



Ernest McFaddin <lemcfaddin@gmail.com>

Re: Project Reclaim Questions and Documents

1 message

Ernest McFaddin <lemcfaddin@gmail.com>

Mon, Aug 10, 2020 at 3:44 PM

To: "Feinman, Evan" <efeinman@revitalizeva.org>

Cc: "Kaestner, Mike" <mkaestner@revitalizeva.org>, Sara Williams <swilliams@revitalizeva.org>, "Myers, Elizabeth B."

<ebmyers@oag.state.va.us>

Bcc: Ben Chafin <bchafin@chafinlaw.com>, Rhonda Smith <rsmith@chafinlaw.com>, John Matney <jkm@harborcompany.com>

Good afternoon,

I hope this email finds you well. Attached you will find our response to the concerns that were previously identified. Please follow the link below to a drone video of the site with voiceover which provides important information relevant to the development site. Please let me know if you have any questions or concerns once you have reviewed the attached information.

Have a great day!
Ernie

<https://drive.google.com/file/d/1tmQX80jB-il7YAsqNvNLgdYH6BoQOimg/view?usp=sharing>

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On Wed, Jun 17, 2020 at 10:20 AM Feinman, Evan <efeinman@revitalizeva.org> wrote:

Ernie,

Thank you for your patience while we reviewed the \$1.65 million advance request received from the Russell County IDA ("IDA") on April 28, 2020. As you will recall, the IDA's application for Project Reclaim did not follow the Commission's usual cycle and staff did not have an opportunity to review the proposal in advance or provide input regarding compliance with Commission policy. We have several questions that require satisfactory resolution before the Commission can process the IDA's advance request:

1. We are concerned that the statutory requirement found at § 3.2-3103(A)(7) for a dollar for dollar match is not satisfied given the manner in which the IDA has structured this transaction. We understand that the IDA and Russell County Reclamation, LLC, ("RCR") entered into an Asset Purchase Agreement ("Agreement") that provides for the IDA to purchase approximately 165 acres from RCR and grants to the IDA an option to purchase an additional 67 acres. The Agreement provides that the IDA may exercise its option to purchase this additional acreage once it has been released from any regulatory permits issued by the Virginia Department of Mines, Minerals and Energy ("DMME").

We understand that the proposed match to the Commission's \$2.9 million grant is a \$3.2 million grant DMME awarded to RCR. We further understand that RCR's use of the DMME grant is limited to reclamation activities on a portion of the 67 acres and that RCR will finish expending the proceeds of the DMME grant before this property is released from any permit conditions and thus before the IDA may exercise its option to purchase this property. While the Commission views grants from other sources that project partners obtain and expend on Commission-funded projects as eligible matches, in this case, RCR is expending the DMME grant on its privately-owned property and effectively independently of Project Reclaim. While we cannot quantify the risk, we are cognizant that there is at least a possibility that RCR is unable to satisfy all DMME permit conditions and that the IDA will never have an opportunity to exercise its option to purchase the additional 67 acres. Thus, we are concerned that the IDA has not proposed an eligible match to the Commission's funds as required by state law.

2. The appraisal that you provided earlier this year does not satisfy the requirement found in the Commission's Funding Policies for Grant Awards (Rev. May 2016) that grantees provide a current, independent appraisal when Commission funds will be used for land acquisition. In this case, we understand that RCR ordered the appraisal of the property; an appraisal prepared at the seller's direction is not independent. In addition, the appraisal report

is dated August 29, 2017 and it is not current. The Commission's Funding Policies prescribe that a "current" appraisal means one performed within the last twelve months. If the IDA wishes to proceed with this transaction, it will need to order a current appraisal from an independent appraiser. DMME has a list of appraisers that work in the region and have experience with reclaimed mine lands and we request that you use one of the appraisers included on that list.

3. We are unclear about the outcomes that the IDA promised to the Commission. Different parts of the application describe wildly diverging degrees of site development. For example, portions describe construction of a building pad as large as 232 acres to as small as a pad suitable for a 500,000 square foot building. Another portion indicates the site will only be brought to "rough grade." Please clarify the extent of site development that will actually occur at the property if the Commission's funds are expended. To the extent applicable, we would like to review the engineering and inspection reports the IDA offered to the Commission in its business plan.

