

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In The Matter Of:

PBS Coals, Inc.	:	Farkas Stahl Mine
Friedens, Pennsylvania 15541	:	Lambert Strip Mine
	:	Long T Mine Trust
	:	Pumped Well Treatment System
Families of Flight 93	:	Sale of Land
Somerset, Pennsylvania 15501	:	

CONSENT ORDER AND AGREEMENT
CONCERNING ESTABLISHMENT OF A TRUST
AND TRANSFER OF LAND

This Consent Order and Agreement is entered into this 17th day of March, 2008, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), PBS Coals, Inc. ("PBS"), and the Families of Flight 93 ("Families").

The Department has found and determined the following:

A. The Department is the agency with authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P. L. 1987, as amended, 35 P. S. §691.1 et seq., ("Clean Streams Law"), the Surface Mine 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 Bituminous Mine Subsidence and Land Conservation Act, Act of April 27, 1966, Sp. Sess. No. 1, P.L. 31, *as amended*, 52 P.S. §§ 1406.1-1406.21 ("BMSLCA"), Section 1917-A of the Administrative Code, Act of April 9, 1929, P. L. 177, as amended, 71 P.S. §510-17, and the Rules and Regulations adopted thereunder.

B. PBS is a Delaware corporation authorized to do business in Pennsylvania, with an office and principal place of business at P.O. Box 260, Friedens, Pennsylvania 15541, engaged in the business of mining coal by the surface and underground methods. Diamond T. Coal Co. ("Diamond T") is a fictitious name for PBS Coals, Inc. RoxCoal, Inc. ("RoxCoal") is a Pennsylvania corporation, with an office and place of business at P.O. Box 149, Friedens, Pennsylvania 15541, engaged in the business of mining coal by the underground method. PBS Coals, Inc., Diamond T. Coal Co., and RoxCoal, Inc., are collectively referred to hereafter as "PBS". Robert Scott is the President of PBS.

C. Families is a nonprofit corporation organized in Pennsylvania and pursuant to Section 501(c)(3) of the United States Internal Revenue Code. The Families have an office at 109 West Main Street, Suite 104, Somerset, Pennsylvania 15501.

D. PBS operated two Diamond T surface mines in Stonycreek Township, Somerset County, Pennsylvania pursuant to the following surface mining permits:

SMP	NAME	ACREAGE AFFECTED	YEARS OF OPERATION
56693103	Farkas Stahl	609 acres	1969 - 1996
56703124	Lambert Strip	298 acres	1970 - 1996

E. PBS also operated two RoxCoal underground mines in Stonycreek Township, Somerset County, Pennsylvania pursuant to the following mining permits:

CMAP	NAME	YEARS OF OPERATION
566901301	Diamond T B&C	1991 - 1999
56911302	Longview	1992 - 2003

F. The two underground permits were combined in December, 1995 as CMAP 56911302 and the mine was renamed as the Long T Mine.

G. While it was operating the surface and underground mines, PBS pumped and treated water from the mines pursuant to the following NPDES Permits:

- 1) PA0213772 for the Diamond T, B and C permit and the Longview permit;
- 2) PA0608017 for the Farkas Stahl permit;
- 3) PA0608114 for the Lambert Strip permit.

H. PBS has posted the following bonds, all issued by National Union Fire Insurance Company of Pittsburgh, Pennsylvania, for the Farkas Stahl, Lambert Strip and Long T Mines:

SITE	BOND NUMBER	BOND AMOUNT	DATE OF BOND
56693103	11-71-05	\$ 818,965.00	08/12/92
56693103	11-82-91	\$ 10,000.00	01/31/94
56693103	11-82-96	\$ 29,600.00	07/08/94
56703124	11-71-06	\$1,187,260.00	08/12/92
56703124	11-82-64	\$ 12,000.00	10/20/92
56703124	11-82-70	\$ 110,200.00	02/02/93
56703124	11-83-00	\$ 65,400.00	10/31/94
56703124	17-13-48	\$ 4,000.00	10/27/98
56911302	08-63-18	\$ 560,440.00	11/29/95
56911302	08-63-17	\$ 20,000.00	11/29/95
56911302	17-13-16	\$ 59,150.00	03/28/97

I. On September 11, 2001, Flight 93 crashed on the Farkas Stahl mine site.

J. The Families together with the National Park Service ("NPS") and national, state and local groups wish to develop a permanent memorial at the crash site.

