

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:

Robinson Coal Company	:	Alternative Financial Assurance Mechanism
200 Neville Island	:	SMP No. 63840106
Neville Island, PA 15225	:	Putt Mine
	:	Robinson Township
	:	Washington County

**POST MINING TREATMENT TRUST ACCOUNT
CONSENT ORDER AND AGREEMENT**

This Consent Order and Agreement is entered into this 15th day of November, 2002 by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Robinson Coal Company ("Robinson").

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §§ 691.1-691.1001; the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945, P.L. 1198, as amended, 52 P.S. §§ 1396.1-1396-19a ("Surface Mining Act"); the Coal Refuse Disposal Control Act, Act of September 24, 1968, P.L. 1040, as amended, 52 P.S. §§ 30.51-30.206 ("Coal Refuse Disposal Act"); the Bituminous Mine Subsidence and Land Conservation Act, Act of April 27, 1966, P.L. 31, as amended, 52 P.S. §§ 1404.1-1406.21 ("Mine Subsidence Act"); the Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1984, P.L. 1093, as amended, 52 P.S. §§ 3301-3326 ("Noncoal Act"); Section 1917-A of the

Administrative Code, 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. Robinson is a Pennsylvania corporation with a business address of 200 Neville Road, Neville Island, Pennsylvania 15225, and is engaged in the business of mining coal by the surface method

C. Robinson is the permittee of the following coal mine which is associated with post-mining discharge liability:

<u>NAME</u>	<u>PERMIT NO.</u>	<u>TOWNSHIP</u>	<u>COUNTY</u>
Putt Mine	63840106	Robinson	Washington

D. The surface mine identified in Paragraph C is closed; coal is no longer being mined at this site.

E. Robinson treats the Putt Mine discharge, which is a toe of spoil seep with average flow of 15 gpm and average concentrations of 137 mg/l acidity, 44.35 mg/l Fe, 12.5 mg/l Mn, 7.05 mg/l Al, and .701 mg/l sulfate. A passive treatment system treats the discharge. This system consists of an anoxic (limestone) drain and small settling basin ("Treatment Systems").

F. Robinson agrees it has the legal responsibility to treat or abate the discharge(s) identified in Paragraph E.

G. The effluent limits applicable to the discharge(s) are Iron 7 mg/l and Acidity less than Alkalinity. The discharge may not affect the designated uses listed in Chapter 93 for the receiving stream.

H. Surface reclamation is completed at the Putt Mine.

I. Location map and schematic drawing of treatment system is set forth in Exhibit

A.

J. Raw water quality at the Putt Mine is set forth in Exhibit B.

K. Due to the post-mining discharge, the Department is currently holding bonds totaling \$200,960 for the Putt Mine site.

\$ 3,060.00	Travelers Casualty & Surety Co.	3S100167631BCA
\$119,500.00	Travelers Casualty & Surety Co.	3S100215987BCA
\$ 51,400.00	Travelers Casualty & Surety Co.	3S100289187BCA
\$ 27,000.00	Travelers Casualty & Surety Co.	3S100608164BCA

L. Robinson would like to provide an alternative financial assurance mechanism as the financially backed enforceable contract 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.

M. 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 backing. The parties have agreed the current annual cost of operating and maintaining the Treatment System is \$480 per year. The estimated capital cost of the passive system is \$37,964 and has an expected life of 25 years.

N. The parties agree to use the information and figures which will be provided by the Accounting required by Paragraph 4 to calculate and adjust the proper size of the alternative financial assurance mechanism as described below. The parties also agree to use the formulas set forth below to calculate the present value of the alternative financial assurance mechanism.

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 Robinson as follows:

1. 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; Section 4.3 of the Surface Mining Act, 52 P.S. § 1396.4c; Sections 3.1 and 9 of the Coal Refuse Disposal Control Act, 52 P.S. §§ 30.53a and 30.59; Section 9 of the Subsidence Act, 52 P.S. § 1409.0, and Section 1917-A of the Administrative Code, 71 P.S. § 510-17. The failure of Robinson to comply with any term or condition of this Consent Order and Agreement shall subject Robinson to all penalties and remedies provided by those statutes for failing to comply with an order of the Department.

2. Findings

a. Robinson agrees that the findings in Paragraphs A through O are true and correct and, in any matter or proceeding involving Robinson and the Department, Robinson 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. The annual recurrence of the month and date that this Consent Order and Agreement is executed.

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 Treatment Account that is primarily used to finance anticipated and periodic capital expenditures for the Treatment Systems.

f. Distribution Payment. The Treatment Accountee's disbursement of money from the Treatment Account 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 Systems. The equation is:

$$\begin{array}{lll} \text{PV} & = & (A/[E-I]) + A \\ \text{where: PV} & = & \text{Present Value of the O\&M Costs} \\ A & = & \text{Current Actual Treatment Cost} \\ E & = & \text{Expected annual earnings/Interest Rate (assumed to be 8.4\%)}^* \\ I & = & \text{Inflation Rate (assumed to be 3.1\% or .031)} \end{array}$$

* This assumption will remain the same unless the parties agree otherwise.

