001



SMP# 17830117 – McIlwaine

TASK 1 – REMOVAL OF TANKS & APPURTENANCES

This task consists of furnishing all labor and equipment required to remove fixtures left on site from the previous surface mining operations. These include two (2) fuel tanks, one (1) oil tank, one (1) skid mounted dual oil tank, one (1) portable toilet and one (1) utility storage box. Fixtures are to be removed from the site and disposal will be the sole responsibility of the Contractor.

TASK 2 – REMOVAL OF SEDIMENTATION POND A

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of the existing sedimentation pond. The embankment material is to be used to fill the pond and grade the area to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 7 – Revegetation.

TASK 3 – MODIFICATION OF SEDIMENTATION POND C

This task consists of furnishing all labor and equipment and performing all operations in association with the modification of Sedimentation Pond C to a wildlife enhancement area. The pond has developed into a wildlife habitat which will remain on-site with landowner consent. The existing emergency spillway is to be lowered to match the elevation of the wetland vegetation located in the bottom of the pond. The emergency spillway is to be installed to the same width dimensions as the existing spillway and lined with suitable rock obtained on site. The removed embankment material is to be used to cover the existing equipment parking area located south of the pond. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 7 – Revegetation.

TASK 4 – REMOVAL OF COLLECTION DITCHES CD-5 & CD-7

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of the existing sedimentation ditches. The ditches are to be graded out to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 7 – Revegetation.

TASK 5 - CONSTRUCTION OF COLLECTION DITCH

There is an existing non pollutional discharge currently collected by Sedimentation Ditch CD-7 and directed to Sedimentation Pond C. This plan is essential for the existing wetland discussed in Task 3. A new channel approximately 500' long is to be constructed in a more or less direct line from the discharge to Pond C. The work covered by this Specification consists of furnishing all labor, equipment and materials, and performing all operations in association with channel excavation and placement of rock lining at the location designated. The constructed channel is to be a 1' deep trapezoidal channel with a 1' bottom width and 2:1 side slopes. Channel shall be located and aligned as indicated on the Drawings. Channel shall be excavated to grade, trimmed

and dressed to conform to the above dimensions. Stone for rock lining shall be placed in such a manner as to produce a reasonably well graded mass of rock with the minimum practicable percentage of voids and a minimum thickness of 6". Rock lining shall be existing durable non-toxic stone located on site and being no smaller than the size and gradation requirements of R-3 rock lining as specified in Section 850, "Rock Lining," of the current Pennsylvania Department of Transportation Specifications, Publication 408.

#### TASK 6 – TOPSOIL PLACEMENT

This task consists of furnishing all labor and equipment and performing all operations in association with placing all stockpiled topsoil material over the limit of the affected area as outlined on the plan. Sufficient topsoil material is to be allocated to cover the existing rock lined channel identified as CD-6 on the plan. The topsoil is in three storage piles located along the southern limit of the work area as noted on the plan. It is the sole responsibility of the Contractor to determine the quantity of the topsoil material to be spread. The work shall include, but not be limited to excavation, transport and placement of the material. No compaction of the material is required. Soil cover shall be controlled so that the grade blends into adjacent topography. The final soil cover shall be reasonably free from stones and debris that may be detrimental to the application of soil supplements and seed. Soil cover material shall be reasonably free from large rocks, roots, vegetation and man made materials.

#### TASK 7 - REVEGETATION

The Contractor shall seed all areas upon which topsoil has been placed. The total area to be seeded has been calculated at approximately 25.0 acres, based on a GPS survey of the site. The work covered by this task shall consist of preparation of the seedbed, furnishing and placing pulverized agricultural limestone at the rate of three (3) tons per acre, 10-20-20 commercial fertilizer at the rate of 300 pounds per acre, seed at the rate of 50 pounds per acre (15 lb. Annual Ryegrass, 7.5 lb. Tall Fescue, 2.5 lb. Redtop, 7.5 lb. Empire Birdsfoot Trefoil, 5.0 lb. Climax Timothy, 5.0 lb. Orchardgrass & 7.5 lb. Alsike Clover) and mulch at the rate of three (3) tons per acre, and maintaining the seeded areas. Seeding will be performed during the fall 2003 planting season and as soon as possible following the completion and approval of final grading, and the incorporation of soil supplements. If erosion occurs between the time of final grading and time of seeding, the Contractor shall replace the fine soil materials that were eroded away and regrade all eroded areas to reestablish the final grade. Vegetation will be maintained for one full growing season.