Also related to the outcomes the Commission may expect, we were surprised to learn from the appraisal that the Project Reclaim site lacks sewer service. This necessarily calls into question whether the ultimate development potential of \$7 million capital investment and 2,320 new jobs the IDA included in its application are realistic without extensive additional investments in infrastructure. Could you please clarify whether the capital investment and new job creation expectations the IDA proposed were predicated upon additional infrastructure investment (and establishing sewer service, in particular) and, if so, the IDA's current thinking for accomplishing this?

4. Finally, we are concerned about the leaseback provision described in the Agreement. As you are aware, the Letter of Agreement dated January 2018 between the IDA and the Commission prohibits the IDA from, among other things, leasing assets purchased with Commission funds without the Executive Director's prior approval. It is unclear why the IDA—or more accurately, the Commission, given that the IDA is contributing no resources to this project—is shouldering the risk of acquiring a piece of property before RCR has completed its site development and regulatory obligations and then leasing it back to RCR. Furthermore, the term of the leaseback to the IDA is indefinite and will not end until all DMME permit conditions are satisfied. While we certainly hope this will occur expeditiously, there is a risk that property acquired exclusively with the Commission's funds will be subject to this leaseback indefinitely. If this were to occur, the IDA will never have an opportunity to market Project Reclaim and attract businesses. This is extremely unusual and based on the limited information available to me at this time, I am not in a position to approve the leaseback.

After you have an opportunity to review this letter, please contact me to discuss a timeline for providing the various pieces of information I have requested.

Again, we appreciate your patience. We remain excited about assisting the Russell County IDA with the development of an industrial park that may bring significant opportunity to Russell County and the region, and we hope to support you in many ribbon cuttings and ground breakings in the coming years.

Regards,

Evan


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Evan Feinman
Executive Director
Tobacco Region Revitalization Commission
701 E. Franklin St., Suite 501, Richmond, VA 23219

Chief Broadband Advisor
Office of Governor Ralph S. Northam
1111 E. Broad St., Richmond, VA 23219



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IDA Russell County, VA

Industrial Development Authority of
Russell County, Virginia

July 29, 2020

Evan Feinman, Executive Director
Tobacco Region Revitalization Commission
701 E. Franklin Street, Suite 501
Richmond, VA 23219

RE: *Project Reclaim Responses and Documents*

Dear Evan:

Please consider this the response by the Industrial Development Authority of Russell County to your e-mail of June 17, 2020.

In Paragraph No. 1, you expressed a concern regarding the acquisition of the 67-acre tract which had been drafted as an Option for \$1.00. You will find attached the First Amendment to Asset Purchase Agreement wherein the Option to Purchase the 67 acres is restated as a Purchase Obligation for the sum of \$1.00. The restated language makes it clear that the IDA is obligated to purchase, and Russell County Reclamation, LLC, is obligated to convey, the property within 90 days following written notice that RCR, LLC, has completed the reclamation and bond release.

In Paragraph No. 2, you requested an updated appraisal performed by a company on the list of appraisers approved by DMME. I am happy to report that Hallmark Properties in Lynchburg, Virginia, will perform the appraisal. Hallmark Properties is one of the DMME approved companies that have done work in Southwest Virginia. We have signed a contract for the appraisal, which should be forthcoming on or before the end of August.

In Paragraph No. 3, you questioned the outcomes that the IDA has promised the Commission. In reviewing the Application upon which the Grant Award was based, the additional project description provides insight that the Grant would provide site control and site acquisition of the 232 acres. In addition, the use of the Grant funds are to provide an allowance for RCR, LLC, to provide approximately 262,000 cubic yards of back-fill material to provide rough grade for the footprint of the prime development area that has been identified to support up to a 500,000 or 1,000,000 square foot building. You will find attached a layout plan from Appalachian Design Services which indicates two 500,000 square foot building pads.

