

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In The Matter Of:

Rockwood Casualty Insurance Company	:	Sherpa Mining Contractors
654 Main Street	:	Solar Mine, SMP #56970104
Rockwood, PA 15557	:	Cook Mine, SMP #56080102
	:	Lunar Mine, SMP #56050102
	:	Burns Mine, SMP #56080106
	:	Burgess #2 Mine, SMP # 56950111
	:	Brubaker Mine, SMP #56920106
	:	Shade and Quemahoning Townships,
	:	Somerset County

**FIRST AMENDMENT TO THE CONSENT ORDER AND AGREEMENT**

This First Amendment to the Consent Order and Agreement is entered into this 19<sup>th</sup> day of August 2021, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Rockwood Casualty Insurance Company ("Rockwood").

**FINDINGS**

The Department has found and determined the following findings which Rockwood agrees are true and correct:

A. The Department and Rockwood ("Parties") entered into a Consent Order and Agreement related to, *inter alia*, reclamation and waiver of bond collection on numerous surface coal mines permitted and operated by Sherpa Mining Contractors, Inc. ("Sherpa") dated May 17, 2021.

B. Economic circumstances associated with several of the sites beyond the control of either party resulted in significant increases in the cost of the multi-site reclamation project.

C. Delays encountered in reviewing assumptions upon which the Consent Order and Agreement were based caused delays in initiating reclamation on any of the mine sites.

D. The Parties agree to amend certain terms of the Consent Order and Agreement in order to address the increase in reclamation costs and to extend the completion date deadline for the reclamation activities.

### **ORDER AND AGREEMENT**

After full and complete negotiation of all matters set forth in this First Amendment to the 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 Rockwood as follows:

1. Paragraph 4d shall be replaced in its entirety by the following paragraph:

**Reclamation Plans and Schedule.** With the exception of tree planting as described in the attached Reclamation Plans, Rockwood shall contract to complete the construction and reclamation activities at the Solar, Burns, Burgess #2 and Brubaker Mine sites, pursuant to the approved Reclamation Plans, by no later than September 21, 2022, unless a later date is agreed to by both Parties. Such request shall not be unreasonably withheld.

2. Paragraph 5 "Treatment Trust" shall be replaced in its entirety by the following paragraph:

**Treatment Trust.** Rockwood has executed a Participation Agreement with the Clean Streams Foundation, Inc. establishing an irrevocable trust, to be known as the Sherpa Treatment Trust ("Sherpa Trust"), as a sub-account under the Clean Streams Foundation, Inc. Master Trust. Rockwood shall contribute \$200,000 to the Sherpa Trust within thirty (30) days following reclamation of the Burgess # 2 Mine site and the Department's waiver of collection of the surety reclamation bonds posted for the Burgess #2 surface mining permit. The Sherpa Trust will provide financial resources to the Department and citizens of the Commonwealth to maintain and operate the treatment system on the Burgess #2 Mine site. The Participation Agreement establishing the Sherpa Trust is attached as Exhibit E.

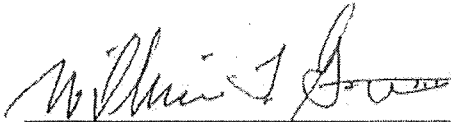
3. The Parties agree that all other terms of the original Consent Order and Agreement shall remain in full force and effect and are not affected by the revisions set forth in this Amendment.

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

**FOR ROCKWOOD CASUALTY  
INSURANCE COMPANY:**

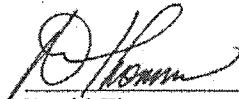


Kurt D. Tipton  
President

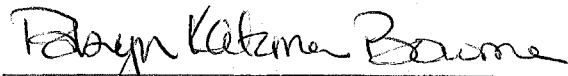


William T. Gorton III, Esq.  
Stites & Harbison  
Counsel for Rockwood Casualty Insurance Co.

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



David Thomas  
District Mining Manager



Robyn Katzman Bowman  
Assistant Counsel  
Southcentral Region Office of Chief Counsel