#### TASK 8 – TREE PLANTING

The Contractor shall plant trees on all areas upon which topsoil has been placed. The total area to be treed has been calculated at approximately 25.0 acres, based on a GPS survey of the site. The work covered by this task will consist of providing and planting a minimum of two species of trees on 8' x 8' centers (680 trees per acre). Trees will be maintained for one full growing season.

## SMP# 17840117 – Ecklund

### TASK 1 – REMOVAL OF SEDIMENTATION POND 1

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of the existing sedimentation pond on the Lawrence C. & Jean L. Ecklund property. The embankment material is to be used to fill the pond and grade the area to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 3 – Revegetation.

### TASK 2 – REMOVAL OF COLLECTION DITCHES SD-3 & SD-4

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of the existing sedimentation ditches. The ditches are to be graded out to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 3 – Revegetation.

### TASK 3 - REVEGETATION

The Contractor shall seed all areas upon which regrading has occurred. The work covered by this task shall consist of preparation of the seedbed, furnishing and placing pulverized agricultural limestone at the rate of three (3) tons per acre, 10-20-20 commercial fertilizer at the rate of 300 pounds per acre, seed at the rate of 50 pounds per acre (15 lb. Annual Ryegrass, 7.5 lb. Tall Fescue, 2.5 lb. Redtop, 7.5 lb. Empire Birdsfoot Trefoil, 5.0 lb. Climax Timothy, 5.0 lb. Orchardgrass & 7.5 lb. Alsike Clover) and mulch at the rate of three (3) tons per acre, and maintaining the seeded areas. Seeding will be performed as soon as possible following the completion and approval of final grading, and the incorporation of soil supplements. If erosion occurs between the time of final grading and time of seeding, the Contractor shall replace the fine soil materials that were eroded away and regrade all eroded areas to reestablish the final grade. Vegetation will be maintained for one full growing season.

## SMP# 11920104 – Dry Rock Run

### TASK 1 – REMOVAL OF ROADSIDE BERM

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of approximately 1,800' of roadside berm. The berm is to be graded out to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 3 – Revegetation.

### TASK 2 – REPAIR OF SEDIMENTATION DITCH SD-2B

This task consists of furnishing all labor and equipment and performing all operations in association with the repair of Sedimentation Ditch SD-2B and the removal of Sedimentation Ditch SD-3B. Sedimentation Ditch SD-2B is to be regraded and repaired as needed to direct runoff from the existing access road to Pond SP-2. The sediment trap located along the main access road, just east of Pond SP-2 is to be cleaned and enlarged. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 3 – Revegetation.

### TASK 3 - REVEGETATION

The Contractor shall seed all areas upon which regrading has occurred. The work covered by this Specification shall consist of preparation of the seedbed, furnishing and placing pulverized agricultural limestone at the rate of three (3) tons per acre, 10-20-20 commercial fertilizer at the rate of 300 pounds per acre, seed at the rate of 50 pounds per acre (15 lb. Annual Ryegrass, 7.5 lb. Tall Fescue, 2.5 lb. Redtop, 7.5 lb. Empire Birdsfoot Trefoil, 5.0 lb. Climax Timothy, 5.0 lb. Orchardgrass & 7.5 lb. Alsike Clover) and mulch at the rate of three (3) tons per acre, and maintaining the seeded areas. Seeding will be performed as soon as possible following the completion and approval of final grading, and the incorporation of soil supplements. If erosion occurs between the time of final grading and time of seeding, the Contractor shall replace the fine soil materials that were eroded away and regrade all eroded areas to reestablish the final grade. Vegetation will be maintained for one full growing season.

## SMP# 17950110 – Crooked Run

### TASK 1 – REMOVAL OF SEDIMENTATION POND SP-2

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of the existing sedimentation pond on the Presbyterian Home of the Redstone Presbytery property. The embankment material is to be used to fill the pond and grade the area to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 4 – Revegetation.

### TASK 2 – MODIFICATION OF SEDIMENTATION PONDS SP-1 & SP-3

This task consists of furnishing all labor and equipment and performing all operations in association with the modification of Sedimentation Ponds SP-1 and SP-3 to wildlife enhancement areas. The ponds will remain on-site with consent of landowners E.M. Brown, Inc. and K & J Coal Co., Inc. The existing emergency spillway on each pond is to be lowered to match the elevation of the wetland vegetation located in the bottom of the pond. The emergency spillways are to be installed to the same width dimensions as the existing spillways and lined with suitable rock obtained on site. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 4 – Revegetation.