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 Treatment Account. The sub-account within the Treatment Account that is primarily used to finance annual operating and maintenance costs of the Treatment Systems.

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

4. Annual Treatment Costs: Records; Factors; Accounting

a. Robinson 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. Robinson shall keep records for the following Treatment Systems: Putt anoxic limestone drain and settling pond.

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

d. Robinson's obligation to keep records and provide the Accounting shall continue for the period during which Robinson is operating the Treatment Systems.

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

5. Treatment Account

a. Robinson shall establish an irrevocable account to be known as the Putt Mine Treatment Account ("Treatment Account"). The Treatment Account shall secure Robinson's obligation to treat discharges of mine drainage, including its obligation to operate and maintain the Treatment Systems, in perpetuity, or until water treatment is no longer necessary, and to provide financial resources to the Department and the citizens of the Commonwealth to maintain and operate the Treatment Systems, and to treat the mine drainage in perpetuity in the event Robinson becomes unable or unwilling to meet these obligations. The Treatment Account shall also provide for the demolition of treatment facilities and reclamation of the treatment site should treatment no longer be needed. The Participation Agreement establishing the Treatment Account is attached as Exhibit B.

b. Robinson shall establish within the Treatment Account two sub-accounts: a sub-account designated as the primary treatment sub-account; and a sub-account designated as the Capital Improvement sub-account within the Clean Streams Foundation (CSF) existing Treatment Account. The CSF is a charitable trust which has been approved under Section 510(c)(3) of the Internal Revenue Code.

6. Funding of the Primary Treatment Account

a. Initial Payment to the Primary Treatment Account: Upon its execution of this Consent Order and Agreement, Robinson shall deposit an amount of \$25,893.00 into the Primary Treatment Account.

7. Annual Distribution or Contribution Payments - Primary Treatment Account

a. All calculations under this Paragraph shall be based on values as determined on the Annual Anniversary Date.

b. If the Primary Treatment Account Valuation does not include the value of surety bonds, then Distribution Payments shall be made according to Paragraph 7.c. Otherwise, Distribution Payments shall be made according to Paragraph 7.d. and e.

c. If at the end of any year the Primary Treatment Account Valuation is greater than the Primary Target Valuation, then a Distribution Payment shall be made to Robinson. The amount of such Distribution Payment will be equal to the difference between the Primary Treatment Account Valuation and the Primary Target Valuation, or equal to the Calculated Treatment Cost, whichever is less. The amount is depicted graphically at Point 1, 2, and 3 on Exhibit C.

d. If at the end of any year the Primary Treatment Account Valuation is greater than the Primary Target Valuation, then a Distribution Payment shall be made to Robinson. This amount is depicted graphically at Point 1 on Exhibit C. Such surety bond reduction shall be in an amount determined by the following formula:

$$BR = ((1+RoR) (TR - B)+B) - (1.03(TV))$$

Where: BR = surety bond reduction
B = surety bond amount
RoR = assumed net rate of return or effective rate of return
TV = Primary Target Valuation
TR = Primary Treatment Account Valuation

e. In the year the final bond is released, if the Primary Treatment Account Valuation after the final surety bond release remains greater than the newly calculated Primary Target Valuation, then an additional Distribution Payment shall be made under paragraph 7.c.

f. If the Primary Treatment Account 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 C.

g. If the Primary Treatment Account Valuation is less than the Primary Basis Valuation, then Robinson shall make an additional contribution into the Primary Treatment Account in an amount equal to the difference between the Primary Basis Valuation and the Primary Treatment Account 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 and 6 on Exhibit C. This provision does not apply until Robinson has fulfilled its obligations to make ongoing payments under paragraph 6.b.

8. Adjustments to the Primary Target Valuation for Deviations Between Actual Treatment Cost and Calculation 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 D is a graphical depiction of the adjustment.

9. Distribution Payments for Adjustments to the Primary Target Valuation

a. If the Primary Treatment Account Valuation does not include the value of pledged surety bonds, then Distribution Payments shall be made according to paragraph 9.c.

Otherwise, Distribution Payments shall be made according to paragraph 9.d.

b. If the newly calculated Primary Target Valuation which has been adjusted under Paragraph 8. above is less than the Primary Treatment Account Valuation, no distribution payment shall be made under this paragraph.

c. 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 Treatment Account Valuation is greater than the newly calculated Primary Target Valuation, then a distribution Payment shall be made to Robinson. The amount of such Distribution Payment will be equal to the percent change in Actual Treatment Cost times the Primary Treatment Account Valuation, or in an amount equal to the percent change in Actual Treatment Cost times the Primary Treatment Account 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 Treatment Account Valuation
TV	=	Primary Target Valuation
ATC	=	Actual Treatment Cost

d. If the newly calculated Primary Target Valuation which has been adjusted under paragraph 8. above is based on reduced Actual Treatment Cost, and the Primary Treatment Account Valuation is greater than the newly calculated Primary Target Valuation, than a distribution payment shall be made to Robinson in the form of a surety bond reduction. Such bond reduction shall be in an amount determined by the following formula:

$$BR = ((1+RoR) (TR - B)+B) - (1.03(TV))$$

Where:

BR	= surety bond reduction return
RoR	= assumed net rate of return or effective rate of return
TV	= Primary Target Valuation
TR	= Primary Treatment Account Valuation
B	= surety bond amount

e. In the year the final surety bond is released, if the Primary Treatment Account Valuation after the final bond release remains greater than the newly calculated Primary Target Valuation, then an additional Distribution Payment shall be made under Paragraph 9.c.

