

Contract No. _____

**AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
Russell County Reclamation, LLC**

This agreement, made and entered into this 5th day of December 2018, by and between the Commonwealth of Virginia, acting by and through the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation (hereinafter called “**DMME**”), and Russell County Reclamation, LLC (hereinafter called “**COMPANY**”);

WITNESSETH:

WHEREAS, **DMME** is the agency of the Commonwealth of Virginia delegated the duties and powers to implement and enforce the Virginia Coal Surface Control and Reclamation Act of 1979, Va. Code §§ 45.1-226 et seq., and the regulations promulgated thereunder (herein “**VSMCRA**”), as the same may be or become effective at any time or from time to time, as the Commonwealth’s permanent state regulatory program and abandoned mine reclamation program approved pursuant to the federal Surface Mining Control and Reclamation Act of 1977. (herein “**State Program**”);

WHEREAS, as part of its State Program, **DMME** has an approved abandoned mine land reclamation program (herein “**AML Program**”) as codified in Va. Code §§ 45.1-260 et seq. The AML Program requires **DMME** to annually prepare and submit to the United States Secretary of Interior applications for funding, including the implementation of specific AML reclamation projects;

WHEREAS, past coal mining practices located off State Route 615, along Dumps Creek, south of South Clinchfield in Russell County, Virginia, have resulted in a gob pile, which is known

as the Golden Pond Gob Pile Removal Project (herein "Project"). The property upon which the Project is located ("Property") is an abandoned mine land site, more specifically defined in Attachment A, Item D, and the Project has been approved for reclamation as part of **DMME's** FY2018 AML Consolidated Grant.

WHEREAS, the surface estate of the Property is owned by Russell County Reclamation, LLC.

WHEREAS, the **DMME** has determined that the incidental removal of coal during the reclamation of the Project site is likely. Pursuant to Va. Code § 45.1-253.2 of VSMCRA and § 4 VAC 25-130 Part 707 of the VSMCRA Regulations, the VSMCRA permitting requirements do not apply to areas from which coal is extracted as an incidental part of a government-financed construction operation, and because AML reclamation projects such as the Project are government-financed, they likewise qualify as government-financed construction.

WHEREAS, the **COMPANY** desires to perform the reclamation of the Project site in accordance with reclamation plans approved by **DMME**; provided, however, that the **COMPANY** is allowed to retain all proceeds it receives from the sale of the incidental coal it removes during said reclamation.

WHEREAS, the **DMME** desires to have the **COMPANY** perform the work required to reclaim the Project site in accordance with approved reclamation plans; with the understanding that the **COMPANY** will be entitled to retain the proceeds it receives from the sale of the incidental coal it removes during said reclamation ("AML Award").

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter contained, the parties agree as follows:

I. OBLIGATIONS OF COMPANY – COMPANY shall:

1. Prepare and provide to **DMME** a reclamation plan for the Project which provides for the stabilization of slopes and revegetation of the disturbed areas within the boundaries of the Project site (“Reclamation Plan”).
2. Allow the **DMME** to review and comment on the Reclamation Plan, and incorporate **DMME**’s changes into the final Reclamation Plan prior to the **COMPANY**’s implementation of same. A copy of the final Reclamation Plan approved by **DMME** is attached as Attachment C, which Plan is incorporated herein and made a part hereof.
3. Strictly adhere to the Office of Surface Mining (“OSM”) AML funding objectives contained in Attachment A hereto and made a part hereof, the AML Award, and the obligations of the **COMPANY** contained within this Agreement (herein “Award Conditions”).
4. Prior to commencement of reclamation work as contemplated by the Reclamation Plan, provide to **DMME** a performance bond in the amount of two hundred thousand dollars, (\$200,000.00), payable to the Commonwealth of Virginia, Director-Division of Mined Land Reclamation, in a form acceptable to **DMME**.
5. Provide and pay all funds required to reclaim the Project site in accordance with the approved Reclamation Plan, including but not limited to the costs of all permits, licenses, land acquisitions, rights-of-way, easements, and construction and reclamation costs, pursuant to the Award Conditions. The financial contribution of

- DMME to the project construction budget is duly noted in the environmental assessment document and is made part of this agreement.
6. Maintain on the Project site all information required by 4 VAC 25-130-707.12 including a description of the Project, the exact location and boundaries of the Project, that the coal removed is physically necessary to remove in order to perform the reclamation of the Project site in accordance with the Reclamation Plan, and that the **DMME** administration of the Project is being financed with federal funds through its FY2018 AML Consolidated Grant.
 7. Only allow coal to be removed that is incidental to the Project.
 8. Prior to commencement of reclamation of the Project site, ensure that the Reclamation Plan and any reclamation documents and/or addenda, amendments, and change orders thereto are in accordance with the Award Conditions. Any amendments or change orders to the Reclamation Plan and/or reclamation documents shall be approved in writing by **DMME** prior to their execution, issuance and/or implementation.
 9. Provide to **DMME** copies of all documents and addenda the **COMPANY** uses in contracting for the performance of reclamation work for the Project, if any.
 10. Afford **DMME** personnel notice of and opportunity to attend and participate in all pre-construction conferences, and other relevant meetings concerning the Project, if any.
 11. Provide for free and reasonable access by **DMME** and **OSM** personnel to the Project site for the purpose of conducting weekly, or more frequent if necessary, inspections.

12. Upon completion of the work required by the Reclamation Plan, provide **DMME** with a copy of “as built” drawings of the Project.
13. Designate a Project Director who shall be knowledgeable of and responsible for Project activities and who shall act as the contact between **DMME** and **COMPANY**.
14. Provide **DMME** with monthly progress reports within fifteen (15) days following the end of each calendar month after this Agreement is fully executed. The report shall include all work accomplished, difficulties or delays encountered along with necessary remedial actions(s), and a schedule of future work.
15. Provide to **DMME** written verification that all easements, licenses, and applicable federal, state, or local permits or clearances required for the performance of the work required to complete the Project have been obtained prior to start of any work on the Project.
16. Provide professional supervision of all reclamation/construction work performed in reclaiming the Project site to ensure that the completed work conforms to the approved Reclamation Plan.
17. Certify and acknowledge that the Project’s boundaries and limits are as delineated on Attachment A, and that no work outside said boundaries and limits shall be eligible through the AML AWARD or covered under the terms of this Agreement.
18. Provide proof to **DMME** that the **COMPANY** has in full force and effect during the terms of this Agreement a public liability insurance policy.
 - (a) Worker’s Compensation – Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer.

Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements und the Code of Virginia during the course of the CONTRACT shall be in noncompliance with the contract.

(b) Employers Liability - \$100,000.

(c) Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement. Coverage shall not exclude claims resulting from explosion, collapse or underground damage.

(d) Automobile Liability - \$1,000,000 combined single limit (required only if a motor vehicle not owned by the Commonwealth is to be used in the CONTRACT). SUBRECIPIENT must assure that the required coverage is maintained by the SUBRECIPIENT (or third party of such motor vehicle).

19. The policy must provide for personal injury and property damage protection in an amount adequate to compensate any person injured or any property damaged as a result of the reclamation operations to the extent such person is entitled to be compensated under the applicable provisions of Virginia law. Minimum insurance coverage under split limit for bodily injury and property damage shall be \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate. Minimum insurance coverage for bodily injury and property damage combined shall be

\$1,000,000 for each occurrence and \$2,000,000 aggregate. The **COMPANY** is to name **DMME** as an additional insured on its liability insurance policy.

20. The **COMPANY** shall indemnify, defend and hold harmless **DMME**, its agents, officers, employees, and designated representatives from any claims, damages, suits, actions, liabilities and costs of any nature or kind, whether at law or in equity, arising from or caused by performance by the **COMPANY** or its agents, whether for design or reclamation of the Project, or from the use of any materials, goods, or equipment of any kind or nature or any service of any kind, provided that such liability is not attributable to the sole negligence of the **DMME**. Nothing contained herein shall be deemed an expressed or implied waiver of the sovereign immunity of the **DMME**.
21. Neither the **COMPANY**, its officers, agents, employees, assignees, whether for design or reclamation of the Project, shall be deemed employees of the Commonwealth of Virginia or of **DMME** by virtue of the Project, the location of the Project, or the AML AWARD.
22. Upon completion of any audit of the Project conducted under OMB Circular A-128, promptly provide the **DMME** with a copy of any and all such audit reports.
23. Commit to no contract or contract extension whose performance could extend beyond March 31, 2021, the expiration date of the AML Award.
24. Agree to not let the project be idled for a cumulative period exceeding sixty (60) days and to return work forces and equipment upon request of **DMME** at the end of the sixty-day period. **COMPANY**'s failure to perform this part may result in termination of the agreement and default under Articles X and XI.
25. ANTI-DISCRIMINATION