### TASK 3 – REPAIR OF SEDIMENTATION DITCH & CROSS DIVERSION CHANNEL OUTLETS

This task consists of furnishing all labor and equipment and performing all operations in association with the regrading and repair of approximately 1,700' of Sedimentation Ditches SD-1C through SD-1G and the points where six (6) cross diversion channels connect to the sedimentation ditches. All area affected on the cross diversion channels is to be limed, fertilized, seeded and mulched in accordance with Task 4 – Revegetation. The sedimentation ditches that are repaired are to be lined with existing rock from the site.

### TASK 4 - REVEGETATION

The Contractor shall seed all areas upon which regrading has occurred. The work covered by this Specification shall consist of preparation of the seedbed, furnishing and placing pulverized agricultural limestone at the rate of three (3) tons per acre, 10-20-20 commercial fertilizer at the rate of 300 pounds per acre, seed at the rate of 50 pounds per acre (15 lb. Annual Ryegrass, 7.5 lb. Tall Fescue, 2.5 lb. Redtop, 7.5 lb. Empire Birdsfoot Trefoil, 5.0 lb. Climax Timothy, 5.0 lb. Orchardgrass & 7.5 lb. Alsike Clover) and mulch at the rate of three (3) tons per acre; and maintaining the seeded areas. Seeding will be performed as soon as possible following the completion and approval of final grading, and the incorporation of soil supplements. If erosion occurs between the time of final grading and time of seeding, the Contractor shall replace the fine soil materials that were eroded away and regrade all eroded areas to reestablish the final grade. Vegetation will be maintained for one full growing season.

**SMP# 17880129 – Gaber Brown**

**TASK 1 – REMOVAL OF SEDIMENTATION PONDS 102 & 105**

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of the existing sedimentation ponds on the Edna Becker & ARC Associates properties. The embankment material is to be used to fill the ponds and grade the areas to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 4 – Revegetation.

**TASK 2 – REMOVAL OF CROSS DIVERSION DITCHES**

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of existing reclamation cross diversion ditches located on the Joseph Leiden property. The ditches are to be graded out to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 4 – Revegetation.

**TASK 3 – SELECTIVE GRADING**

This task consists of furnishing all labor and equipment and performing all operations in association with the repair and reclamation of erosion areas (rills & gullies) at various locations as noted by the mine conservation inspector. The eroded areas are to be graded out to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 4 – Revegetation.

**TASK 4 - REVEGETATION**

The Contractor shall seed all areas upon which have been affected for regrading. The work covered by this task shall consist of preparation of the seedbed, furnishing and placing pulverized agricultural limestone at the rate of three (3) tons per acre, 10-20-20 commercial fertilizer at the rate of 300 pounds per acre, seed at the rate of 50 pounds per acre (15 lb. Annual Ryegrass, 7.5 lb. Tall Fescue, 2.5 lb. Redtop, 7.5 lb. Empire Birdsfoot Trefoil, 5.0 lb. Climax Timothy, 5.0 lb. Orchardgrass & 7.5 lb. Alsike Clover) and mulch at the rate of three (3) tons per acre, and maintaining the seeded areas. Seeding will be performed as soon as possible following the completion and approval of final grading, and the incorporation of soil supplements. If erosion occurs between the time of final grading and time of seeding, the Contractor shall replace the fine soil materials that were eroded away and regrade all eroded areas to reestablish the final grade. Vegetation will be maintained for one full growing season.

**MDP# 4571BSM15- Leigey**

**TASK 1 - REMOVAL OF TREATMENT PONDS**

This task consists of furnishing all labor and equipment and performing all operations in association with the removal of the two existing treatment ponds on the Edna Leigey property. The embankment material is to be used to fill the ponds and grade the area to match the surrounding contour. Upon completion of grading, all affected area is to be limed, fertilized, seeded and mulched in accordance with Task 2 - Revegetation.

**TASK 2 - REVEGETATION**

The Contractor shall seed all areas upon which regrading has occurred. The work covered by this task shall consist of preparation of the seedbed, furnishing and placing pulverized agricultural limestone at the rate of three (3) tons per acre, 10-20-20 commercial fertilizer at the rate of 300 pounds per acre, seed at the rate of 50 pounds per acre (15 lb. Annual Ryegrass, 7.5 lb. Tall Fescue, 2.5 lb. Redtop, 7.5 lb. Empire Birdsfoot Trefoil, 5.0 lb. Climax Timothy, 5.0 lb. Orchardgrass & 7.5 lb. Alsike Clover) and mulch at the rate of three (3) tons per acre, and maintaining the seeded areas. Seeding will be performed as soon as possible following the completion and approval of final grading, and the incorporation of soil supplements. If erosion occurs between the time of final grading and time of seeding, the Contractor shall replace the fine soil materials that were eroded away and regrade all eroded areas to reestablish the final grade. Vegetation will be maintained for one full growing season.