10. Capital Improvement Account

a. Robinson shall establish within the Treatment Account a sub-account designated as the Capital Improvement Account. Assets of the Capital Improvement Account may be commingled with assets of the Primary Treatment Account for the purposes of investment, but must be accounted for and reported separately as if they are assets of a separate and distinct fund.

b. On the date of this Consent Order and Agreement the required annual balance of the Capital Improvement Account for a 75-year period shall be determined and made a part of this agreement as Exhibit E.

c. To determine the required balance in the Capital Improvement Account, the following methodology shall be used:

- i. For each planned capital replacement component or activity, the current cost of that component or the cost to complete that activity will be determined.
- ii. For each planned capital replacement component or activity, the estimated number of years in the life cycle of the component or the number of years between the activity is needed will be determined.
- iii. If the water treatment facility has been in operation for a significant period of time, then for each planned capital replacement component or activity, the estimated number of years until the next replacement or activity is needed will be determined.
- iv. For each planned capital replacement component or activity, the future value of the first replacement or activity will be calculated using a Present Value equal to the current cost, a rate of 3.1 percent, the amount of payment equal to \$0.00, the number of payment periods equal to the number of years from the date of this agreement until the next replacement or activity, and a beginning of period payment.
- v. For each planned capital replacement component or activity, the Present Value will be calculated using the Future Value calculated in paragraph 10.c.iv. above, a rate equal to the assumed net rate of return used elsewhere in this agreement.
- vi. For each planned capital replacement component or activity, the Future Value of the second and each subsequent capital replacement or activity will be calculated using the same values as in Paragraph

10.c.iv. above, except the value for the number of payment periods.

The value for the number of payment periods for the second replacement or activity will be equal to the number of years until the next replacement or activity plus the number of years in the expected life cycle as determined in Paragraph 10.c.ii. above. The number of payment periods for the third replacement will be equal to the number of years until the next replacement or activity plus two times the number of years in the expected life cycle. The number of periods for the fourth replacement will be equal to the number of years until the first replacement plus three times the years in the life cycle. The Future Value of each replacement will be calculated in like manner until the number of periods is equal to the number of years until the last replacement or activity is expected to occur that does not exceed 75 years from the year the calculations are being made.

- vii. For each planning capital replacement component or activity, the Present Value of the second and each subsequent capital replacement or activity will be calculated using the same values as in Paragraph 10.c.v. above except the value for the number of payment period which shall be determined in like manner to Paragraph 10.c.vi. above.
- viii. The required balance in the Capital Improvement Account for the current year shall be equal to the sum of all Present Values calculated in Paragraph 10.b.v. and vii. above.

- ix. The required balance in the Capital Improvement Account shall be recalculated on an annual basis and each time a Distribution Payment is contemplated under Paragraph 12. Such recalculation shall be deemed an amendment to Exhibit E and this Consent Order and Agreement, and shall be used in making 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 Treatment Account Valuation includes the value of surety bonds.
- b. If the Primary Treatment Account 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 E. 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 Treatment Account 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 Robinson any time a planned capital replacement is made as indicated on Exhibit E. 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 E, 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 Treatment Account Account and the Capital Improvement Account.

If the Primary Treatment Account Valuation exceeds the Primary Treatment Account, or if the balance in the Capital Improvement Account exceeds the required balance as indicated on Exhibit E, 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 Treatment Account to reduce or completely satisfy Robinson's obligation to make a contribution payment under Paragraph 7.g. This amount is depicted generally at Point 5 on Exhibit C. However, the amount of surplus funds transferred to the Primary Treatment Account may exceed Robinson's obligation under Paragraph 7.g. if additional funds are needed so that the Primary Treatment Account Valuation equals the Primary Basis Valuation. This amount is depicted graphically at Point 6 on Exhibit C.

b. Surplus funds in the Capital Improvement Account or the Primary Treatment Account may be used by the Operator to pay for unanticipated capital expenditures, or anticipated capital expenditures that exceed the calculation cost of the capital improvement as indicated on Exhibit E.

c. Surplus funds in the Capital Improvement Account or the Primary Treatment Account may be used by the Operator 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 Treatment Account may be used by the Operator 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. Robinson shall maintain in effect public liability insurance coverage for the operation, maintenance, improvement and all other activities associated with the Treatment Systems and the real and personal property which is identified in the Post Mining Treatment Treatment Account Agreement as part of the Treatment Account Principal. The Treatment Accountee and the Commonwealth of Pennsylvania shall be listed as additional insured on the policy.

b. In addition to the requirements of Paragraph 15.a., the public liability insurance shall also be on the terms and conditions required by 25 Pa. Code § 86.168(a)-(e), or, in the alternative, as provided by Paragraph 15.c.

c. In lieu of the insurance requirements of Paragraph 15.b. and, 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 \$250,000 per person and \$1,000,000 per occurrence. The insurance shall include a rider requiring the insurer to notify the Department 30 days prior to substantive changes being made to the policy or prior to termination of failure to renew. Proof of insurance shall consist of

a certificate of insurance filed annually with the Department which certifies Robinson has a public liability insurance policy in force meeting the requirements of this Paragraph.