The 67-acre tract, which will be under Contract for the IDA to acquire for \$1.00, will provide multiple building sites designed to accommodate more than one million square feet of industrial buildings in the aggregate. Other smaller pads are envisioned across the 232 acres. As to the issues raised regarding the sewer service, the previous industry had its own waste water treatment plant constructed on site. Moving forward with this project will require the IDA to work in conjunction with the Russell County Public



IDA Russell County, VA

Industrial Development Authority of
Russell County, Virginia

Service Authority to provide sewer infrastructure to the Industrial Park, or to construct a waste water treatment plant as has been used in the past for this industrial site. The IDA is currently working with the Russell County PSA on the necessary design elements for a scalable package plant. The Russell County PSA has just approved a project to upgrade the public water service to this site with an 8" service which will deliver the volume necessary for a large industrial company.

In Paragraph No. 4, you raise the concern regarding the lease back provision that was set forth in the documents previously provided to you. Attached you will find copies of drafts where the lease obligation has been obviated and Right of Entry document has been created. The Right of Entry is necessary for RCR, LLC, to continue to put down the laydown materials, i.e., the 262,000 cubic yards of back-fill material and to complete the reclamation of Tract B, containing 67 acres.

You will also find attached to the e-mail by which this letter is forwarded to you a digital voice-over video of a drone flight over the project to help demonstrate the immense scope and expanse of the project; a letter from the Office of Surface Mining and Reclamation Enforcement; three photographs depicting construction conditions on Tract B, the 67-acre tract; a three page survey prepared by Glen Phillips, Certified Land Surveyor; and finally, letter received from Norfolk Southern offering to help market the property as a prime location.

The IDA has received preliminary approval from DMME for a \$2,000,000 grant to construct a greenhouse for Project Grow. This project will mark the first company to utilize the mega site property and take advantage of the services that are currently available.

We are excited with this project in Russell County, which will become one of the largest industrial sites in Southwest Virginia. This acreage is most unique to Southwest Virginia and the coalfields of Southwest Virginia. The site characteristics that make the development of this site appealing are as follows:

- a. Directly adjacent to over 73,800 tract feet of active Norfolk Southern rail lines, which at points on the property have as many as eight side tracks along the main line for loading and unloading material.
- b. 232 acres of developable property with multiple construction pads at rough grade for up to 2,000,000 square feet of industrial building sites.
- c. A rail loading and unloading facility with hoppers, conveyor and stacking tube.
- d. The property is adjacent to, and has proximity to, natural gas supply.
- e. The property has access to 1.2 billion gallons of private sourced water that is currently permitted.
- f. The property is within 1.5 miles of the American Electric Power Company's Clinch River Plant and related high voltage transmission system.
- g. The property is fully permitted with existing local, state and federal permits that allow for the reclamation and repurposing of the 232 acres for industrial



IDA Russell County, VA

Industrial Development Authority of
Russell County, Virginia

development.

In closing, I hope that the explanation contained herein, along with the attached documents and photographs and video, answer the questions that you have posed. I would like to invite you to come and visit Russell County and tour this amazing construction project. In the meanwhile, if you need anything further, please let me know as soon as possible, and we will endeavor to get it into your hands.

Yours very truly,

INDUSTRIAL DEVELOPMENT
AUTHORITY OF RUSSELL
COUNTY, VIRGINIA

By: *Ernie McFaddin*

Ernie McFaddin, Chairman

**FIRST AMENDMENT TO
ASSET PURCHASE AGREEMENT**

This FIRST AMENDMENT TO ASSET PURCHASE AGREEMENT (the “First Amendment”) is made and entered into effective as of the ____ day of July, 2020 (“Effective Date”), by and between RUSSELL COUNTY RECLAMATION, LLC, a Virginia limited liability company (“Seller”) and the INDUSTRIAL DEVELOPMENT AUTHORITY OF RUSSELL COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia (“Buyer”). Buyer and Seller are sometimes individually referred to in this Agreement as a “Party” and collectively as the “Parties.”

RECITALS:

- A. Seller and Buyer have entered into that certain Asset Purchase Agreement, dated April __, 2020 (“Agreement”)
- B. Seller and Buyer desire to amend the Agreement as set forth herein

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, and agreements set forth herein, and intending to be legally bound, the Parties agree as follows:

- 1. Recital F of the Agreement is hereby deleted in its entirety and replaced by the following:
 - “F. Buyer desires to purchase and acquire Tract A and Tract B, and Seller desires to sell and transfer Tract A and tract B to Buyer, all upon the terms and conditions set forth in this Agreement.”
- 2. Wherever in the Agreement the word “Lease” appears it shall be replaced by the words “Right of Entry.”
- 3. Recital G shall be deleted in its entirety and replaced by the following
 - “G. Upon the sale of Tract A to Buyer, Buyer desires to grant Seller a Right of Entry in the form of Exhibit B hereto.”
- 4. Exhibit B to the Agreement shall be replaced in its entirety by Exhibit B attached hereto.
- 5. Section 2.01(b) shall be deleted in its entirety.