K. A temporary memorial exists at the site. The immediate crash site is enclosed within a fenced and secured area.

L. The Flight 93 National Memorial Act, Public Law 107-226, enacted September 24, 2002, established a memorial at the crash site to honor the passengers and crew of Flight 93 who courageously gave their lives thwarting a planned attack on our nation's Capital ("Flight 93 Memorial"). The Flight 93 Memorial will be administered as a unit of the NPS.

M. The boundary of the Flight 93 Memorial was recommended in Resolution #0401 of the Flight 93 National Memorial Advisory Commission adopted on July 30, 2004 and accepted by the Director of the NPS on January 11, 2005 (the "Memorial Boundary"). As a result, the NPS was authorized to proceed with acquisition of land or interests in land for the Flight 93 Memorial.

N. The Memorial Boundary comprises approximately 2,200 acres. Notice of the Memorial Boundary was published in the Federal Register on March 21, 2005

O. The Families expressed interest in assisting in the protection of lands within the Memorial Boundary and by letter dated December 28, 2005 from the NPS to the Families and signed by the Families on January 24, 2006, the NPS notified the Families of the Federal laws, rules, regulations and policies that must be followed to enable the NPS to acquire lands within the Memorial Boundary. By letter dated April 18, 2007 from NPS to the Families and signed by the Families on April 20, 2007, the Initial Letter of Intent ("LOI") was revised to more clearly define the roles and responsibilities of the Families and the NPS with respect to the acquisition of the land required for the Flight 93 Memorial. The Revised LOI identifies eight tracts of land the Families indicated it would pursue for acquisition.

P. Certain of the eight tracts comprising approximately 900 acres are properties owned by PBS and are located on the Farkas Stahl and/or Lambert Strip mine sites (the "Tracts").

Q. Flight 93 crashed near Sediment Pond ES-(5C2) ("Pond 5") on the Farkas Stahl mine site. Pond 5 was in the debris field of the crash and is currently in a fenced, secured area.

R. In April 2003, the water quality in Pond 5 declined and seeps emerged both in the pond and around the outside of the pond.

S. Under normal circumstances, when a pollutorial discharge occurs on a permitted mine site, the operator constructs a treatment system on the site. In this case, had Flight 93 not crashed on the Farkas Stahl mine, PBS would have constructed a treatment system on the permit area. The treatment system for the discharge would have been in plain view of visitors to the memorial and, more importantly, would have substantially interfered with the design of the permanent memorial.

T. In mid-September 2003, PBS drilled a dewatering well on the Long T mine site more than a mile from Pond 5 and began pumping the well (the "Pumped Well") as a means of lowering groundwater levels which caused Pond 5 and the seeps to dry up, thus not impacting the Flight 93 crash site. PBS uses aeration to remove iron and has to use alkaline reagents to remove manganese from the water being pumped (the "Treatment System"). PBS has used three ponds, T-1, T-2 and T-3, as part of the Treatment System. The treated water flows from T-3 into Lamberts Run. The Pumped Well and Treatment System are out of sight of the main part of the Flight 93 site and proposed permanent memorial design features.