- A. During the performance of this **AGREEMENT**, the **COMPANY** agrees as follows:
1. The **COMPANY** will not, and will require that its Contractors not, discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or disabilities, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the **COMPANY** or its Contractor exists. The **COMPANY** agrees to, and will require its Contractors to, post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 2. The **COMPANY**, in all solicitations or advertisements for employees placed by or on behalf of the **COMPANY** or its Contractors, will state, and require that its Contractors state, that such **COMPANY** or Contractor is an equal opportunity employer.
 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.
- B. The **COMPANY** and its Contractors will include the provisions of the foregoing paragraphs 24.A.1; 24.A.2; and 24.A.3 in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

II CERTIFICATIONS: The **COMPANY** certifies to the **DMME** that it is, to the best of its knowledge and belief, in compliance, and will continue in compliance, and it will require that its Contractors conform, to the following Acts, as amended:

1. State and Local Government Conflict of Interests Act;
2. General Assembly Conflict of Interests Act;
3. Virginia Freedom of Information Act;
4. Virginia Fair Employment Contracting Act;
5. Virginia Governmental Frauds Act;
6. Virginia Public Procurement Act;
7. Virginians with Disabilities Act;
8. Americans with Disabilities Act;
9. Federal Immigration Reform and Control act of 1986; and
10. Federal statutes relating to nondiscrimination, including but not limited to:
 - Title VI of the Civil Rights Act of 1964 (P.L. 88-352) (prohibits discrimination on the basis of race, color or national origin);
 - Title IX of the Education amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686) prohibits discrimination on the basis of sex;
 - Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C., Section 794) prohibits discrimination on the basis of handicaps;
 - The Age Discrimination Act of 1975, as amended (42 U.S.C., Sections 6101-6107) which prohibits discrimination on the basis of age;

The Drug Abuse Office and Treatment Act of 1972 (P.L. 93-255), as amended, relating to non-discrimination on the basis of drug abuse;

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism:

Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C., 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

Title VIII of the Civil Rights Act of 1968 (42 U.S.C., Section 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; and/or

Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and the requirement on any other nondiscrimination statute(s) which may apply to the AML AWARD or this Agreement.

11. Federal Lobbying Act, 31 U.S.C.A., Section 1352 (entitled, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions, and the Virginia Lobbying Disclosure and Regulation Act, Sec. 2.1-779 through 2.1-794, Code of Virginia, 1950 as amended, including, without limitation, obtaining and delivering to the **DMME** all necessary certifications and disclosures.
12. Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment

of persons displaced or whose property is acquired as a result of Federal and federally assisted programs. These requirements apply to all interest in real property acquired for Project purposes regardless of Federal participation in purchases.

13. Hatch Act (5 U.S.C., Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
14. Copeland Act (40 U.S.C., Section 276c and 18 U.S.C., Section 874), the Contract Work Hours and Safety Standards Act (40 U.S.C., Sections 327-333) regarding labor standards for federally assisted construction sub-agreements.
15. Flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
16. Environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of Project's consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C., Sections 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176 (c) of the Clean Air Act of 1955, as amended (42 U.S.C., Section 7401 et seq.); (g) protection of underground

sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

17. Wild and Scenic Rivers Act of 1968 (16 U.S.C., Sections 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
18. The **COMPANY** shall assist the **DMME** in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
19. 40 CFR 122-EPA Storm Water Regulations; PL 92-500, Section 404 – Utility Crossings of Navigable Waters – U.S. Army Corps of Engineers; Code of Virginia, Title 10.1, Chapter 5, Article 4 - Erosion and Sediment Control Law – Soil and Water Conservation Commission; VR 625-02-00 – Erosion and Sediment Control Regulations; Code of Virginia, Title 62.1, Chapter 3.1, Article 44 – State Water Control Law; VR 680-15-02 – Virginia Water Protection Permit; Code of Virginia, Title 62.1, Chapter 3 – Sub-aqueous Bed Permit – Marine Resources Commission.

III. OBLIGATION OF DMME

DMME will:

1. Review and submit to the **COMPANY** comments on the Reclamation Plan to monitor adherence to AML Award conditions and obligations.

2. Provide administration of the Project, document the costs and expenses incurred by **DMME**, document the findings necessary to qualify the Project as a government financed construction project as contemplated by Va. Code § 45.1-253.2 and 4 VAC 25-130 Part 707 of VSMCRA, including those costs noted in the NEPA document.
3. Document eligibility of the Project for funding by securing an Authorization to Proceed from the federal Office of Surface Mining.
4. Designate a Project Inspector to monitor the site and to serve as contact to the **COMPANY**.
5. Provide the **COMPANY** with consultations and information that are available and reasonably required for Project purposes.
6. Contract to have trees planted on the site following **COMPANY**'s excavation, backfilling, grading, and seeding.
7. Release **COMPANY**'s bond upon the successful completion of the **PROJECT**.
8. **SAFETY INSPECTIONS OF CONTRACTOR EQUIPMENT ON JOB SITE:**
DMME reserves the right to conduct safety inspections of contractor and/or sub-contractor owned/or leased equipment delivered to or present at an AML construction site. DMME shall conduct a pre-construction safety inspection of all equipment at the site as identified on the equipment list for the project as provided by the contractor. If any previously unidentified equipment is delivered to the site for use, the contractor shall contact the Inspector/Contract Administrator to conduct a safety inspection of that equipment prior to its use. The agency may also conduct equipment safety inspections at any time during the contract period while the equipment is on site. Inspections shall be in accordance with established DMME

inspection criteria and evidenced by a safety inspection checklist (see attachment).

DMME requires that the contractor perform a daily pre-shift inspection of all equipment prior to its use each day. DMME can provide a template of the Surface Equipment Inspection Pre-operational Exam Checklist upon request.

IV. TERM OF AGREEMENT

This Agreement shall be effective as of the 5th day of December 2018 and shall expire on March 31, 2021.

VI. FINANCIAL/COMPLIANCE RECORDS AVAILABILITY

The **COMPANY** agrees to retain and provide reasonable access to all books, records, and other documents relative to this Agreement for five (5) years after final payment or until audited by the Commonwealth of Virginia and the OSM, whichever is later. **DMME**, its authorized agents, and/or State and Federal auditors shall have full access to and the right to examine any of said materials during said period at reasonable times and upon 24 hours advance notice.

VII. CONSTRUCTION ASSURANCES

The **COMPANY** hereby assures and certifies that they shall comply with the laws, regulations, policies, guidelines and requirements, including OMB Circulars No. A-95, A-102, and FMC 74-4, as they relate to the application, acceptance and use of Federal funds for this federally assisted Project. Also, the **COMPANY** gives assurance and certifies that:

1. The **COMPANY** shall cause work on the Project to be commenced within a reasonable time after **NOTIFICATION TO PROCEED** from the **DMME** and that the **COMPANY** will prosecute the Project to completion with reasonable

diligence. The **COMPANY** will keep the **DMME** informed of Project progress and delays.

2. The **COMPANY** shall not dispose of or encumber its title or other interests in Property, including the Project, and facilities located thereon during the period of Federal interest or while the Government holds bonds, whichever is the longer.
3. During the term of this Agreement, the **COMPANY** shall not dispose of, modify the use of, or change the terms of the real property title, or other interest in the Property, including the Project, and facilities without permission and instructions from the **DMME**. The **COMPANY** shall record the federal interest in the title of Property in accordance with **DMME** directives and shall include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the Project.

VIII. EXECUTION OF AGREEMENT

This Agreement shall be executed on behalf of the **COMPANY** by such person or persons as are authorized to act on behalf of the **COMPANY** pursuant to law, and on behalf of the **DMME** by the Deputy Director of the Department of Mines, Minerals and Energy.

OBLIGATION TO COMPLETE

If the delivery of supplies, services, materials or equipment is not fully performed in accordance with the terms of the contract by the time specified in the contract, the contractor

agrees to complete the remaining or incomplete work at its own expense; except that the accomplishment be delayed by any act, negligence, or default on the part of the Commonwealth or OSM, public enemy, war, embargo, fire, explosion or Act of God (including without limitation, adverse weather conditions) not caused by the negligence or intentional act of the contractor or his supplier(s), or by riot, sabotage, or labor trouble that results from a cause or causes entirely beyond the control or fault of the contractor or his supplier(s), a reasonable extension of time as the procuring public body deems appropriate may be granted. Upon receipt of a written request and justification for an extension from the contractor, the purchasing office, with the approval of the Deputy Director, may extend the time by issuing a Change Order for performance of the contract or delivery of goods herein specified at the purchasing office's sole discretion.

It shall also be known and understood by both parties that if the contract expires and the delivery of supplies, services, materials or equipment has not been fully performed in accordance with the terms of the contract, it is determined the Commonwealth is not at fault, and grant funding for the contract has expired, the contractor shall, at the contractor's sole cost and expense, complete its obligations under the contract.