16. Annual Meeting

The parties will meet on or before the 30th day following delivery to the Department of the Account of each year: to review and discuss the Account for the then completed fiscal year, to review the effectiveness of the Treatment Systems and any changes in the fiscal year; to resolve any issues which arise as a result of that change or the performance of the Treatment Account; 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 Treatment Account; and to address any other issues that may concern this Consent Order and Agreement or its implementation.

17. Robinson's Continuing Obligation

Neither Robinson's agreement to fund the Treatment Account nor the full or partial funding of the Treatment Account, nor the exhaustion of the Treatment Account shall in any way limit Robinson's obligation to operate the Treatment Systems. Furthermore, exhaustion of the Treatment Account shall not excuse Robinson from Robinson's obligation to adequately treat or to abate the discharges.

18. Stipulated Civil Penalties

a. In the event Robinson fails to comply in a timely manner with any term or provision of this Consent Order and Agreement, Robinson 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:

Department of Environmental Protection
Michael Terretti
District Mining Manager
Greensburg District Office
Armbrust Professional Center
RR #2, Box 603C
Greensburg, PA 15601-8739

c. Any payment under this paragraph shall neither waive Robinson's duty to meet its obligations under this Consent Order and Agreement nor preclude the Department from commencing an action to compel Robinson's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only Robinson'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 Robinson 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 Robinson defaults on the obligations of this Consent Order and Agreement, Robinson will be subject to a permit block on the Department's compliance tracking system and the federal Applicant Violation System and the Department will, in addition to any other remedy or penalty prescribed herein, list Robinson as a violator on the Department's compliance tracking system and on the federal Applicant Violated 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 violations 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. Robinson reserves the right to challenge any action which the Department may take to require those measures.

21. Liability of Robinson

Robinson 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. Robinson 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 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 Robinson Sites or any part thereof.

b. If Robinson intends to transfer any legal or equitable interest in the Robinson Sites which is affected by this Consent Order and Agreement, Robinson 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 Department of such intent.

c. The Department in its sole discretion may agree to modify or terminate Robinson's duties and obligations under this Consent Order and Agreement upon transfer of the Robinson Sites. Robinson waives any right that it may have to challenge the Department's decision in this regard.

23. Correspondence with the Department.

All correspondence with the

Department concerning this Consent Order and Agreement shall be addressed to:

Department of Environmental Protection
James J. Brahosky
Bureau Director
McMurray District Office
3913 Washington Road
McMurray, PA 15317-2532

With a copy to:

Department of Environmental Protection
Michael Terretti
District Mining Manager
Greensburg District Office
Armbrust Professional Center
RR #2, Box 603C
Greensburg, PA 15601-8739

24. Correspondence with Robinson.

- a. All correspondence with Robinson concerning this Consent Order and

Agreement shall be addressed to:

David Aloe
Robinson Coal Company
200 Neville Road
Neville Island, PA 15225

- b. Robinson 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 Robinson 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 entirely beyond Robinson control and which Robinson, by the exercise of all reasonable diligence, is unable to prevent, then Robinson 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 Robinson's control. Robinson'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. Robinson 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 Robinson 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. Robinson'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 Robinson and other information available to the Department. In any subsequent litigation, Robinson 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 intent 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. 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 construction of that paragraph, but shall not be treated as controlling.

31. Decisions under Consent Order. Except for Paragraphs 7, 12, and 13, 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 Robinson 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 Robinson. For purposes of this Paragraph, successor shall mean any corporation or entity: 1) Robinson consolidates with or merges into or permits to merge with it and Robinson is not the surviving corporation or entity; or 2) which acquires, by purchasing or otherwise, all or substantially all of Robinson's properties or assets which include, but is not limited to, voting stock of Robinson. Successor does not include any corporation or other entity to which Robinson transfers or assigns all or substantially all of its financial or non-financial liabilities. Robinson 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 to execute this Consent Order and Agreement by counterpart signatures transmitted via facsimile.

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 Robinson 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 Robinson; that Robinson consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Robinson hereby knowingly waives its right 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 Robinson's attorney certifies only that this Consent Order and Agreement has been signed after consulting with counsel.

