

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the Matter of:

River Hill Coal Company, Inc.
P. O. Box 141
Kylertown, PA 16847

SMP No. 17793044 (McCloskey Mine)
SMP No. 17910114 (Dutch Hollow Mine)
Karthaus Township, Clearfield County
Alternative Financial Assurance Mechanism
CO&A 064002

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

This First Amendment Consent Order and Agreement is entered into this 17th day of September 2007, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), and River Hill Coal Company, Inc. ("River Hill").

1. On January 18, 2006, the Department and River Hill entered into a Postmining Treatment Trust Consent Order and Agreement ("COA") concerning two discharges of acid mine drainage known as T5 from the McCloskey Mine and MGK3 from the Dutch Hollow Mine.
2. Consistent with Paragraph AA of the COA, in the fall of 2005 River Hill reconstructed the McCloskey (T5) treatment system as a passive treatment system, which consists of four (4) limestone cells, followed by a limestone lined settling pond.
3. As required by Paragraph 14.a. of the COA, on January 31, 2007 River Hill submitted treatment system designs and as-built drawings of the passive treatment system.
4. As required by Paragraph 6 of the COA, River Hill submitted the required payments of \$20,000.00 on January 11, 2006, \$30,000.00 on March 27, 2006, \$50,000.00 on May 19, 2006, \$50,000.00 on August 15, 2006, \$50,000.00 on November 3, 2006, \$50,000.00 on February 12, 2007, and \$50,000.00 on May 15, 2007.

5. Pursuant to Paragraph 14.c. on May 15, 2007, River Hill requested re-evaluation of the long-term treatment costs of the T5 passive treatment system.

6. On June 29, 2007, representatives of River Hill and the Department met at the T5 passive treatment system to evaluate the system.

7. The Department returned on July 12, 2007 and July 25, 2007 to measure the treatment system components for cost analysis and to make flow measurements to determine if the treatment system was adequately sealed so as to not recycle water. As a result of discussions after these two site visits, the Department believes that the T5 treatment system is losing a significant amount of water. River Hill believes that this loss can be attributed to evapotranspiration. Pursuant to Paragraph 13 below, additional monitoring will be conducted to determine whether or not there is significant leakage.

8. On August 7, 2007, the Department presented updated treatment costs to River Hill; on August 13, 2007, the Department and River Hill met to discuss those costs at T5. Because T5 currently meets effluent limits at the outfall of the fourth wetland cell and in order to reduce the full funding amount needed for long term treatment costs, the Department agreed to monitor compliance with effluent limits at this alternate point which shall be known as NJB rather than at the existing NPDES monitoring point, T-100, as shown on Exhibit A attached.

9. In the event that the T5 treatment system does not meet effluent limits at NJB due to high flows or any other reason, NPDES discharge point T-100 will be used to determine compliance and the trust fund full funding amount will be based on the full T5 treatment system including 4 limestone cells and the limestone pond as shown in Exhibit A.

10. Paragraph T is modified to read:

Annual treatment costs for operating and maintaining the passive treatment system are \$19,223.00 on the McCloskey Mine. Capital costs for that treatment system are \$196,367.00. The full trust amount for T5 and MGK3 is \$493,796.00.

11. Paragraph 6.b. is modified to read as follows:

River Hill will make quarterly payments of \$15,000.00 each into the trust until it reaches the full funding amount as shown on the new schedule F. Payments will be on or before February 15, May 15, August 15, November 15, of each year until the trust is fully funded.

12. Paragraph 14.a. is modified to read as follows:

River Hill holds NPDES permit No. PA 0119334 on its McCloskey Operation. By September 30, 2007, River Hill will submit a complete application to revise this permit showing the engineering detail and location of all treatment facilities and requesting passive treatment effluent limits at a monitoring point located at the outfall of the fourth wetland cell. The treatment facilities below the existing NPDES outfall T-100 will be included but will be identified as auxiliary facilities to be used in the event of noncompliance at the new NPDES outfall NJB as described in Paragraph 14 of the Amendment (new Paragraph 14.e. of the COA).

13. The following is added as Paragraph 14.d.:

River Hill and/or the Department will conduct flow monitoring between October 15, 2007 and April 15, 2008 (when evapotranspiration is minimal), to determine the leakage rate from the T5 passive treatment system. The Department will determine the leakage rate based on data from the flow measurements. If leakage exceeds 5 gpm, River Hill will take necessary measures to minimize leakage, which may include installation of clay or synthetic liners to all or

part of the treatment system by October 15, 2008. The performance of these measures in reducing leakage down to 5 gpm must be verified by appropriate flow measurements.