6. Section 2.01(c) shall be deleted in its entirety and replaced by the following:

“(c) the following structures present on Tract A as of the date hereof: (i) all conveyors stacking tube, (ii) the bottom-dump hopper and related structure, (iii) three thickeners and (iv) any rail not owned by Norfolk Southern Corporations or its Affiliates;”

7. ARTICLE IV of the Agreement shall be deleted in its entirety and replaced by the following:

ARTICLE IV PURCHASE AND SALE OF TRACT B

Section 4.01. Purchase and Sale. Seller hereby agrees to sell to Buyer and Buyer agrees to purchase from Seller Tract B on the following terms and conditions:

- (a) **Description of the Property:** Tract B shall be as described in Exhibit A-2 and shall include the following structures: (i) the rotary dump, (ii) the silo and (iii) any rail not owned by Norfolk Southern Corporations or its Affiliates and located on Tract B;
- (b) **Purchase Price:** The purchase price for Tract B shall be \$1.00;
- (c) **Closing:** The closing of the purchase and sale of Tract B shall occur during a ninety (90) day period following receipt of written notice from Seller that Seller has completed the Reclamation and bond release with respect to Tract B pursuant to the terms and conditions of that certain AML Pilot Program Subaward Contract (attached hereto as Exhibit F), dated December 5, 2018, by and between Seller and the Virginia Division of Mines, Minerals and Energy (“Project Reclaim Agreement”). The Closing shall be at a time and place mutually agreeable to Seller and Buyer with deliveries and conditions applicable to each party similar to those that apply to the closing of the purchase and sale of Tract A, excluding the Right of Entry. The provisions of Section 7.04 and 7.05 shall apply to the closing of the purchase and sale of Tract B.;
- (d) **Exceptions and Reservations:** Conveyance of Tract B shall be pursuant to a special warranty deed from Seller, transferring the Tract B to Buyer, free and clear of all Liens except the Permitted Encumbrances, which Permitted Encumbrances include any rights reserved by Contura in paragraph 3(c) of the Seller’s Deed. Upon its conveyance to Buyer, Tract B shall be subject to the Water Management Agreement between the Parties.

Section 4.02. Covenant and Indemnification: Seller covenants and guaranties to Buyer that Sell shall complete in all respects and fully comply with the Project Reclaim Agreement. Further, as a condition to the closing of the purchase of Tract B, Seller shall indemnify and hold

Buyer harmless for an unlimited period of time from any loss or monetary damage arising from a breach by Seller of the Project Reclaim Agreement or any extension thereof or supplement thereto.

8. The Exhibit List shall be modified by the addition of the following:

“7. Exhibit F Project Reclaim Agreement”

9. Except as set forth herein, the Agreement shall remain in full force and effect as originally executed.

IN WITNESS WHEREOF, Seller, and Buyer have caused this First Amendment Purchase and Sale Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

Russell County Reclamation, LLC

By: _____
Its:

Industrial Development Authority of Russell County Virginia

By: _____
Ernie McFaddin, Chairman

RIGHT OF ENTRY

THIS RIGHT OF ENTRY ("Agreement") is effective as of the ___ day of ___, 2020, ("Effective Date") between the **INDUSTRIAL DEVELOPMENT AUTHORITY OF RUSSELL COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (hereinafter referred to as "OWNER"), and **RUSSELL COUNTY RECLAMATION, LLC**, a Virginia, limited liability company (hereinafter referred to as "ENTRANT"). OWNER and ENTRANT are each hereinafter sometimes referred to individually as "Party" and collectively as "Parties."

RECITALS:

A. By that certain Special Warranty Deed of even date herewith, the ENTRANT has conveyed to OWNER certain property located in Russell County, Virginia, more particularly described on Exhibit A hereto (the "Property").