U. Lamberts Run is a small tributary to the Stonycreek River, which arises on PBS' Lambert Strip and flows approximately four miles to its confluence with the Stonycreek River. The headwaters of Lamberts Run are polluted by three abandoned discharges of mine drainage: (1) the Heinemeyer Deep Mine discharge; (2) artesian flows (known as the ant hill or iron mound discharges) which have created a wetland adjacent to Lamberts Run; and (3) an acid mine drainage discharge which flows into a passive system managed by the Somerset County Conservancy. Lamberts Run was badly degraded by the abandonment of the Heinemeyer Deep Mine which dates to the 1940's and surface mining conducted by companies unrelated to PBS in the late 1950's and early 1960's. The Treatment System currently discharges close to and upstream from Heinemeyer and anthill discharges.

V. On October 27, 2007, the Department and PBS signed a Consent Order and Agreement ("2007 COA") addressing issues related to treatment of water from the Pumped Well. A copy of the 2007 COA is attached as Exhibit 1.

W. The sale of the Tracts to the Families by PBS has been delayed pending resolution of a number of issues, including issues related to the treatment of the water from the Pumped Well.

X. Subsequent to the signing of the 2007 COA, the Department had several discussions with PBS and/or the Families concerning a number of issues including the amount of the trust that would be required to operate the Treatment System and the sale price and actual transfer of the Tracts from PBS to the Families. Also discussed was the short term and long term operation of the Pumped Well and Treatment System.

Y. Because PBS began operating the Pumped Well within four months of appearance of the seeps at Pond 5, there is inadequate water quality and quantity data concerning the Pond 5 discharge. The lack of water quality and quantity data makes impossible the calculation of the amount of the trust that would have been required to treat the discharge from Pond 5 had PBS been able to build a treatment system on the Farkas Stahl mine site. The only way to gather sufficient data would be to cease operating the Pumped Well, causing the reoccurrence of the pollutional situation at Pond 5. This scenario is not acceptable to the Families nor the Department.

Z. The Department has calculated that the amount of a trust that would be required to operate the Pumped Well and Treatment System in perpetuity is \$2,318,843 in the absence of manganese treatment. This amount covers the cost of electricity and removal of iron. If treatment for manganese becomes necessary, the Trust would need additional funding. The Department has agreed not to seek additional funding for manganese treatment from PBS.

AA. The Department, PBS and the Families are in the process of establishing a trust to ensure long term operation and maintenance of the Pumped Well and Treatment System with the Somerset Trust Company.

BB. PBS and the Families are entering into a separate contract, dated the same date as this Consent Order and Agreement, regarding the sale of the Tracts and have agreed also to work out the terms of a mortgage regarding the remaining fifty percent of the purchase price.

CC. PBS has agreed to sell the Tracts to the Families for \$2,318,843. The sale will occur at a formal closing ("Closing") at which time the Families will pay fifty percent of the purchase price, \$1,159,421.50, to PBS and PBS will immediately pay that sum into the Trust.

DD. Under the terms of the Revised LOI, the Families have agreed to sell the Tracts to the National Park Service (NPS) within one year of the date of the Closing. If that sale occurs within one year, \$1,159,421.50 which is the additional amount needed to fully fund the Trust, will be paid by the Families to PBS and then immediately paid by PBS into the Trust by the Families and/or PBS. The Families agree that, if the sale to NPS does not occur within one year of the Closing with PBS, the Families will pay PBS the balance of the purchase price, and PBS will put that amount, \$1,159,421.50, into the Trust in order to fund it fully.

EE. PBS has agreed to operate and maintain the Treatment System at its sole expense until the Closing. PBS and the Families have agreed to work together, with input from local environmental, conservation and sportsmen groups and other interested citizens and the NPS, to find a local entity to operate and maintain the Treatment System after the Closing. The local entity and the Department will need to enter into a new and separate Consent Order and Agreement which may address operation and maintenance of the Treatment System and disbursements from the Trust needed to operate and maintain the system. In the interim period between the Closing and the execution of another Consent Order and Agreement, the Families have agreed to pay the costs of electricity to run the Pumped Well and PBS has agreed that it would donate the labor costs involved for a period not to exceed one year.