IX. INTEGRATION AND MODIFICATION

This Agreement constitutes the entire understanding between the **COMPANY** and **DMME**. No alteration, amendment or modification in the provisions of this Agreement shall be effective unless it is reduced to writing, signed by the parties, and attached hereto.

X. TERMINATION OF AGREEMENT

Any failure by a party to perform any obligation under this Agreement shall constitute a breach of the Agreement. Upon breach of the Agreement by a party, the other party may, at its option, declare its intention to terminate the Agreement unless the breach is cured by the party breaching the Agreement. Such declaration shall be in writing to the party in breach stating the intention to terminate, the reason(s) therefore and the action necessary to cure the breach. Upon receipt of notice of intention to terminate, the party in breach shall have 60 days to take the curative action and avoid termination. The **DMME** shall not be obligated to pay for any services or work performed after the notice of intention to terminate.

XI. DEFAULT

In case of **COMPANY's** failure to deliver goods or services in accordance with the agreement terms and conditions, **DMME**, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchases and administrative cost. This remedy shall be in addition to any other remedies, which the Commonwealth may have. The **DMME** may also act to forfeit **COMPANY's** bond in accordance with regulations promulgated under 45.1-247 of the Code.

XII. NOTICE

Any notice required hereunder shall be made in writing to the applicable party at the following addresses:

DMME

Lesa C. Baker
AML Projects Coordinator
P. O. Drawer 900
Big Stone Gap, VA 24219
Phone No. 276-523-8216

COMPANY

Kevin Large, Manager
Russell County Reclamation, LLC
2700 Lee Highway Suite A
Bristol, VA 24202
Phone No. 276-669-7851

ADDITIONAL NOTIFICATIONS

TBA
TBA
TBA
TBA

For purposes of this Agreement, the notice shall be deemed received if mailed by certified mail, return receipt requested to the above addresses on the date of the first notice of delivery by the post office. Failure to pick up the notice in response to the notices of delivery shall not constitute a defense to receipt hereunder.

XIII. NON-WAIVER CLAUSE

No review, approval, acceptance of nor payment for any of the services required by **DMME** shall be construed to operate as a waiver of any rights of or any cause of action arising out of the performance of the contract. Notwithstanding any contrary provision contained herein, the **COMPANY** shall be and remain liable to the **DMME** for all costs of any kind which are incurred by the **DMME** as a result of a negligent act, errors or omissions of the **COMPANY** or its Contractor in the performance of any of the services furnished.

XIV. GOVERNING LAW

This Agreement shall be deemed executed in Wise County, Virginia. The execution, interpretation and enforcement of this Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to any conflict of laws or principles.

XV. NON-APPROPRIATION

All contracts for products and services and all payment obligations under the **AML AWARD** and this Agreement are subject to appropriated **AML** funds being available for expenditure for that purpose. The **DMME** shall promptly notify the **COMPANY** of any action denying such funding. In such event, any outstanding contract shall be cancelled without further obligation to the extent the affected products or services have not yet been duly delivered and accepted.

If any purchases are to be supported by federal funding, and such funding is not made available, the DMME may terminate the contracts for goods or services which are so dependent on such federal funds without further obligation.

XVI. ENTIRE AGREEMENT


This Agreement incorporates and contains the entire agreement and understanding between the parties, and there are no oral understandings, terms or conditions not herein recited, and neither party has relied upon any representations, expressed or implied, not incorporated or contained in this Agreement and its attachments.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives as of the day and year first above written.

Russell County Reclamation, LLC

COMMONWEALTH OF VIRGINIA
DEPT. OF MINES, MINERALS & ENERGY
DIVISION OF MINED LAND RECLAMATION

BY: 

BY: 

Manager
(Title)

Deputy Director
(Title)

December 5, 2018
(Date)

December 5, 2018
(Date)

ATTACHMENT A

GOLDEN POND GOB PILE REMOVAL PROJECT

- A. Categorical Exclusion Determination (NEPA)
- B. NEPA Consultation Letters
- C. Safety Inspection Checklist
- D. Plat of Property

ATTACHMENT A

GOLDEN POND GOB PILE REMOVAL PROJECT

- A. Categorical Exclusion Determination (NEPA)
- B. NEPA Consultation Letters
- C. Safety Inspection Checklist
- D. Plat of Property

Categorical Exclusion Determination (NEPA)



CATEGORICAL EXCLUSION CERTIFICATION AND DETERMINATION

GOLDEN POND GOB REMOVAL PROJECT – SITE No. 18302
RUSSELL COUNTY, VIRGINIA
FY18 AML CONSOLIDATED GRANT

PREPARED BY:
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINED LAND RECLAMATION

July 26, 2018

**ABANDONED MINE LANDS
CATEGORICAL EXCLUSION CERTIFICATION AND DETERMINATION**

State: Virginia

Problem Area Number: VA-0821 South Clinchfield

Project Name: Golden Pond Gob Pile Removal Project – Site No. 18302

Cost Breakout by PAD:

VA-0821

32.0 AC P3 GO @ \$1,774,080 AFS

Total GO: 32.0 AC P3 GO \$10,000 ENH

VA-0821 Total Cost: \$1,784,080

Total Project Cost: \$1,784,080

The FY2018 Golden Pond Gob Pile Removal Project (Site No. 18302), is located off State Route 615, along Dumps Creek, south of South Clinchfield in Russell County, Virginia. Project area mapping is comprised of a section of the Carbo USGS 7.5 Minute Quadrangle. The project coordinates are 82° 10' 44.21"W and 36° 57' 38.77"N. The project area is contained within the South Clinchfield Problem Area, VA-0821. Reclamation will include eliminating a Priority 3 Gob Pile (GO) that resulted from mining that occurred prior to August 3, 1977.

To accomplish the project, the DMME, DMLR will contract with a licensed contractor or qualifying individual meeting the requirements of §45.1-261.1 of the Code of VA and the regulations promulgated pursuant thereto. DMME's financial contribution to the project is estimated to be less than 50 percent of the project cost. This type and level of funding allows DMME to consider the AML project as government-financed construction under §4 VAC 25-130 Part 707. The prospective contractor is Russell County Reclamation, LLC.

This AML enhancement construction will be governed by the OSM approved VA program definition changes to the term "government-financed construction" (64 FR 72277-72280, December 27, 1999), in conjunction with the OSM approved VA Abandoned Mine Land Reclamation (AMLR) Plan revision that allows coal removal strictly incidental to AML hazard abatement construction by contractors without a Title V permit, in order to offset Federal AML reclamation costs (65 FR 1063-1065, January 7, 2000). Implementing the approved AML enhancement provisions at this site will result in DMLR expending Federal AML funding only for non-emergency AML administration costs. DMLR construction cost estimates showing this Federal AML funding will involve less than 50% of the project costs. A construction project cost of \$1,784,080 is estimated to eliminate AML hazards consisting of 32 acres of Priority 3 Gob

The company will be required to implement effective sediment and dust control measures along any roads and obtain any permits required by the Virginia Department of Transportation. The contractor will also be required to maintain access roads to prevent tracking material onto state roads. The contractor will submit proof it has obtained all necessary VDOT permits before commencing any work and will be required to adhere to permit terms and conditions. The contractor is required to have an approved ground control plan prior to commencing reclamation.

All work associated with the project is located in upland areas and no impacts to "Waters of the U.S.", as defined by the Code of Federal Regulations 40 CFR 230.3(s). Additionally, no impacts to "Waters of the U.S." will occur where the total drainage area equals or exceeds five (5.0) square miles. If for any reason the scope of work is changed during the design process that would result in impacts to "Waters of the U.S.", the U.S. Army Corps of Engineers will be contacted and all applicable regulatory permits obtained prior to performing the work.

DMLR will ensure the contractor strictly adheres to Virginia's erosion and sediment control provisions to prevent discharge of sediment to state waters and assure no provisions of VA's State Water Quality Standards are violated. No work will begin until the contractor obtains necessary permits, or documents that permits will not be required, from the Virginia Department of Environmental Quality (DEQ) or the U. S. Army Corps of Engineers (USACE).

Within 60 days of initiation of work, the contractor is to employ at least one individual who has obtained Virginia Department of Conservation and Recreation certification as a Responsible Land Disturber. Sediment control measures may include installing filter fabric fences, constructing weep berms, and routing runoff through sediment control structures within active work areas. Where necessary to protect against erosion, the contractor will install riprap channels, water socks, or other acceptable devices. Drainage will primarily be contained within the structure. If necessary water may be pumped from the structure into sediment ponds permitted under VDMLR permit 1302253. Any discharges from those structures will be required to meet the NPDES standards for the permit.