FOR ROBINSON COAL COMPANY

David Aloe October 4,
David Aloe Date
President 2002

R.H. Lederbrink 10/7/02
Name R.H. LEDERBRINK Date
Secretary or Treasurer

Waived by 10/7/02
Robinson Coal Company Date
Attorney for Robinson Coal Company

FOR THE COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

Michael Terretti 10/8/02
Michael Terretti Date
District Mining Manager
Greensburg District Office

Tom Kovalchuk 10/8/02
Tom Kovalchuk Date
Chief, Permits and Technical Services
Greensburg District Office

Michael J. Heilman 11/1/02
Michael J. Heilman Date
Assistant Counsel

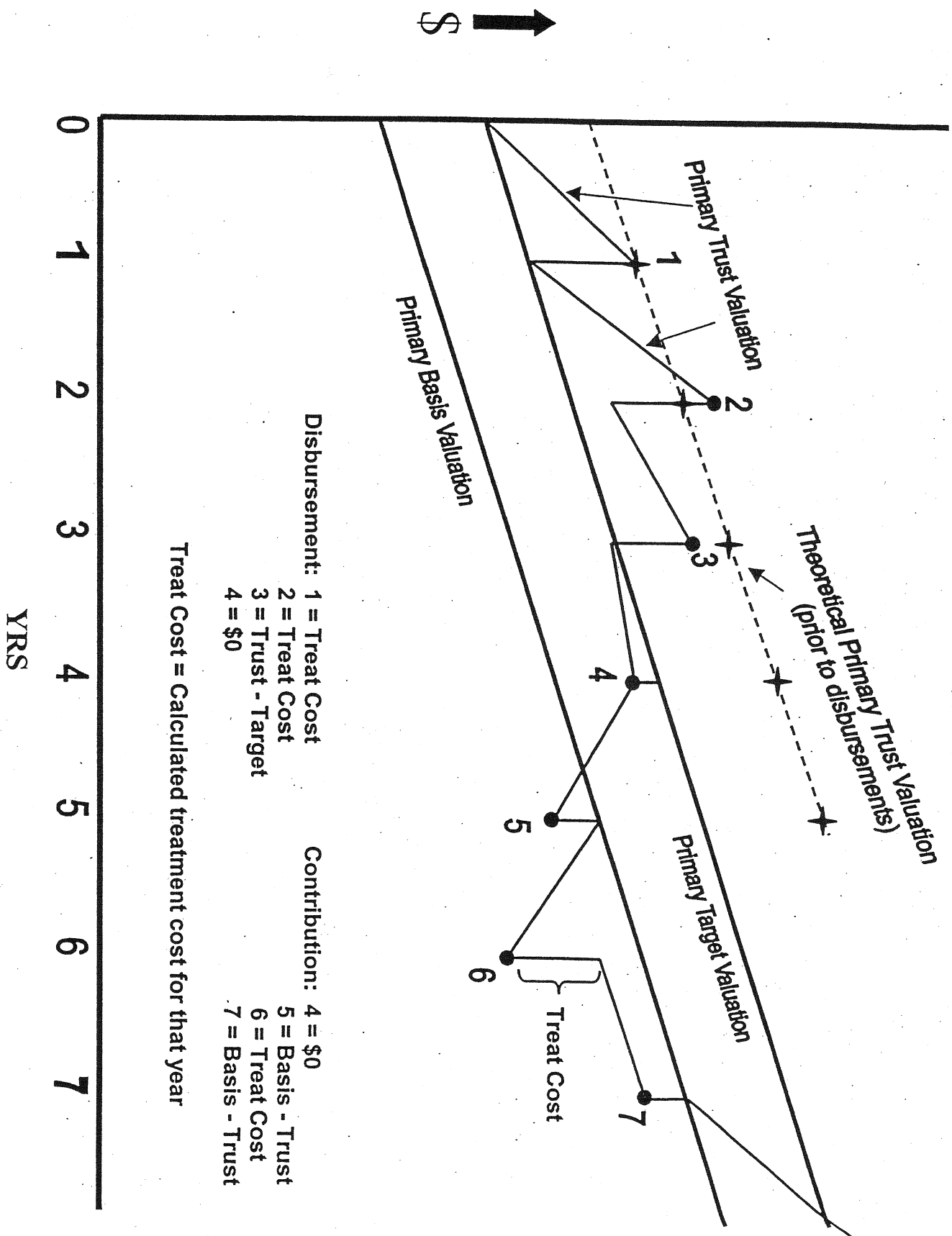


Exhibit C

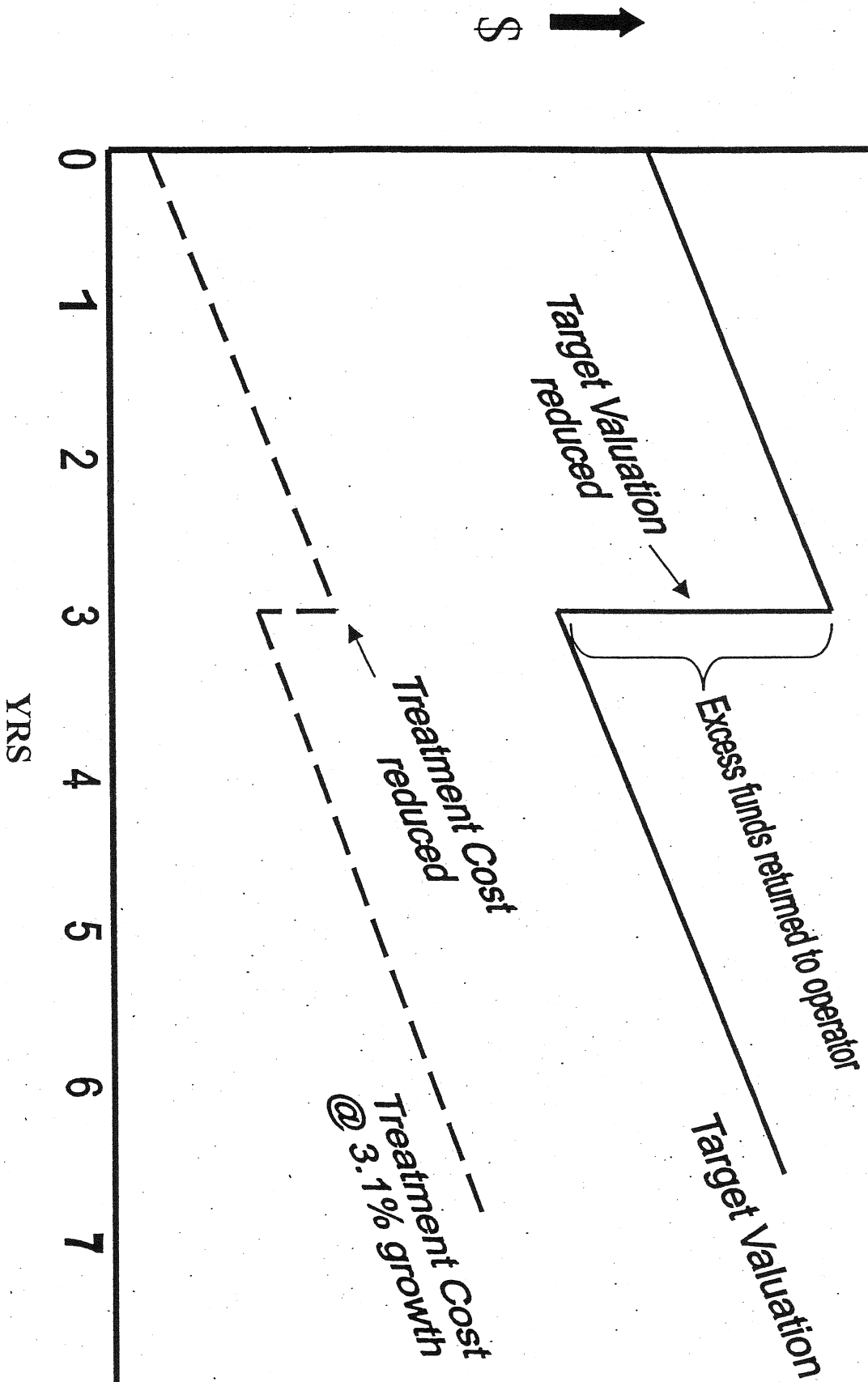


Exhibit D

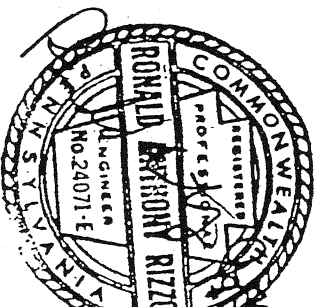


Exhibit 6.1
Robinson Coal Co.,
Putt Mine
Proposed Permit Area

63840106

CLINTON QUAD.

47°00'00" N.

40°22'30"