B. ENTRANT is the operator of a surface mine permit No. 1302253 ("Permit") issued by the Virginia Department of Mines Minerals and Energy ("DMME") and is the permittee NPDES Permit No. 082253. Both the Permit and the NPDES Permit pertain to the Property.

C. ENTRANT desires to acquire certain rights to enter the Property in order to conduct certain operations thereon, including reclamation activities required by the Permit and, to make certain improvements to the Property for the benefit of the OWNER and to assure access to certain additional property owned by ENTRANT and under contract to be sold to the OWNER, *viz*, Tract B as that term is defined in the Purchase and Sale Agreement between OWNER and ENTRANT, dated April __, 2020.

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NOW, WHEREFORE, IN CONSIDERATION of the mutual covenants and agreements of the Parties herein contained, OWNER and ENTRANT agree as follows:

ARTICLE I DEFINITIONS

For purposes of this Agreement, certain terms and provisions used herein are defined as follows:

Section 1.01. "Assignment" shall mean any sale, assignment, subletting, transfer, mortgage or other transfer of control of the rights and obligations established hereunder, whether by voluntary action or operation of law, including, without limitation, any sale of voting control of any Party's stock or the merger of any Party into another corporation.

Section 1.02. "Carbonaceous Material" shall mean all coal, coal refuse, fines, coal waste or other material containing coal or coal bi-products, together with other rock mixed therewith which has been deposited as waste on the Property by prior coal mining and/or processing operations.

Section 1.03. "Agreement" shall mean this Right of Entry as it may be amended, together with the Exhibits hereto.

Section 1.04. "Contract Year" shall mean the twelve-month period commencing on Effective Date and each twelve-month period thereafter, if any.

Section 1.05. "Property" shall have the meaning stated in the recitals.

Section 1.06. "Permit" shall have the meaning stated in the recitals.

Section 1.07. "Backfill Material" shall mean rock, gravel, shale or other similar material brought to and placed upon the Property by ENTRANT as part of the process of improving the Property

Section 1.08. "Ton" shall mean a short ton of two thousand (2,000) pounds.

ARTICLE II **GRANT OF RIGHT TO ENTER THE PROPERTY**

Section 2.01. Grant.

- a. From and after the Effective Date, OWNER hereby grants to ENTRANT on and subject to the terms, covenants and conditions hereinafter set forth, the rights more fully set forth in Section 3.01 hereof for the purpose of reclaiming and improving the Property as hereinafter set forth, including without limitation, complying with all terms and conditions of the Permit and for access to Tract B.
- b. With respect to the portion of the Property identified on Exhibit A as the "Rail Loadout Area", ENTRANT shall have the right to unload material from railcars, store or blend such material and transload it into trucks.
- c. Except as specifically set forth in Article V below, OWNER makes no representations or warranties regarding the condition of the Property or the ability of ENTRANT to conduct its operations thereon.

Section 2.02. Term. The term of this Agreement shall commence on Effective Date and end upon the satisfaction of all requirements under the Permit as it applies to the Property and the reAgreement-release of the Property from the obligations of the Permit, unless sooner terminated or surrendered, as hereinafter provided. With respect to the Scale House Area, ENTRANT shall use its best efforts to complete reclamation of the Scale House Area and to cause the Scale House Area to be reAgreement-release from the obligations of the Permit and the associated bonds. Within thirty (30) days following reAgreement-release of the Scale House Area from the Permit obligations and the associated bonds, ENTRANT and OWNER shall terminate this Right of Entry with respect to the Scale House Area. Notwithstanding anything to the contrary herein the foregoing, OWNER shall have the right to terminate this Agreement at any time upon giving ENTRANT written notice not less than one hundred eighty (180) days year prior to such termination, provided the ENTRANT's rights to ingress and egress across the Property for the purpose of access to Tract B shall continue until the completion of ENTRANT's reclamation obligations on Tract B.