Reclamation of the structure following gob removal will be addressed by the Project Reclaim. Following complete gob pile removal, topsoil material will be obtained from areas approved under Project Reclaim, if needed. Following any needed topsoiling and final grading, the company will seed and mulch the areas with a seed mix certified weed-free of non-invasive species selected from the revegetation species list agreed upon by the Division of Mined Land Reclamation and the U. S. Fish and Wildlife Service as documented by letter dated June 21, 2000.

Personnel trained to conduct external portal surveys, for bat habitat suitability, from the Virginia Division of Mined Land Reclamation (DMLR) have determined that there are no portals associated with this reclamation project that will be effected. However, if portals are discovered within the construction work limits during reclamation, DMLR will do the following: (1) Conduct bat habitat studies; (2) Provide results to appropriate agencies; (3) If studies provide data that would warrant bat closures, then DMLR will close the newly discovered portals with the appropriately designed bat closure.

the implementation of and strict adherence to applicable state and local erosion and sediment control/storm water management laws and regulations. Due to the legal status of several of the species associated with this site, DCR also recommends coordination with the U.S. Fish and Wildlife Service (USFWS) and VDGIF, Virginia's regulatory authority for the management and protection of these species to ensure compliance with protected species legislation.

The Virginia Department of Environmental Quality (DEQ) – The Department of Environmental Quality has no objections to the project provided that the applicant abides by all applicable state, Federal, and local laws and regulations. Prior to construction, all permits and approvals must be obtained. In general, development must incorporate features which prevent significant adverse impacts on ambient air quality, water quality, wetlands, historic structures, fish wildlife, and species of plants, animals, or insects listed by state agencies as rare, threatened, or endangered.

The Department of Historic Resources (DHR) – The Department of Historic Resources states that “Review of our inventory files shows that there are no recorded historic districts, structures or archaeological sites within the project’s area of potential effects. In addition it is our opinion that no further identification efforts are warranted. Based upon the documentation provided, we recommend a finding of No Historic Properties Affected for the proposed reclamation project.” DHR’s V-CRIS mapping shows no historic resources in the proposed project areas.

The Natural Resources Conservation Service (NRCS) – The National Resources Conservation Service responded that the proposed project addresses the basic NRCS environmental, erosion, and sediment control concerns. The proposed reclamations also seem to conform closely to presently practiced reclamation goals and standards. It is our position that these worthwhile projects should be implemented.

The United States Army Corps of Engineers (USACE) – The United States Corps of Engineers did not respond to the consultation letter.

The United States Fish and Wildlife Service (USFWS) – The United States Fish and Wildlife Service responded that “We certify that use of the online project review process in strict accordance with the instructions provided as documented in the enclosed project review package results in reaching the appropriate determinations. Therefore, we concur with the “no effect” or “not likely to adversely affect” determinations for proposed and listed species and proposed and designated critical habitat; the “may affect” determination for Northern long-eared bat; and/or the “no Eagle Act permit required” determinations for eagles. Additional coordination with this office is not needed.”

The Virginia Department of Game and Inland Fisheries (VDGIF) – The Virginia Department of Game and Inland Fisheries did not respond to the consultation request letter. VDGIF databases were searched as a requirement of the USFWS online consultation.

The Virginia Marine Resources Commission (VMRC) – The Virginia Marine Resources Commission noted that a permit may be required if the scope of work includes direct

YES RESPONSES REQUIRE SUBMISSION OF AN ENVIRONMENTAL ASSESSMENT

I. GENERAL EXCEPTIONS

Does the project specifically require an EA in 516 DM 6, Appendix 8, as specified in Item I of the instructions?

No (X) Yes ()

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

A significant adverse effect on public health or safety?

No (X) Yes ()

An adverse effect on any of the following unique geographic characteristics?

No (X) Yes ()

() Parks (State, Local, or National)

() Wild or Scenic Rivers

() Recreation or Refuge Lands

() Wetlands

() Wilderness Areas

() Floodplains

() Ecologically Significant or Critical Areas

() Sole or Principal Drinking Water Aquifers

() Prime Farmlands

Highly controversial environmental effects?

No (X) Yes ()

Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks?

No (X) Yes ()

A precedent for future action or a decision in principle about future actions with potentially significant environmental effects.

No (X) Yes ()

() Fish and Wildlife

socioeconomics)

V. RESPONSIBLE OFFICIAL CERTIFICATION

Signature: *Lesa Baker*

Date: July 25, 2018

Lesa Baker
AML Project Coordinator

VI. OSM DETERMINATION

- () This project conforms with the exclusion criteria in 516 DM 6, Appendix 8, and is excluded from further NEPA compliance.
- () This project does not conform with the exclusion criteria in 516 DM 6, Appendix 8, and requires an environmental assessment.

Signature: _____

Date: _____

Manager
Big Stone Gap Area Office

Lynn Camp Portals Drilling Project FY16 Project No. 17501

The Lynn Camp Portals Drilling project consists of multiple project sites which are located along and adjacent to State Route 655 (Lynn Camp Branch Road), in Buchanan County, Virginia.

Coordinates for approximate project location centers are:

82° 9' 70.451"W and 37° 19' 21.167"N

82° 9' 0.245"W and 37° 19' 27.831"N

82° 8' 43.06"W and 37° 19' 37.209"N

The project is located within the Stillner Creek Problem Area VA-0156. Project area mapping is comprised of a section of the Harman USGS 7.5 Minute Quadrangle Map. The work to be performed consists of the construction of access roads, erosion and sediment control measures, excavation and re-grading in order to establish 3 drilling sites. Vertical drilling will be performed at each of these locations in order to determine the water levels inside the abandoned mines. The water levels must be determined in order to develop a plan to safely de-water the mine pools. All disturbed areas will be promptly re-vegetated using seed mixtures agreed upon by state and federal agencies. The total projected amount of disturbance is less than 15 acres. The Virginia Department of Historic Resources (V-CRIS) does not identify historic resources at this project area. All work associated with the project is located in upland areas and no impacts to "Waters of the U.S.", as defined by the Code of Federal Regulations 40 CFR 230.3(s), or to FEMA mapped floodplains will occur. If for any reason the scope of work is changed during the design process that would result in impacts to "Waters of the U.S.", the U.S. Army Corps of Engineers will be contacted for a jurisdictional determination and all applicable regulatory permits will be obtained prior to performing the work.

Golden Pond Gob Removal FY16 Project No. 18302

This project area is located in Russell County, Virginia approximately 2.2 miles South of South Clinchfield on Hurricane Fork. Project area mapping is comprised of a section of the Carbo 7.5 Min Quadrangle Map. The project coordinates are 81° 10' 44.21"W and 36° 57' 38.77"N. The project is located within two problem areas, Problem Area VA-0820 Lake Bonaventure and Problem Area VA-0811 South Clinchfield. The project proposes to completely remove a coal waste or gob feature. The AML feature known as "Golden Pond" is a 32 acre AML gob pile site (mapped as a Tailings Pond) and is AML eligible. The area was initially included in the Chapter 19 permit application for Clinchfield Coal Company (Moss 3) Permit Number 1300481 (issued 12/19/1983) and noted as Pond 7. The description therein notes "Pond 7 is in the process of being eliminated from the permit. All mapping both current and historic do not show any evidence this structure was ever affected by a Title V permit. The structure has since been deleted from the Title V permit. Strict erosion and sediment control measures will be implemented throughout construction and all disturbed areas will be promptly re-vegetated using seed mixtures agreed upon by state and federal agencies. The Virginia Department of Historic Resources - (VCRIS) does not indicate the presence of any historic features within the immediate project area. A jurisdictional determination will be obtained from the USACE prior to work being conducted at the site to determine if the structure is classified as "Waters of the U.S.". If the area is determined to be jurisdictional then all applicable regulatory permits will be obtained prior to performing the work. The project area is classified as a FEMA Zone A for Dumps Creek. Despite being in the flood plain, no impacts to Dumps Creek are proposed.

Appendix B - NEPA Consultation Response Letters



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHWEST REGIONAL OFFICE
315-A Deacons Street, Abingdon, Virginia 24210
Phone (276) 676-4800 Fax (276) 676-1899
www.deq.virginia.gov

Mark Strickler
Secretary of Natural Resources

David E. Taylor
Director

Jeffrey L. Ward
Regional Director

June 15, 2018

Lesia C. Baker
Abandoned Mine Land Coordinator
Department of Mines, Minerals, and Energy
PO Drawer 900
Big Stone Gap, Virginia 24219-0900

Re: AML Projects 0218-2

Dear Ms. Baker:

The Department of Environmental Quality (DEQ) fully supports the elimination of unsafe and hazardous conditions in Virginia's Coalfields. The citizens of Virginia will benefit from improvement of conditions at these sites. All upland projects will include sediment and erosion control measures and seeding of disturbed areas will utilize non-invasive species.