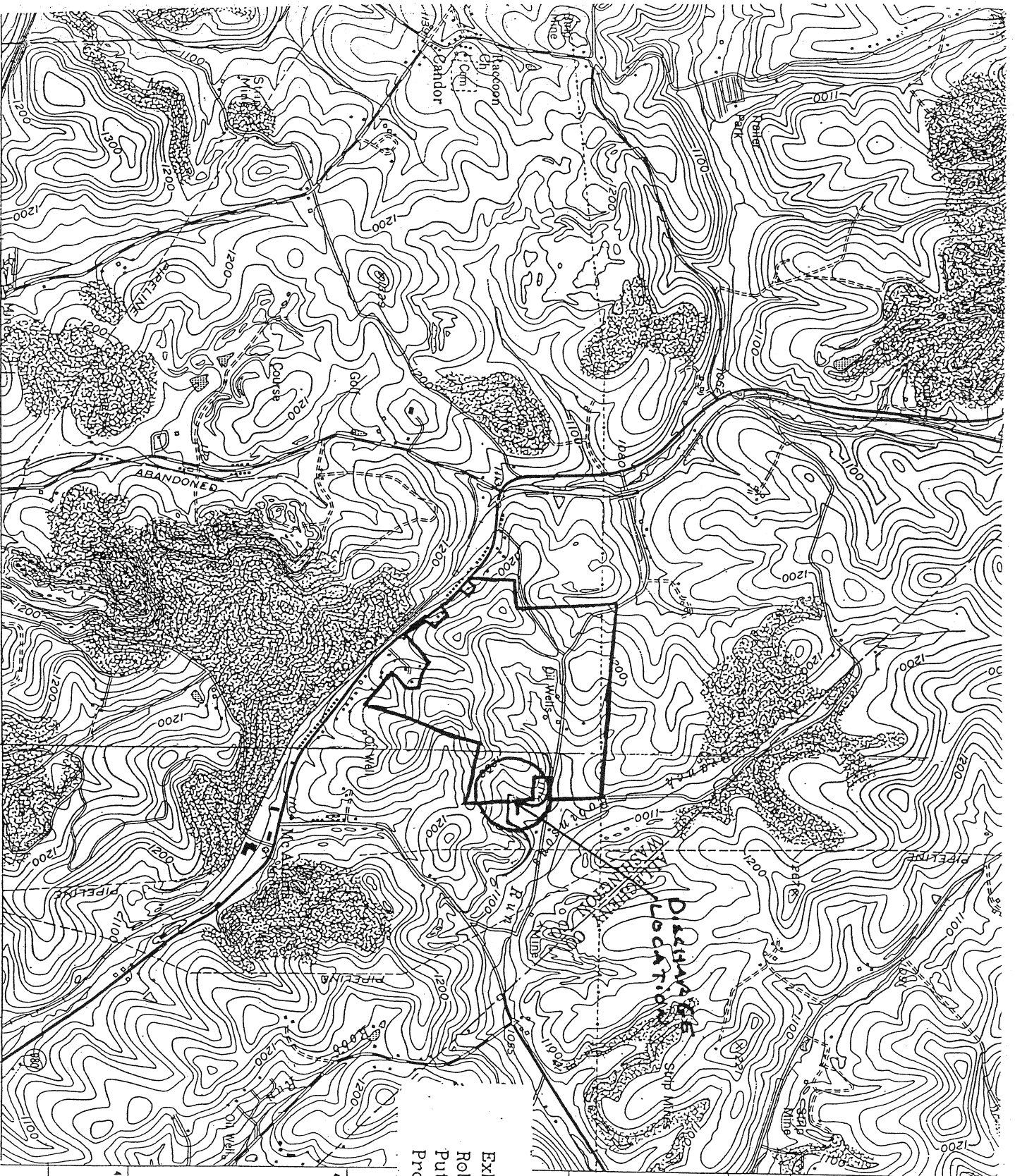
INTERIOR-GEOLOGICAL SURVEY, RESTON, VIRGINIA-1976 MC DONALD 1:5 MI
CANONSILLING 10 MI

ROAD CLASSIFICATION

Exhibit A

1 MI

00



60/40 - 7.3 % ROI

Putt

10,000 To build @ 3.3 % growth 4 % inflation

25

50

75

22,510.87

50,700.95

114,162.67

595 → 22,508.30

420 → 51,801

361 → 113,947.65

1370 sub T

11,370 sub T. T

13,460.68 O & M

24,836.68 Tot Required for Total funding

25,893 Actual funding

3 samples quarterly @ \$40/sample 480 yr expense

TREATMENT TRUST CALCULATOR

Prepared For: Robinson Coal Co
Treatment System ID: Putt

(c) 2000 by Evergreen

Date: year → 2001
dd / mm / yy
October 2, 2002

Inflation Rate: 3.1%
Yrs to Treat start: 0
Treatment Cost: \$480.00
Trust Fees: 1.50%
Bond: \$200,960.00
Investment Options:

stock: 60%
bond: 40%

Effective Rate of Return: 7.3%

Volatility Index (Y/N): 1.12

Pay Schedule (1/2):

Remaining Time on Permit: * years:
* months:

y
1
3
5

Summary of Options

	bond release (1):	cash payout (2):
option #1	year 1	none
option #2	year 1	year 1
option #3	year 1 - 89	year 89
option #4	year 89	year 89
option #5	year 100 - 99	year 99
option #6	year 0 - 0	year 0
option #7	year 0 - 0	year 0

The option #6 fund will be insolvent in years 90 - 98 by a maximum of \$55,142.42 in year 98, and an average of \$26,887.30.

The option #7 fund will be insolvent in years 90 - 99 by a maximum of \$67,213.65 in year 99, and an average of \$3,403.03.

Options

option #1	
conventional bond	\$18,060.64
adjustment	(\$182,899.36)
option #2	
full funding	\$13,460.68
	in year 1
option #3	
time funding	\$28.10
	annually for 88 yrs
	* years to fund 88
option #4	
future funding	\$197,619.34
	in year 89
option #5	
bond maintenance	\$69.91
full funding	in year 1
option #6	
bond maintenance	
* initial payment	\$0.00
minimum payment	\$4.47
* years	1
option #7	
term funding	
* initial payment	\$0.00
* annual payment	\$0.00
	annually for 99 yrs