14. The following is added as Paragraph 14.e.:

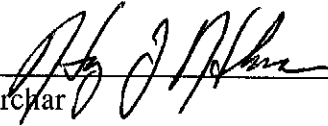
In the event that River Hill fails to meet effluent limits at the new NPDES outfall identified in paragraph 12, above, for three (3) or more times in any consecutive 12 month period, the NPDES outfall will return to the original outfall identified as T-100 and the total trust fund amount will increase to represent added costs due to additional treatment facilities. If these additional facilities are needed, the annual costs for operating and maintaining the passive treatment system on the McCloskey Mine will be \$23,480.00. Capital costs for that treatment system will be \$317,991.00; and the full trust amount for T5 and MGK3 will be \$648,558.00. These figures are as of 2007. Payments will be unaffected by this change but the full funding amount for any given year will change as shown in revised schedule F.

15. Reclamation bonds being held on the Dutch Hollow operation are shown in the attached Exhibit B. River Hill filed completion report #405013 for the release of these bonds on May 20, 2005 and it was approved for release by the Department on July 12, 2005, pending full funding of long term treatment obligations. Upon execution of this Amendment and payment of the \$15,000.00 that was due to the trust fund on August 15, 2007 as per revised schedule F, the Department has agreed to release all reclamation bonds from the Dutch Hollow operation listed in Paragraph W of the COA.


16. No other amendments are made to the COA, which remains in full force and effect.

FOR RIVER HILL COAL COMPANY, INC.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:




Harry J. Harchar
President

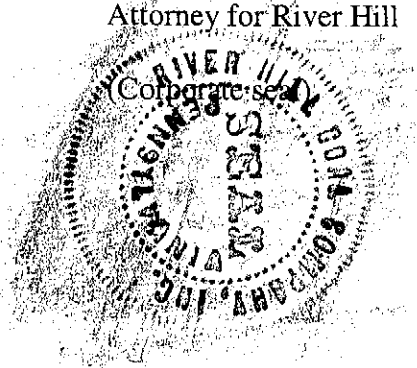


Michael W. Smith
District Mining Manager

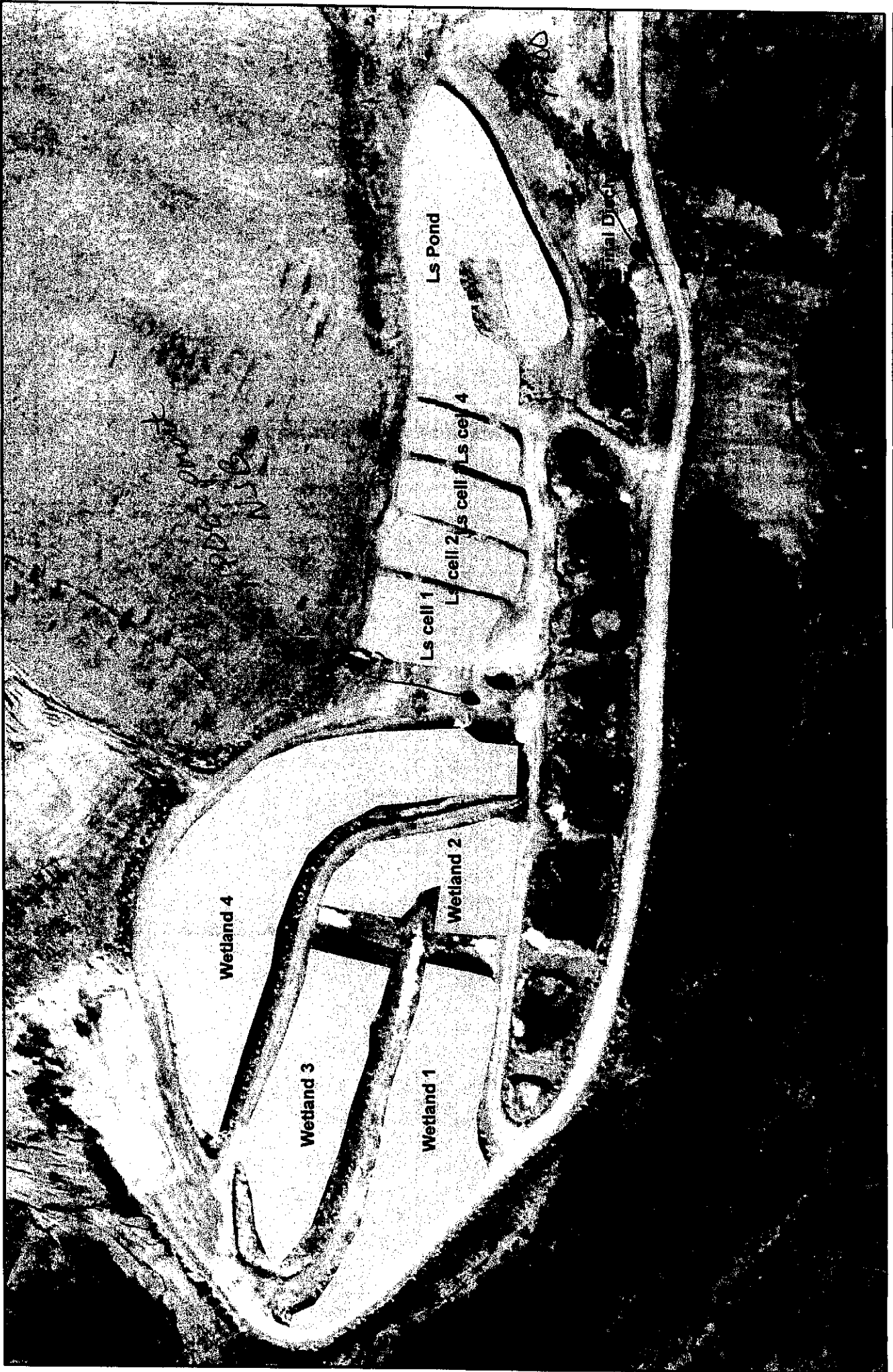
Attorney for River Hill



Martin H. Sokolow
Assistant Counsel



McClosky Treatment System



River Hill Coal Company
Clearfield County
Karthaus Township
SMP: 17793044

Exhibit A

River Hill Coal Co., Inc.
Dutch Hollow
17910114
Karthus/Clearfield

Bond:
Rockwood Casualty Insurance Company
654 Main Street
Rockwood, PA 15557

Ins35505 28,000.00

Ins35505 32,300.00

Ins34266 260,940.00

Total 321,240.00

All Surety

DEP Land Reclamation Financial Guarantee
497,700.00

Grand Total 818,940.00

See attachments

Exhibit B

Bond Agreement

Agreement Id: 1416 Type: CLOSR Closure: Agreement Amount: 818,984.00

Sum of Active Instruments: 818,940.00 Status: ACTV Active Status Date:

Bonded Entry

Cat: PF Entry: 270384 17910114 RIVER HILL COAL CO.,INC/DUTCH HOLLOW

Type: CMO Coal Mining Ope Kind: CSURF Surface Status: REPA Reclaimed/Pas

General **Instruments** Phased Pymt Releases Pymt-in-Lieu Exhibits

Surety Instrument

Original Amount: 260,940.00 Current Amount: 260,940.00

Inst. Type: SURE Surety

Inst. No: 41446 INS34266 FRONTIER INS CO

Execution Date: 07/09/1999 Date Approved: Date Released:

OK Cancel

Bond Agreements

Agreement Id 1416 Type CLOSR Closure Agreement Amount 818,984.00
Sum of Active Instruments 818,940.00 Status ACTV Active Status Date

Bonded Entity

Cat PF Entity 270384 17910114 RIVER HILL COAL CO.,INC/DUTCH HOLLOW
Type CMD Coal Mining Op Kind CSURF Surface Status REPA Reclaimed/Pas

General Instruments Phased Pymt Releases Pymt-in-Lieu Exhibit

Surety Instrument

Original Amount 32,300.00 Current Amount 32,300.00
Inst Type SURE Surety
Firmid 24557 INS35505 ROCKWOOD CASUALTY INS CO
Exhibit Date 09/29/2000 Date Approved 11/13/2000 Date Released

OK Cancel

Print Close

Bond Agreement

Agreement Id: 1416 Type: CLOSUR Closure Agreement Amount: 818,984.00

Sum of Active Instruments: 818,940.00 Status: ACTV Active Status Date:

Bonded Entity

Cat: PF Entity: 270384 17910114 RIVER HILL COAL CO.,INC/DUTCH HOLLOW

Type: CMO Coal Mining Op Kind: CSURF Surface Status: REPA Reclaimed/Pas

General **Instruments** Phased Pymt Releases Pymt-in-Lieu Exhibit A

Surety Instrument

Original Amount: 28,000.00 Current Amount: 28,000.00

Inst Type: SURE Surety

Financial: 24557 INS35505 ROCKWOOD CASUALTY INS CO

Execution Date: 08/29/2001 Date Approved: 10/02/2001 Date Released:

BOND/Agreements

Agreement Id: 1416 Type: CLOSR Closure: Agreement Amount: 818,984.00

Sum of Active Instruments: 818,940.00 Status: ACTV Active Status Date:

Bonded Entity

Cat: PF Entity: 270384 17910114 RIVER HILL COAL CO. INC/DUTCH HOLLOW

Type: CMO Coal Mining Ope Kind: CSURF Surface Status: REPA Reclaimed/Pas

General **Instruments** Phased Pymt Releases Pymt-in-Lieu **Export**

Surety Instrument

Original Amount: 497,700.00 Current Amount: 497,700.00

Inst Type: LRFG Land Reclamation Financial Guarantee

Financial ID: 160258 INS5557 DEPLAND RECLAMATION FINANCIAL GUARANTEE

Creation Date: 07/02/2002 Date Approved: 07/02/2002 Date Released:

OK Cancel