Dwina Phase II Project FY16 Project No. 16514

This project area is located in the Dwina community of Wise County. This is phase II of the Dwina Subsidence Emergency Project. Reclamation will include eliminating six P2 Portals and one hazardous equipment and facilities.

Lynn Camp Portals Drilling Project FY16 Project No. 17583

The project is located within the Stillner Creek Problem Area. The project consists of the construction of access roads, erosion and sediment control measures, excavation and regrading in order to establish three drilling sites in order to determine the water levels inside the abandoned mines. The water levels must be determined in order to develop a plan to safely de-water the mine pools.

Golden Ford Gob Removal FY18 Project No. 18392

This project area is located in Russell County, Virginia, South of South Clinchfield on Hurricane Fork. The project proposes to completely remove a coal waste or gob feature.

6/18/2018

Commonwealth of Virginia Mail - Fwd: Abandoned Mine Land Reclamation Project, Agency Consultations



Baker, Lesa <lesa.baker@dmme.virginia.gov>

Fwd: Abandoned Mine Land Reclamation Project; Agency Consultations

1 message

Sanders, Rebecca <becky.sanders@dmme.virginia.gov>
To: Lesa Baker <lesa.baker@dmme.virginia.gov>

Wed, Jun 13, 2018 at 8:44 AM

----- Forwarded message -----

From: Jeffrey Madden <jm.madden@mrc.virginia.gov>
Date: Wed, Jun 13, 2018 at 8:20 AM
Subject: RE: Abandoned Mine Land Reclamation Project; Agency Consultations
To: Rebecca Sanders <becky.sanders@dmme.virginia.gov>

Should any of these projects result in any direct encroachments over State-owned submerged lands, a permit may be required.

From: Sanders, Rebecca [mailto:becky.sanders@dmme.virginia.gov]
Sent: Tuesday, June 12, 2018 2:25 PM
To: mnhreview <mnhreview@dcr.virginia.gov>; Teresa Frazier <teresa.frazier@doq.virginia.gov>;
william.kittrell@dgs.virginia.gov; Ethel Eaton <ethel.eaton@dnc.virginia.gov>; Jennifer S. Frye <jennifer.s.frye@usace.army.mil>;
cjoire_trent@usace.army.mil; mathew.lyons@va.usda.gov; svfo@fws.gov; Jeffrey Madden
<jeff.madden@mrc.virginia.gov>
Cc: Lesa Baker <lesa.baker@dmme.virginia.gov>
Subject: Abandoned Mine Land Reclamation Project; Agency Consultations

The Abandoned Mine Land (AML) Section of the Department of Mines, Minerals and Energy's Division of Mined Land Reclamation is notifying agencies of additional projects for 2018. In order to prepare environmental documents for the projects, we request that you review and provide any comments to us by July 12, 2018.

Thank you!

Becky Sanders
VA Dept. of Mines, Minerals and Energy
P.O. Drawer 900
3485 Mountain Empire Rd.
Big Stone Gap, VA 24218
becky.sanders@dmme.virginia.gov

https://mail.google.com/mail/?ui=2&ik=1434e9302&never=1270c42vw0er.5ctj|gmail_fc_180412_59_p01&row=pt1&search=box&th=1631822832024 1/2

From: Lyons, Mathew - NRCS, Richmond, VA <mathew.lyons@va.usda.gov>
Date: Mon, Jun 18, 2018 at 8:13 AM
Subject: RE: Abandoned Mine Land Reclamation Project; Agency Consultations
To: "Sanders, Rebecca" <becky.sanders@dmme.virginia.gov>, Lesa Baker <lesa.baker@dmme.virginia.gov>

Thank you for the opportunity to review and comment on the Dwina Phase II Project FY16 Project No. 16524 in Wise County, the Lynn Camp Portals Drilling Project FY 16 Project No. 17503 in Buchanan County, the Golden Pond Gob Removal FY18 Project No. 18302 in Russell County and the Upper Hurricane Fork Portals Project FY16 Project No. 14514 in Dickenson County.



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Virginia Field Office
6669 Short Lane
Gloucester, VA 23061

Date: 06/28/18

Self-Certification Letter

Project Name: Golden Pond Gob Removal

Dear Applicant:

Thank you for using the U.S. Fish and Wildlife Service (Service) Virginia Ecological Services online project review process. By printing this letter in conjunction with your project review package, you are certifying that you have completed the online project review process for the project named above in accordance with all instructions provided, using the best available information to reach your conclusions. This letter, and the enclosed project review package, completes the review of your project in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 834), as amended (ESA), and the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c, 54 Stat. 250), as amended (Eagle Act). This letter also provides information for your project review under the National Environmental Policy Act of 1969 (P.L. 91-190, 43 U.S.C. 4321-4347, 83 Stat. 852), as amended. A copy of this letter and the project review package must be submitted to this office for this certification to be valid. This letter and the project review package will be maintained in our records.

The species conclusions table in the enclosed project review package summarizes your ESA and Eagle Act conclusions. These conclusions resulted in:

- "no effect" determinations for proposed/listed species and/or proposed/designated critical habitat, and/or
- "may affect, not likely to adversely affect" determinations for proposed/listed species and/or proposed/designated critical habitat, and/or
- "may affect, likely to adversely affect" determination for the Northern long-eared bat (*Myotis septentrionalis*) and relying on the findings of the January 5, 2016 Programmatic Biological Opinion for the Final 4(d) Rule on the Northern long-eared bat, and/or
- "no Eagle Act permit required" determinations for eagles.



COMMONWEALTH of VIRGINIA

Department of Historic Resources
2801 Kensington Avenue, Richmond, Virginia 23221

Matt Stratton
Secretary of Natural Resources

Julie V. Longo
Director

Tel: (804) 367-2323
Fax: (804) 367-2301
www.dhr.virginia.gov

July 25, 2018

Lesa Baker, Abandoned Mine Land Coordinator
Department of Mines, Minerals and Energy
P. O. Drawer 900
Big Stone Gap, Virginia 24219-0900

Re: Golden Pond Gob Removal FY18 Project No. 18302
Russell County, Virginia
DHR File No. 2018-0512

Dear Ms. Baker:

Thank you for your letter of June 12, 2018 requesting the Department of Historic Resources' comments on the referenced reclamation project. Review of our inventory files shows that there are no recorded historic districts, structures or archaeological sites within the project's area of potential effects. In addition it is our opinion that no further identification efforts are warranted. Based upon the documentation provided, we recommend a finding of No Historic Properties Affected for the proposed reclamation project.

If you have any questions concerning our comments, or if we may provide any further assistance, please do not hesitate to contact me roger.kirchen@dhr.virginia.gov.

Sincerely,


Roger W. Kirchen, Director
Review and Compliance Division

Eastern Region Office
2801 Kensington Avenue
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Western Region Office
962 Kiva Lane
Salem, VA 24153
Tel: (540) 387-5443
Fax: (540) 387-5444

Northern Region Office
5153 Main Street
PO Box 520
Shelburne City, VA 22868
Tel: (540) 868-7029
Fax: (540) 868-7033

Matthew J. Slaughter
Secretary of Natural Resources

Clyde E. Crutcher
Director



COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

Rochelle Albright
Deputy Director of
Administration and Finance

Russell W. Rector
Deputy Director of
Land Safety & Floodplain
Management and Soil & Water
Conservation

Thomas L. Smith
Deputy Director of Operations

July 10, 2018

Lesa Baker
Virginia Dept. of Mines, Minerals and Energy
P.O. Drawer 900
Big Stone Gap, VA 91242

Re: Drains, Lynn Camp, Golden Pond and Upper Hurricane Fork Abandoned Mine Lane Reclamation Projects

Dear Ms. Baker:

The Department of Conservation and Recreation's Division of Natural Heritage (DCR) has searched its Biotics Data System for occurrences of natural heritage resources from the area outlined on the submitted map. Natural heritage resources are defined as the habitat of rare, threatened, or endangered plant and animal species, unique or exemplary natural communities, and significant geologic formations.