TREATMENT TRUST CALCULATOR

Prepared for Robinson Coal Co

Facility: Putt

(c) 2000 by Evergreen

model y1
October 2, 2002

Option # 2 funding: \$13,460.68 in year 1
full funding bond release: \$200,960.00 in year 1
cash payout: starting in year 1

yr	year	treat cost	annual expense target trust	capital improvement target trust	total target trust	projected cash growth	bond release schedule	cash payout
1	2001	\$480.00	\$13,460.68	\$0.00	\$13,460.68	\$13,460.68	\$200,960.00	\$480.00
2	2002	\$494.88	\$13,877.96	\$79.96	\$13,957.92	\$13,957.92	\$0.00	\$494.88
3	2003	\$510.22	\$14,308.17	\$168.21	\$14,476.39	\$14,476.39	\$0.00	\$510.22
4	2004	\$526.04	\$14,751.73	\$265.42	\$15,017.15	\$15,017.15	\$0.00	\$526.04
5	2005	\$542.35	\$15,209.03	\$372.33	\$15,581.36	\$15,581.36	\$0.00	\$542.35
6	2006	\$559.16	\$15,680.51	\$489.71	\$16,170.22	\$16,170.22	\$0.00	\$559.16
7	2007	\$576.49	\$16,166.61	\$618.41	\$16,785.02	\$16,785.02	\$0.00	\$576.49
8	2008	\$594.36	\$16,667.77	\$759.35	\$17,427.12	\$17,427.12	\$0.00	\$594.36
9	2009	\$612.79	\$17,184.47	\$913.49	\$18,097.97	\$18,097.97	\$0.00	\$612.79
10	2010	\$631.78	\$17,717.19	\$1,081.90	\$18,799.09	\$18,799.09	\$0.00	\$631.78
11	2011	\$651.37	\$18,266.42	\$1,265.69	\$19,532.12	\$19,532.12	\$0.00	\$651.37
12	2012	\$671.56	\$18,832.68	\$1,466.10	\$20,298.78	\$20,298.78	\$0.00	\$671.56
13	2013	\$692.38	\$19,416.50	\$1,684.41	\$21,100.91	\$21,100.91	\$0.00	\$692.38
14	2014	\$713.84	\$20,018.41	\$1,922.05	\$21,940.45	\$21,940.45	\$0.00	\$713.84
15	2015	\$735.97	\$20,638.98	\$2,180.51	\$22,819.49	\$22,819.49	\$0.00	\$735.97
16	2016	\$758.79	\$21,278.79	\$2,461.42	\$23,740.21	\$23,740.21	\$0.00	\$758.79
17	2017	\$782.31	\$21,938.43	\$2,766.53	\$24,704.96	\$24,704.96	\$0.00	\$782.31
18	2018	\$806.56	\$22,618.52	\$3,097.70	\$25,716.23	\$25,716.23	\$0.00	\$806.56
19	2019	\$831.57	\$23,319.70	\$3,456.96	\$26,776.66	\$26,776.66	\$0.00	\$831.57
20	2020	\$857.35	\$24,042.61	\$3,846.47	\$27,889.08	\$27,889.08	\$0.00	\$857.35
21	2021	\$883.92	\$24,787.93	\$4,268.55	\$29,056.48	\$29,056.48	\$0.00	\$883.92
22	2022	\$911.32	\$25,556.35	\$4,725.70	\$30,282.06	\$30,282.06	\$0.00	\$911.32
23	2023	\$939.58	\$26,348.60	\$5,220.61	\$31,569.21	\$31,569.21	\$0.00	\$939.58
24	2024	\$968.70	\$27,165.41	\$5,756.15	\$32,921.56	\$32,921.56	\$0.00	\$968.70
25	2025	\$998.73	\$28,007.53	\$6,335.43	\$34,342.96	\$34,342.96	\$0.00	\$998.73
26	2026	\$1,029.69	\$28,875.77	\$6,961.76	\$35,837.53	\$35,837.53	\$0.00	\$1,029.69

64	2064	\$3,285.01	\$92,121.88	\$145,839.61	\$237,961.49	\$237,961.49	\$0.00	\$3,285.01
65	2065	\$3,386.85	\$94,977.66	\$156,974.82	\$251,952.48	\$251,952.48	\$0.00	\$3,386.85
66	2066	\$3,491.84	\$97,921.97	\$168,935.41	\$266,857.38	\$266,857.38	\$0.00	\$3,491.84
67	2067	\$3,600.09	\$100,957.55	\$181,781.84	\$282,739.39	\$282,739.39	\$0.00	\$3,600.09
68	2068	\$3,711.69	\$104,087.24	\$195,578.95	\$299,666.18	\$299,666.18	\$0.00	\$3,711.69
69	2069	\$3,826.75	\$107,313.94	\$210,396.32	\$317,710.25	\$317,710.25	\$0.00	\$3,826.75
70	2070	\$3,945.38	\$110,640.67	\$226,308.59	\$336,949.27	\$336,949.27	\$0.00	\$3,945.38
71	2071	\$4,067.69	\$114,070.53	\$243,395.87	\$357,466.40	\$357,466.40	\$0.00	\$4,067.69
72	2072	\$4,193.79	\$117,606.72	\$261,744.05	\$379,350.77	\$379,350.77	\$0.00	\$4,193.79
73	2073	\$4,323.80	\$121,252.53	\$281,445.32	\$402,697.85	\$402,697.85	\$0.00	\$4,323.80
74	2074	\$4,457.83	\$125,011.36	\$302,598.56	\$427,609.92	\$427,609.92	\$0.00	\$4,457.83
75	2075	\$4,596.03	\$128,886.71	\$325,309.86	\$454,196.56	\$454,196.56	\$0.00	\$4,596.03
76	2076	\$4,738.50	\$132,882.20	\$349,693.01	\$482,575.21	\$482,575.21	\$0.00	\$4,738.50