FF. The existing NPDES permit for the Long T Mine will be used by PBS and the local entity until such time as a new NPDES permit is issued by the Department. The existing permit will be transferred to the local entity or another third party as soon as possible after the Closing.

GG. The Department has agreed to release the bonds for Long T and Farkas Stahl mines so long as PBS complies with applicable bond release regulations.

HH. The Department has agreed that the bond for the Lambert Strip may be reduced to \$1,159,421.50 so long as PBS complies with applicable bond release regulations.

II. On February 1, 2008, the Families, PBS and the Department met to discuss the agreement, the agreement of sale, and related issues. On February 2, 2008, the Families, PBS and the Department met with local groups and citizens to begin discussions concerning long term operation and maintenance of the Pumped Well and Treatment System and the construction, operation and maintenance of treatment systems for the other abandoned discharges in the Lamberts Run Watershed.

JJ. The Department and PBS have discussed low cost enhancements to the Treatment System. PBS has proposed and will construct a channel from Pond T-3 to Pond ES18. PBS will connect Ponds ES18, ES17 and ES16 and will discharge the treated water to Lamberts Run. The reconfiguration of the system will allow additional settling time; the new discharge point will make easier the treatment of the Heinemeyer and/or anthill discharges.

KK. The Department suggested and PBS has agreed to install a venturi aeration device at the Pumped Well. The use of this device will increase the pH of the water and will allow more iron to settle out.

LL. A discharge of mine drainage known as L-9 is located on the Long T Mine. The discharge which existed before PBS permitted the deep mines flows intermittently; the Department has only 14 samples since January 1999. PBS currently treats the discharge whenever it flows with a conventional treatment system that uses caustic soda. The caustic soda

tank is close to and visible from the road which will serve as the entrance to the permanent memorial. PBS stated that it was willing to continue to treat the discharge and to post a trust to ensure long term operation and maintenance. The possibility that the caustic soda tank could be vandalized represents, in the Department's view, too great a public health and safety risk. The Department has decided that the discharges should be routed to flow by gravity via an underground pipe to Pond ES18. PBS has agreed to construct the channel and pipes at its expense and to convey them to the Families. PBS has further agreed to post long term financial assurance in the amount of \$75,477.70 for the discharge in the form of a separate account in the trust discussed in Paragraph AA above.

MM. A toe of spoil discharge is located on the Lambert Strip. The discharge flows into four ponds known as ES12 or PS29. PBS has agreed to post long term financial assurances in the amount of \$32,747.28 in the form of separate accounts in the trust discussed in Paragraph AA above.

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 PBS and the Families as follows:

1. Authority. This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Sections 5, 315, 316 and 610 of the Clean Streams Law, 35 P.S. §§ 691.5, 691.315, 691.316 and 691.610; Sections 1, 4 (d.2), 4.2 and 4.3 of SMCRA, 52 P.S. §§ 1396.1, 1396.4(d.2), 1396.4b and 1396.4c, Sections 2, 5, 6, 7 and 9 of BMSLCA, 52 P.S.

§§1406.2, 1406.5, 1406.6, 1406.7 and 1406.9; SMCRA and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. Findings.

a. PBS and the Families agree that the findings in Paragraph A through MM are true and correct and, in any matter or proceeding involving PBS and/or the Families and the Department, PBS and the Families 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.

Sale of Tracts

3. PBS has entered into an agreement of sale with the Families dated the same day as this Consent Order and Agreement. The purchase price is \$2,318,843. The parties will hold the Closing within 60 days of the date of this Agreement to finalize the sale.

4. Fifty percent of the purchase price, \$1,159,421.50, will be paid by the Families to PBS at the Closing.

5. a. PBS and the Families shall negotiate the terms of a mortgage concerning the remaining unpaid fifty percent of the purchase price.

b. PBS and the Families shall have a separate contract between them regarding the purchase of the Tracts.