Drains Phase II (Project No. 16524) and Golden Pond (Project No. 18302)

According to the information currently in our files, the Clinch River - Little River Stream Conservation Unit (SCU) is located downstream from the project site. SCUs identify stream reaches that contain aquatic natural heritage resources, including 2 miles upstream and 1 mile downstream of documented occurrences, and all tributaries within this reach. SCUs are also given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain. The Clinch River - Little River SCU has been given a biodiversity ranking of B1, which represents a site of very high significance. The natural heritage resources associated with this site are:

<i>Akamodonta marginata</i>	Elktoe	G4/S1/S2/NL/NL
<i>Apalone spiniferus</i>	Spiny softshell	G3/S2/NL/NL
<i>Aplousilurus grumens</i>	Freshwater drum	G1/S2/NL/NL
<i>Cynobranchius alleghaniensis</i>	Hellbender	G3/G4/S2/NL/NL
<i>Cumberlandia monodonta</i>	Spectacle case	G3/S1/LE/LE
<i>Cyprinella whipplei</i>	Steelhead thiner	G3/S1/NL/LE
<i>Cyprinogenia stegaria</i>	Fan shell	G1/Q/S1/LE/LE
<i>Eliptio crassidens</i>	Elephant ear	G5/S1/NL/LE
<i>Epiplatys brevidens</i>	Cumberland combshell	G1/S1/LE/LE
<i>Epiplatys capraeformis</i>	Oyster mussel	G1/S1/LE/LE
<i>Epiplatys triquetra</i>	Sandbox	G3/S1/LE/LE
<i>Etheostoma caeruleum</i>	Bluebreast darter	G4/S2/NL/NL
<i>Etheostoma cinereum</i>	Ashy darter	G2/G3/S1/SOC/NL
<i>Etheostoma denunciant</i>	Golden darter	G2/S1/SOC/LT
<i>Etheostoma maculata</i>	Bluespinner darter	G4/S2/NL/NL
<i>Etheostoma peruvianum</i>	Duskytail darter	G2/S1/LE/LE

600 East Main Street, 14th Floor | Richmond, Virginia 23219 | 804-786-6124

State Parks • Soil and Water Conservation • Outdoor Recreation Planning
Natural Heritage • Dam Safety and Floodplain Management • Land Conservation

regulatory authority for the management and protection of these species to ensure compliance with protected species legislation.

Lynn Camp (Project No. 17563)

According to the information currently in our files, the Home Creek Stream Conservation Unit is located downstream from the project site. Stream Conservation Units (SCUs) identify stream reaches that contain aquatic natural heritage resources, including 2 miles upstream and 1 mile downstream of documented occurrences, and all tributaries within this reach. SCUs are also given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain. The Home Creek SCU has been given a biodiversity ranking of B4, which represents a site of moderate significance. The natural heritage resources associated with this site is:

<i>Cambarus rheiphiensis</i>	Coalfields crayfish	G3/S1/NL/NL
------------------------------	---------------------	-------------

The Coalfields crayfish is a stream-dwelling species that has a restricted range in the Cumberland mountain region of Kentucky, West Virginia and Virginia. Depending on age and size, the Coalfields crayfish's habitat includes shallow riffles, runs and the protective cover of large slab boulders found along banks and in deeper pools (Foltz, 2013). In areas where slabs and boulders are scarce, the Coalfields crayfish burrows extensively in stream banks. Potential threats to the Coalfields crayfish include habitat degradation due to the impacts of coal mining and other land use practices, and the introduction and/or spread of invasive species of crayfish.

In addition, *Levins Fork*, which has been designated by the Virginia Department of Game and Inland Fisheries (VDGIF) as a "Threatened and Endangered Species Water", is downstream from the project site. The species associated with this T & E Water is the Variegate darter (*Zilchastoma variegatum*, G3/S1/NL/LE).

To minimize adverse impacts to the aquatic ecosystem as a result of the proposed activities, DCR recommends the implementation of and strict adherence to applicable state and local erosion and sediment control/stream water management laws and regulations. Due to the legal status of the Variegate darter, DCR recommends coordination with Virginia's regulatory authority for the management and protection of this species, the VDGIF, to ensure compliance with the Virginia Endangered Species Act (VA ST §§ 29.1-563 – 570).

Upper Hurricane Fork (Project No. 14514)

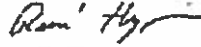
According to the information currently in our files, the McClure – Russell – Frying Pan Creek Stream Conservation Unit (SCU) is located within the project site. SCUs identify stream reaches that contain aquatic natural heritage resources, including 2 miles upstream and 1 mile downstream of documented occurrences, and all tributaries within this reach. SCUs are also given a biodiversity significance ranking based on the rarity, quality, and number of element occurrences they contain. The McClure – Russell – Frying Pan Creek SCU has been given a biodiversity ranking of B3, which represents a site of high significance. The natural heritage resources associated with this site are:

<i>Cambarus jeckerhakei</i>	Spiny scale crayfish	G3/S1/NL/NL
<i>Cambarus callinax</i>	Big Sandy crayfish	G2/S1/S2/LT/LE

The Spiny scale crayfish has a restricted range in southwestern Virginia and eastern Kentucky and Tennessee. In Virginia, it is found in first and second order spring-fed streams draining into the Powell River, living under rocks in mid-stream and along stream edges (Thoma, 2000). Please note that this species is listed as a species of concern by the Virginia Field Office of the United States Fish and Wildlife Service (USFWS); however this designation has no legal status.

Threats to the Spiny scale crayfish include degradation of water quality due to deforestation and mining activities which may increase sediment, water temperatures, or pollutant loads (NarusServe, 2009). To minimize adverse

Sincerely,



S. Rana Hynes
VA Natural Heritage Project Review Coordinator

Cc: Ernie Aschenbach, VDGF
Troy Anderson, USFWS

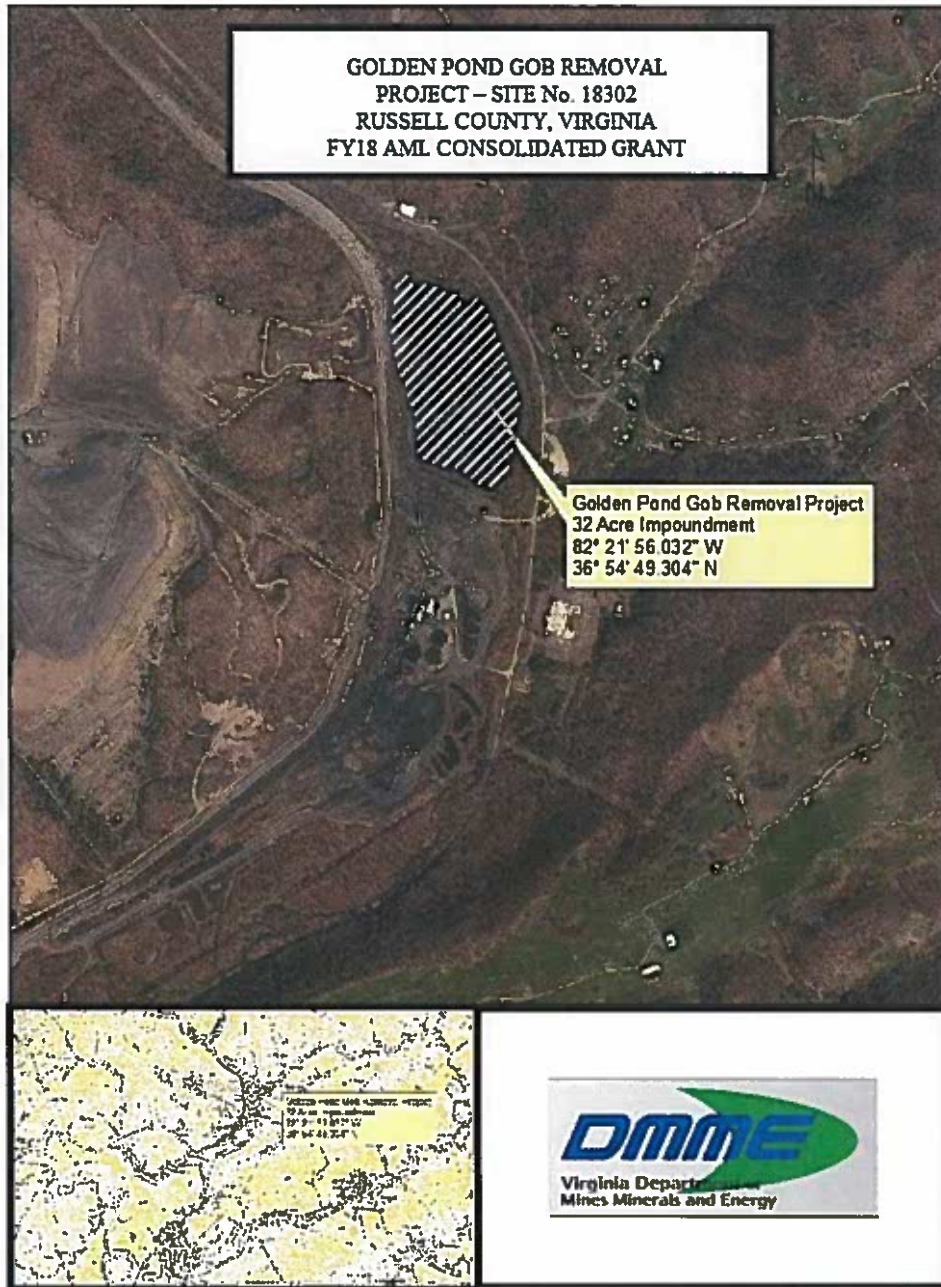
Appendix C - Certified Mail Receipts for Non-Responding Agencies

Please see the screen shot below for the request for comments from DCR, DEQ, DGIF, DHR, ACOE, NRCS, USFWS, and VMRC.