ARTICLE III **PROPERTY RIGHTS AND RESERVATIONS**

Section 3.01. Use of Property. Subject to the terms and provisions of Sections 3.02, 3.03 and 5.01(c), below, from and after the Effective Date, ENTRANT shall have the right to enter upon the Property for the following purposes:

- a. operating, maintaining, and using any and all equipment including without limitation mining equipment, screens, trucks and any other equipment whatsoever for the mining, removal, processing, loading and haulage of Carbonaceous Material, and other equipment, machinery and movable personal property necessary for safely and efficiently conducting removal of the Carbonaceous Material;
- b. mining, screening, processing, stockpiling, removing, shipping, and marketing Carbonaceous Material;
- c. depositing and placing upon the Property various quantities and qualities of Backfill Material;
- c. exercising all rights, privileges and easements as may be necessary for the operations set forth above in this Section 3.01 and the reclamation of the Property as required under the terms of the Permit. Such authority shall include the right to utilize any existing roads, tram roads or trails and to construct access and haulage roads on the Property as necessary for gaining access to the Property and conducting activities consistent with the Permit; provided, however, ENTRANT shall obtain prior permission from OWNER prior to constructing any new roads, which permission shall not be unreasonably withheld or conditioned.

- d. The right to use the Rail Loadout Area to the extent reasonable consistent with the purposes and activities set forth in Sections 2.01(b) and 2.01(c), respectively.
- e. The right of ingress and egress across the Property to the extent reasonably necessary to perform ENTRANT's permitted activities on the Property, for access by personnel and equipment to Tract B and to the extent reasonably necessary to cross the railroad tracks and related property owned by the Norfolk Southern Corporation or its affiliates.

Section 3.02. Placement of Backfill Material.

- a. During the term of this Agreement, ENTRANT shall deliver to the Property certain Backfill Material in accordance the terms and conditions of that certain Grant Agreement, dated January 9, 2018 by and between the OWNER and the Tobacco Region Revitalization Commission ("Tobacco Commission") as modified by the Section II of the Grant Reporting Form, dated December 31, 2019, submitted by OWNER to the Tobacco Commission (collectively, the "Grant Agreement").
- b. ENTRANT will indemnify and hold the OWNER harmless from any claim, loss or monetary damage that may arise from a breach of the Grant Agreement by OWNER caused by the actions or omissions of ENTRANT. It being understood by ENTRANT and OWNER that ENTRANT shall fully comply with all terms and conditions of the Grant Agreement to the extent that such terms and conditions are within the control of the ENTRANT.

Section 3.04. Prohibited Activities. ENTRANT is specifically prohibited from the undertaking the following activities without the express, written permission of OWNER which permission may be granted or withheld at OWNER's sole discretion: (i) setting any fire for any reason whatsoever; or (ii) mining any coal from its natural, undisturbed state and (iii) using the Property for the generation, use, handling, manufacture, treatment, storage, discharge or disposal of any hazardous or toxic substance or waste, pollutant or contaminant (including without limitation petroleum products and radioactive materials, except for diesel fuel held in temporary tanks).

Section 3.04. Property Rights Reserved to OWNER. Except to the extent of the rights expressly granted to the ENTRANT and with due regard for ENTRANT's operations on the Property in accordance with this Agreement, OWNER reserves to itself, successors and assigns, all rights whatsoever in and to the Property.

ARTICLE IV
RENTS AND BACKFILL MATERIAL PAYMENTS

Section 4.01. Rental. Upon the execution of this Agreement, ENTRANT shall pay to OWNER the sum of Thirty-one Thousand Dollars (\$31,000.00). In addition, ENTRANT shall pay to Owner the amount of Twelve Thousand Five Hundred Dollars (\$12,500.00) on the first and second anniversary dates of this Agreement. The sum of the aforesaid payments, \$56,000.00, shall be the total compensation payable by ENTRANT to OWNER, irrespective of the term hereof.

Section 4.02. Backfill Material Payment. During each calendar quarter there shall accrue for payment to ENTRANT by OWNER a Backfill Material Payment for each and every cubic yard of Backfill Material delivered to the Property at the rate of \$4.77 per cubic yard, provided that the total compensation due ENTRANT for the delivery of Backfill Material shall not exceed \$1,250,000. Payment of the Backfill Material Payment shall be made not more than twenty (20) days following receipt by OWNER of the Backfill Material Report prepared by ENTRANT as provided in Section 4.03

Section 4.03. Backfill Material Report. ENTRANT shall, on or before the 20th day of the months of April, July, October and January, furnish to OWNER a report (the "Backfill Material Report"), signed and certified by an agent of the ENTRANT setting forth the following:

- a. The quantity in cubic yards of Backfill Material delivered to and placed by ENTRANT on the Property during the previous three months;
- b. the amount of Backfill Material Payment due for such three-month period.