6. The Families will sell the Tracts within the Memorial Boundary to the National Park Service on or before the one year anniversary of the Closing as set forth in the Revised LOI.

Treatment Trust

7. a. On or before the closing, PBS and the Families will establish an irrevocable trust to be known as the Pumped Well Treatment Trust (Trust). The Trust provides funds to operate and maintain the Pumped Well Treatment System, 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 system, and to treat the mine drainage in perpetuity. The Trust also provides for the demolition of treatment facilities and reclamation of the treatment site should treatment no longer be needed.

b. The Trust has four sub-accounts: a sub-account designated as the Primary Trust Account; a sub-account designated as the Capital Improvement Account; a third sub-account for the L-9 discharge; and a fourth sub-account for the PS29 ponds.

8. a. At the Closing, PBS shall pay the monies received from the Families (\$1,159,421.50) into the Trust.

b. PBS shall pay \$32,747.28 into the Trust for any future maintenance or replacement of the vertical flow ponds designated as ES12 or PS29. PBS shall make four monthly payments of \$8,186.82 each. The first payment shall be made within thirty days of the date of the establishment of the Trust required by Paragraph 7. The second, third and fourth payments shall be made sixty, ninety and one hundred and twenty days, respectively, after the date of the Trust.

c. PBS shall pay \$75,477.70 into the Trust for the L-9 discharge. PBS shall make four monthly payments of \$18,869.43 each. The first payment shall be made within thirty days of the date of the Trust required by Paragraph 7. The second, third and fourth payments shall be made sixty, ninety and one hundred and twenty days, respectively, after the date of the Trust.

d. Within thirty days of written notice from the Department, PBS shall convey to the Trust all personal property associated with the operation and maintenance of the Pumped Well and Treatment System, including without limitation all pumps and aerators and all electrical wiring and devices.

9. a. No later than the first anniversary date of the Closing if the sale to the NPS has occurred, the Families shall pay \$1,159,421.50 to PBS, which is the remaining fifty percent of the agreed purchase price, and PBS shall promptly pay that amount into the Trust.

b. In the alternative, if the sale to the NPS has not occurred, the Families shall pay the balance of the purchase price to PBS and PBS shall deposit that amount, \$1,159,421.50, in the Trust no later than the first anniversary date of the Closing

Bonds and Mining Permits

10. At its own expense, PBS shall channel the L-9 discharge by use of underground pipes to Pond ES18 in a manner acceptable to the Department and shall convey the personal property associated with the underground pipe to the Families.

11. So long as PBS complies with the provisions of 25 Pa. Code § 86.170 et seq (relating to bond release), the Department will release the bonds for the Long T Mine and Farkas

Stahl Mine (see Paragraphs E and H). However, the subsidence bond for the Long T Mine shall remain in effect.

12. The permit for the Lambert Strip shall remain. So long as PBS complies with the provisions of 25 Pa. Code § 86.170 et seq, the Department agrees that the bond amount may be reduced to \$1,159,241.50. Once the Trust has been fully funded, the Department will release the remaining bonds so long as PBS complies with the provisions of 25 Pa. Code § 86.170 et seq.

13. So long as PBS complies with the terms and conditions of this Consent Order and Agreement, the Department has agreed that it will not withhold bond release for the Long T Mine, Lambert Strip or Farkas Stahl Mine on the basis of the Pumped Well Treatment System or the current conditions at Pond 5, the preexisting intermittent discharge L-9 or the horizontal flow ponds known as ES12 or PS29.

Operator of Treatment System and NPDES Permit

14. PBS shall continue to operate and maintain the Treatment System until the Closing at its sole expense. Except as specified below, after the Closing, PBS will have no further responsibility to operate the Treatment System.

15. After the Closing for a period not to exceed one year, PBS shall bear the labor expenses and operate the Pumped Well until the Department has signed another Consent Order and Agreement with a local entity. During this same time period, the Families shall pay the costs of electricity for the Pumped Well.