Appendix D - Eligibility Letter

INSERT ELIGIBILITY DOCUMENT

Exhibit A - Location Map



Safety Inspection Checklist

ATTACHMENT B

A. AML Grant Funding Documents – FY2018

B. Golden Pond Gob Pile Removal Project Budget - 0.00

Item No.	Description	Approximate Quantity	Unit	Cost	Total
1.	Mobilization (not to exceed 10%)	Job	L.S.	N/A	<u>0</u>
2.	Site Preparation	Job	L.S.	N/A	<u>0</u>
3.	Excavation	Job	L.S.	N/A	<u>0</u>
4.	Erosion and Sediment Control	Job	L.S.	N/A	<u>0</u>
5.	Channel Construction	Job	LF	\$N/A	<u>0</u>
6.	Revegetation	Job	L.S.	N/A	<u>0</u>

Total construction estimate **\$000**



Surface Equipment Inspection Pre-operational exam checklist 17 07-18

Hauler	Pass or Fail	Excavator	Pass or Fail	Dozer	Pass or Fail
Lights		Lights		Lights	
Wipers		Wipers		Wipers	
Cab conditions		Cab conditions		Cab conditions	
Exhaust system		Exhaust system		Exhaust system	
Front horn		Front horn		Front horn	
Backup alarm		Travel alarm		Backup alarm	
Steering		Steering		Steering clutches	
Glass/mirrors		Glass/mirrors		Glass/mirrors	
Air gauges		Park brake		Park brake	
Engine brake		Service brake		Service brake	
Park brake		Pre-operational record book		Pre-operational record book	
Service brake		Fire extinguisher		Fire extinguisher	
Pre-operational record book		Steps/Hand Rails/ Handholds		Steps/Ladders/Hand Rails/ Handholds	
Fire extinguisher		Platform		Platform	
Steps/Ladders/Hand Rails/ Handholds		Seat & seat belt		Seat & seat belt	
Platform		Doors		Doors	
Seat & seat belt		Accumulations of combustible materials		Accumulations of combustible materials	
Doors		Hydraulic lock out		Emergency stop	
Accumulations of combustible materials		Swing brake		Emergency steering	
Emergency stop		FOPS		ROPS	
Emergency steering		Hydrostatic tram		Hydraulic lock-out	
ROPS		Tracks		Tracks	
Tires		Tracks		Guards	
Guards		Guards			
Skid Steer loader	Pass or Fail	Loader	Pass or Fail	Backhoe	Pass or Fail
Lights		Lights		Lights	
Wipers		Wipers		Wipers	
Cab conditions		Cab conditions		Cab conditions	
Exhaust system		Exhaust system		Exhaust system	
Front horn		Front horn		Front horn	
Backup alarm		Backup alarm		Backup alarm	
Steering		Steering		Steering	
Glass/mirrors		Glass/mirrors		Glass/mirrors	
Park brake		Air gauges		Park brake	
Service brake		Park brake		Service brake	
Pre-operational record book		Service brake		Pre-operational record book	
Fire extinguisher		Pre-operational record book		Fire extinguisher	
Steps/Ladders/Hand Rails/ Handholds		Fire extinguisher		Steps/Ladders/Hand Rails/ Handholds	
Seat & seat belt		Steps/Ladders/Hand Rails/ Handholds		Platform	
Doors		Platform		Seat & seat belt	
Accumulations of combustible materials		Seat & seat belt		Doors	
Emergency stop		Doors		Accumulations of combustible materials	
ROPS		Accumulations of combustible materials		ROPS	
Hydraulic lock-out		Emergency stop		Tires	
Tires/Tracks		ROPS		Guards	
Safety bar		Hydraulic lock-out			
Guards		Tires/Tracks			
		Guards			


The image shows a large, vertically oriented rectangular area with a grid pattern. The grid consists of many thin, closely spaced vertical lines and a few thicker horizontal lines that divide the area into several sections. This pattern is typical of a technical drawing grid or a large table with many columns. The grid is centered on the page and occupies most of the vertical space. There are horizontal bars at the top and bottom of the page, which appear to be part of a header or footer.



Legend

	32 Acre AML Industrial Site
	35 Acre Future Industrial Site Development



 Appalachian Technical Services, Inc. <small>Engineering, Professional Surveying, Logging, & Environmental Services</small> <small>1200 S. 10th Street, Morgantown, WV 26505</small> <small>740.526.1100</small>	RUSSELL COUNTY RECLAMATION, LLC MOSS 3 32-ACRE DEVELOPMENT AREA	Designed By DWM	Date 10/05/2018	Coordinate System VAB3-SF	Sheet 04 of 04
		Drawn By CLR-32	Drawing Number ACRE-DEVELOPMENT-AREA-CLR2	Scale 1" = 800'	
		Checked By DWM	Project Number 1674.01		

ATTACHMENT C

A. Reclamation Plan



**Appalachian
Technical
Services, Inc.**

ENGINEERING, ARCHITECTURE, SURVEYING & ENVIRONMENTAL SCIENCE

September 19, 2018

Lesa C. Baker
AML Proj. Coordinator
VA. Dept of Mines Minerals & Energy
3405 Mountain Empire Road
PO Box 900
Big Stone Gap, VA 24219

RE: Comments on Project Reclaim

Dear Mrs. Baker,

1. Please see revised narrative.
2. The fines narrative has been revised. The drawings have been modified.
3. The backfilling narrative has been updated. A section called "Compaction" has been added.
4. The revision will be updated upon resubmittal. Please see revised narrative.
5. Please see revised bonding narrative.

Sincerely,

David Mullins, P.E.

Introduction:

Russell County Reclamation, LLC (RCR) proposes to remove fine refuse and replace it with 330,000 cubic yards of material that is suitable for the development of an industrial pad. This report details the work necessary to successfully complete this project. This report is based on the proposal submitted to and approved by OSM as "Project Reclaim". RCR proposes no deviation from that original proposal.

Fines Removal:

The 32 acre AML sites known as Golden Pond consists of approximately 25 acres of fines and about 7 acres of associated areas such as the dike between the fines and Dumps Creek.

It is estimated that there is an approximately 500,000 cubic yards of fines in Golden Pond. This is a just an estimate as it is not safe for equipment to travel on the fines. As such, no drilling or exploration has been performed on the fines. An average 15 feet of depth has been assumed. This was developed by plotting the bedrock elevation of Dumps Creek adjacent to the pond. On the north end, Dumps Creek is about 8 feet below the fines level and on south side, near the bridge, the fines are 20 plus feet above Dumps Creek. A backhoe has been used to collect samples on the mid-south area adjacent to the access road. This hole went down 10-12 feet and did hit bottom.

The fines will be removed in zones. These zones, (1,2,3 etc), will contain subzones, (A, B, C etc), of approximately 8,000 cubic yards each. Two subzones may be worked concurrently. The subzones will average 288 feet long based on an average depth of 15' of fines. The 8000 cubic yard number is conservative. As shown on the attached "Fines Removal and Backfill Plan" drawing, the 50 foot reach of the excavator is not vertical. The sides of the pond are not vertical and the backfill (even at angle of repose) is not vertical. The actual "hole" would be significantly less than 8000 cubic yards. The top 4 to 6 feet of fines are dry. This portion can stand at near vertical for long periods (\pm 2 months). Due to the ellipsoid reach of the excavator, the lower level of fines will be removed on an angle (see drawing). It is not anticipated that more than 50 feet width will be disturbed at any given time. The fines will be removed by excavator, backhoe or draglines. The fines will be loaded onto haul trucks and removed to the adjacent RCR permit number 1302253. Here it will be spread for drying purposes and for ultimate disposal. It is the intention of RCR to remove all fines that are technically practical and can be safely removed. All fines will be removed from the building area.

The fines will be removed beginning in zone 1. Generally, the removal will follow the numerical sequence. Zones 4-9 will be the building pad area. Removal will then begin in zone 10 and work northerly until complete.

The main sump will be in zone 1. Zones 1, 2 and 3 will be backfilled and sloped to the main sump.

Backfilling:

The backfilling of Golden Pond will proceed in zones as previously described. The suitable material may come from several locations within the adjacent permit. This material may be unscreened coarse refuse, screened refuse or shot material from borrow areas. Acid-based analyses for the screened and unscreened refuse samples are included in this package. The shot material from the borrow areas has not been tested. The borrow areas are shown on the attached drawing. The zones are shown on the attached map. Also included are cross sections through Golden Pond.

Generally, backfilling will follow the numerical sequence. Zones 4-9 will be the building pad. These areas will be backfilled using material that can best be compacted by the IDA when the site is developed. The backfill of zones 4-9 will be to the grades shown on the attached cross sections.