Section 4.04. Determination of Volumes. For the purposes of calculating Backfill Material Payment, the volume of Backfill Material shall be determined by ENTRANT as follows:

- a. as to Backfill Material shipped by trucks, the weight in Tons of each load of Backfill Material shall be determined in accordance with the procedures set forth in Exhibit B which weights shall then be converted to cubic yards by the following formula: cu. yds. = Tons x 0.78. The resulting volume shall be presumed to be correct unless such presumption is rebutted by clear and convincing evidence; or
- b. by such other method as may be agreed to by ENTRANT and OWNER.

ARTICLE V
OWNER'S REPRESENTATIONS AND WARRANTIES

OWNER represents, covenants and agrees that, subject to all exceptions and reservations set forth in the instruments by which OWNER acquired title to the Property, OWNER has full power and authority to enter into this Agreement and to perform the transactions contemplated hereby. This Agreement and the provisions hereof constitute legal and binding obligations of OWNER enforceable in accordance with their terms. OWNER represents that neither the execution nor

delivery of this Agreement nor compliance by OWNER with any of the provisions hereof will conflict with or result in a breach of or default under any of the terms, conditions or provisions of any agreement or instrument to which OWNER is a party or of any law or governmental or administrative regulation or restriction applicable to it.

ARTICLE VI
ENTRANT'S REPRESENTATIONS AND COVENANTS

Section 6.01. ENTRANT's Representations and Covenants. ENTRANT represents, covenants and agrees, as follows:

- a. ENTRANT has full power and authority to enter into this Agreement and to perform the transactions contemplated hereby. This Agreement and the provisions hereof constitute legal and binding obligations of ENTRANT enforceable in accordance with their terms. ENTRANT represents that neither the execution nor delivery of this Agreement nor compliance by ENTRANT with any of the provisions hereof will conflict with or result in a breach of or default under any of the terms, conditions or provisions of any agreement or instrument to which ENTRANT is a party or of any law or governmental or administrative regulation or restriction applicable to it.
- b. ENTRANT shall be solely responsible for all labor performed upon or materials furnished to the Property, and shall keep the Property free and clear of any and all mechanic's, labor or materialmen's liens arising therefrom, except in the case of non-payment by OWNER of any payment due ENTRANT hereunder.
- c. Subject to the provisions of this Agreement, ENTRANT assumes responsibility for all of its operations on the Property and shall indemnify and hold harmless OWNER during the term hereof for and on account of claims, demands or liabilities arising from or in connection with ENTRANT's operations under this Agreement. No employee or agent of ENTRANT shall be deemed for any purposes to be an employee or agent of OWNER.
- d. ENTRANT shall at all times comply with all applicable federal, state and local laws, rules and regulations relating to performance of its activities on the Property. Without limiting in any respect the generality of ENTRANT's obligations as set forth in the foregoing sentence, ENTRANT shall (i) at all times conduct its operations in strict compliance with the Permit, the NPDES Permit and any other permits applicable to ENTRANT's operations on the Property; (ii) make and file all maps, applications, reports and statements required thereby and make available copies

thereof to OWNER; (iii) make available to OWNER copies of all permits, licenses and governmental approvals applicable to ENTRANT's operations; (iv) post all required surety bonds and furnish evidence thereof to OWNER; and (v) indemnify and save harmless OWNER from any liability, claims or demands arising out of and attributable to ENTRANT's failure to observe any applicable laws, rules or regulations. OWNER shall have the right to require ENTRANT to cease any and all operations which are in violation of any law, rule, regulation, permit, license or governmental approval, if said violation is not cured by ENTRANT within the period allowed by law to correct the condition creating or contributing to the violation.

ARTICLE VII **BOOKS, RECORDS AND INSPECTIONS**

Section 7.01 Books and Records. ENTRANT shall keep accurate books and records - showing the volume of Backfill Material shipped to and deposited on the Property and such other records as will demonstrate ENTRANT's compliance with the provisions of this Agreement, including but not limited to the records required by Section 4.03 and Exhibit B. OWNER shall have access to such books and records during business hours to the extent reasonably necessary to confirm the amount and type of Backfill Material delivered to the Property.