16. The existing NPDES permit whether held by PBS or transferred to a third party will remain in effect until a new NPDES permit is issued to the local entity.

17. Additional Remedies.

a. In the event PBS and/or the Families 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. The remedies provided by this paragraph are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

18. Reservation of Rights. The Department reserves the right to require additional measures to achieve compliance with applicable law. PBS and/or the Families reserve the right to challenge any action which the Department may take to require those measures.

19. Liability of PBS. PBS 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.

20. Liability of Families. The Families' sole liability under this agreement is to purchase the Tracts as is more fully described in Paragraphs 3, 4, 5, 6, 9 and 15.

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

Joseph Allison
Environmental Group Manager
Cambria Mining Office
286 Industrial Park Road
Ebensburg, PA 15931-4119

22. Correspondence with PBS. All correspondence with PBS concerning this

Consent Order and Agreement shall be addressed to:

Mark Tercek
Vice President of Engineering
PBS Coals, Inc.
PO Box 260
Friedens, PA 15541

PBS 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.

23. Correspondence with the Families. All correspondence with the Families

concerning this Consent Order and Agreement shall be addressed to:

Patrick G. White, Esquire
Porter Wright Morris & Arthur
5801 Pelican Bay Boulevard, Suite 300
Naples, FL 34108-2709

24. Force Majeure.

a. In the event that PBS and/or the Families are 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 circumstance beyond PBS's and/or the Families control and which PBS and/or the Families, by the exercise of all reasonable diligence, is unable to prevent, then PBS and/or the Families 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 PBS's and/or the Families' control. PBS's

and/or the Families' 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. PBS and/or the Families 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 PBS and/or the Families to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. PBS's and/or the Families' 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 PBS and/or the Families and other information available to the Department. In any subsequent litigation, the PBS and/or the Families 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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

30. Decisions Under Consent Order. Any decision which the Department makes under the provisions of this Consent Order and Agreement, including a notice that stipulated civil penalties are due, 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 PBS and/or the Families may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

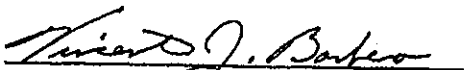
31. Execution of Agreement. This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Facsimile signatures shall be valid and effective.

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 PBS and/or the Families 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 PBS and/or the Families; that PBS and/or the Families consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that PBS and/or the Families 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, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by PBS's and/or the Families' attorney certifies only that the agreement has been signed after consulting with counsel.

FOR PBS:




Robert Scott
President, PBS Coals, Inc.




Vincent Barbera
Attorney for PBS

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Joseph Pizarovich
Director
Bureau of Mining and Reclamation



Martin H. Sokolow, Jr.
Regional Counsel
Southcentral Region

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 PBS and/or the Families 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 PBS and/or the Families; that PBS and/or the Families consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that PBS and/or the Families 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, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by PBS's and/or the Families' attorney certifies only that the agreement has been signed after consulting with counsel.

FOR PBS:

Robert Scott
President, PBS Coals, Inc.

Vincent Barbera
Attorney for PBS

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:

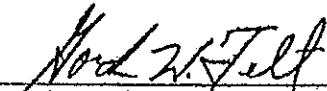
Joseph Pizarchik
Joseph Pizarchik
Director
Bureau of Mining and Reclamation

Martin H. Sokolow, Jr.
Martin H. Sokolow, Jr.
Regional Counsel
Southcentral Region

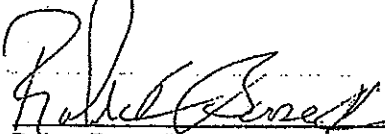
Vincent Barbera
Attorney for PBS

Martin H. Sokolow, Jr.
Regional Counsel
Southcentral Region

FOR THE FAMILIES OF FLIGHT 93:



Gordon W. Felt
President, Families of Flight 93



Robert Boose II
Attorney for the Families