The upper part of the dike between Golden Pond and the former raw coal stockpile of Permit 1302253 may be removed after zone 10 has been backfilled. This will allow the backfill better to meet the existing grade of the raw coal area. This will also allow drainage from the backfilled areas to flow to Ponds 2, outfall 002 of 1302253.

Compaction

As proposed and approved in Project Reclaim OSM application, Russell County Reclamation, LLC proposed to "backfill" Golden Pond with up to 330,000 cubic yards of material, to create a "rough grade" site suitable for industrial recruitment. At this early time, with no specific tenant, the IDA would not perform specific compaction on an area. Compaction needs vary between tenants and / or buildings. The area will be turned over to the IDA in the approximate "rough grade" as shown on the attached cross section.

The maximum building size for this area was projected to be 100,000 square feet. This is a little over two acres. The remaining acres will be used as parking; laydown yards access roads and storm water management. These areas need no particular compaction.

Finally, as the zones are backfilled, equipment (trucks, excavators, etc) will be routed over the material. This will help compact the backfill.

Sediment Control:

A Main Sump will be developed in the first zone. It will remain the low area for the life of the project. An additional low area in each zone may be developed to capture runoff or water that may seep into the zone. Adjacent zones may use the same low area for drainage control. Water may be pumped from the low areas in the fines to the Main Sump. If necessary, water may be pumped from the main sump into RCR Permit Number 1302253's Pond 2 series

which discharge as Outfall 002. This is being addressed in DMLR Application Number 1010465. It is not anticipated that this will be a continual pumping operation. The Main Sump will tend to clarify the water prior to pumping to Pond 2

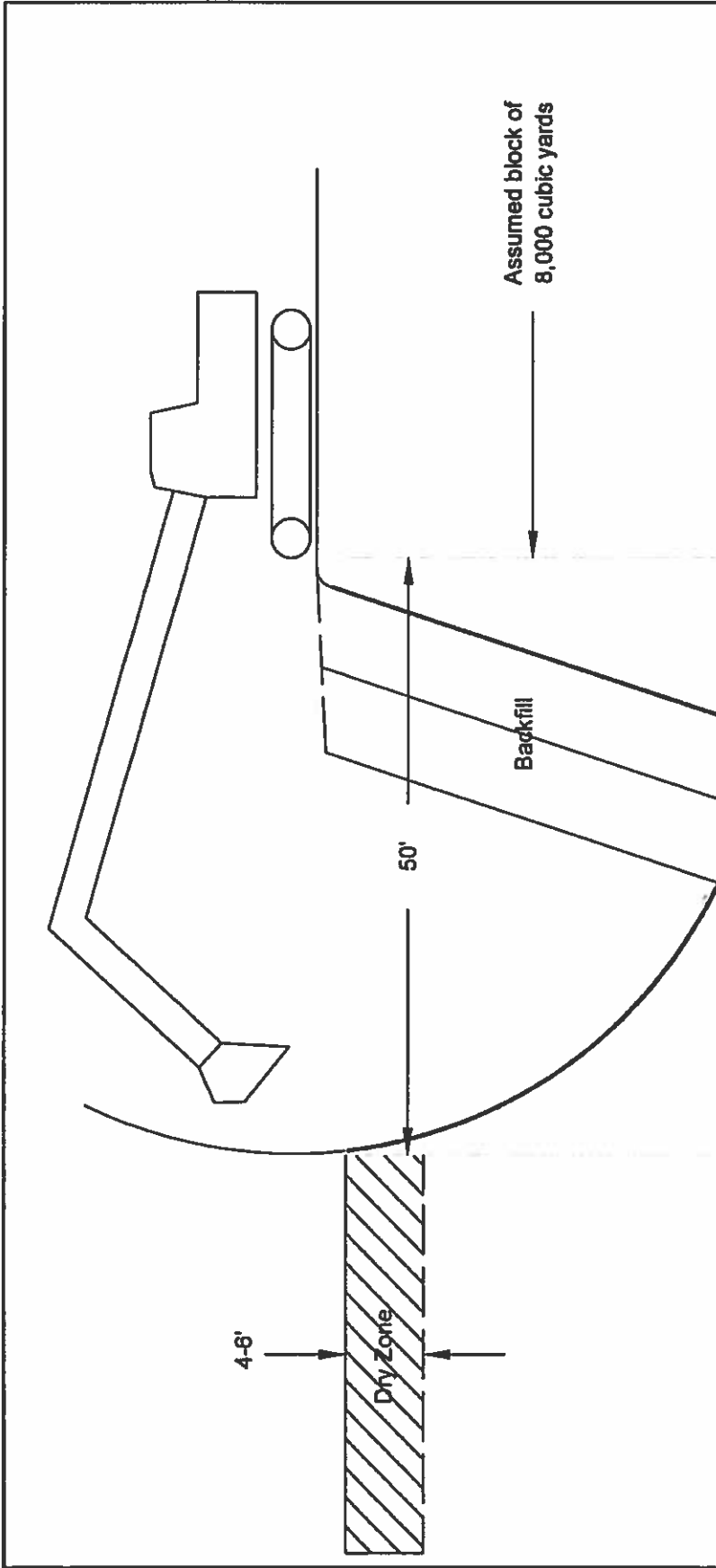
Sudden Release:

The chance of a sudden release from Golden Pond without a catastrophic rain event is small. Installing the drainage control as outlined previously will further reduce the likelihood of a sudden release.


Bonding:

Each sub zone contains approximately 8,000 cubic yards of material. As previously discussed this is a very conservative estimate. Up to two sub zones of fines can be completely removed at any given time. Each subzone will contain approximately 8000 cubic yards. The width is set at 50 feet due to the size of equipment. The length (average 288') can be adjusted based on actual depth of fines, (e.g. if fines are 20'deep, the length maybe limited to 216 feet) Reclamation cost is based on bringing unscreened coarse refuse to backfill these two zones. This material will be available to AML in the unlikely event of a Bond Forfeiture

Backfill	8,000 cu yd X 2 subzones X \$6.25	=	\$100,000
Vegetation 23 acres @ \$1,000			<u>\$ 23,000</u>
Subtotal			\$123,000
Mobilization (6%)			<u>\$ 7,380</u>
Subtotal			\$130,380
Total Bond w/ DMLR/AML Multiplier (x 1.5315378)			\$199,681 (round up to \$200,000)



Fines Removal and Backfill Plan
N.T.S.

 Appalachian Technical Services, Inc. <small>Engineering • Construction Management • Surveying • Energy & Environmental Science</small> 1209 N. 11th St. Asheville, NC 28801 Phone: 704.634.5122 Fax: 704.634.5123	Russell County Reclamation, LLC		Date 09/19/2018	Coordinate System Sheet 01
	Golden Pond Reclamation Plan		Designed By DWM	Drawing Number 1674.12_N_Typical
		Drawn By CLM	Project Number 1674.12	Scale 1" = 100'
		Checked By DWM		01



Appalachian Technical Services, Inc. Laboratory Services

475 West Main Street P.O. Box 1897 Abingdon VA 24212 (276)676-4262

CERTIFICATE OF ANALYSIS

Client: Russell County Reclamation, LLC
2700 Lee Hwy., Suite A
Bristol, VA 24202

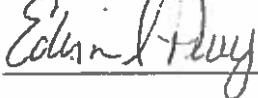
Project No.: 1674.01
Sample ID : Gray Sandstone / Shale / Staining
Date Sampled : 12/5/2017 (unscreened)
Sampled By: Client

Acid-Base Accountability

Lab ID	Description	% Pyritic Sulfur	% Sulfate Sulfur	% Organic Sulfur	Sulfur Dry	Paste pH	Potential Acidity	Neutralization Potential	Net Excess Or Deficiency	Slake Durability Index
1144	Gray Sandstone Shale				0.07	7.2	2.19	11.69	9.50	94.13

**Units in Tons CaCO₃ equivalent per 1000 tons of material

Respectfully Submitted,





Appalachian Technical Services, Inc. Laboratory Services

475 West Main Street P.O. Box 1897 Abingdon VA 24212 (276)676-4262

CERTIFICATE OF ANALYSIS

Client: Russell County Reclamation, LLC
2700 Lee Hwy., Suite A
Bristol, VA 24202

Project No.: 1674.01
Sample ID : Gray Sandstone (screened)
Date Sampled : 12/5/2017
Sampled By: Client

Acid-Base Accountability

Lab ID	Description	% Pyritic Sulfur	% Sulfate Sulfur	% Organic Sulfur	Sulfur Dry	Paste pH	Potential Acidity	Neutralization Potential	Net Excess Or Deficiency	Slake Durability Index
1143	Gray Sandstone				0.06	7.4	1.88	13.43	11.55	98.8

**Units in Tons CaCO₃ equivalent per 1000 tons of material

Respectfully Submitted,