Section 7.02. Site Visits. Upon receipt of not less than 24 hours prior notice, ENTRANT shall allow OWNER through its engineers, geologists, agents or employees to enter upon the actual sites on the Property where ENTRANT is operating (the "Operation Sites") at reasonable times and hours, for the purpose of examining, measuring or surveying the operations pertaining to this Agreement; provided, however, (i) that any person entering the Property during the term hereof shall have appropriate hazard training as required by the Mine Safety and Health Administration ("MSHA") and (ii) that OWNER shall indemnify and hold ENTRANT harmless from and against all claims, demands and liability for personal injury or property damage while any representative or invitee of OWNER is upon the Operation Sites, resulting otherwise than by a negligent act or omission of ENTRANT, its employees, contractors and agents, and such representatives shall execute, if requested by ENTRANT, written waivers releasing ENTRANT therefrom.

ARTICLE VIII **PAYMENTS AND NOTICES**

All payments required by this Agreement to be made to OWNER or ENTRANT shall be made by check payable to the order of OWNER or ENTRANT, as the case may be, at its address for payments set forth below. Any notice or other communication required or permitted to be given hereunder, shall be in writing addressed to the Parties as follows:

ENTRANT: Russell County Reclamation, LLC

2700 Lee Highway, Suite B
Bristol, Virginia 24202
Attention: Kevin Large
Facsimile: 276-669-1327

OWNER: Industrial Development Authority of Russell County, Virginia
P.O. Box 2378
Lebanon, Virginia 24266
Attention: Ernie McFaddin
Facsimile:

Either Party may, from time to time, change its address for future notices hereunder by notice in accordance with this Article VIII. Any notice to be given hereunder to either OWNER or ENTRANT shall be: (i) personally given, (ii) sent by a nationally-recognized overnight courier service or (iii) sent by the United States mail, registered or certified, return receipt requested, with postage prepaid. Notices and other communications hereunder to either Party, elections and other documents shall be effective when received by such Party.

ARTICLE IX **LIABILITY AND INSURANCE**

Section 9.01. Liability. ENTRANT covenants and agrees to fully defend, protect, indemnify and hold harmless OWNER, its employees and agents, from and against each and every claim, demand or cause of action and any liability, cost, expense (including, but not limited to, attorney's fees and expenses incurred in defense of OWNER), damage or loss in connection therewith, which may be made or asserted by ENTRANT, ENTRANT's employees or agents, subcontractors, or any third parties (including, but not limited to, OWNER's agents, servants or employees) on account of personal injury or death or property damage caused by ENTRANT's activities or operations under this Agreement, except such as may result from OWNER's sole negligence. ENTRANT's obligations under this clause shall survive the termination of this Agreement.

Section 9.02. Insurance. ENTRANT shall maintain, at ENTRANT's sole cost at all times after the date hereof, the insurance coverages set forth below with companies licensed by the Commonwealth of Virginia with policy limits in amounts not less than those applicable for such coverages as set forth. A certificate naming OWNER as an additional insured, evidencing coverages (except for Worker's Compensation) shall be delivered to OWNER prior to commencement of activities or operations pursuant to this Agreement. Such certificate shall provide that any change restricting or reducing any such coverage or the cancellation of any policy under which any such certificate is issued shall not be valid as respects the OWNER's interest therein until the OWNER has received thirty (30) days' notice in writing of such change or cancellation:

- a. **Worker's Compensation and Occupational Disease Disability Insurance** - as required by the laws of the Commonwealth of Virginia;
- b. **Employer's Liability Insurance** - in the amount of \$1,000,000;
- c. **Comprehensive Automobile Liability Insurance** - covering owned, non-owned and hired vehicles with limits of liability of not less than \$1,000,000 per occurrence (\$2,000,000 aggregate) for bodily injury and property damage claims;
- d. **Comprehensive General Liability Insurance** - \$1,000,000 per occurrence; \$2,000,000 aggregate.

Failure of the ENTRANT to keep the required insurance policies in full force and effect during the term of this Agreement shall constitute an Event of Default as provided below. Nothing contained in these provisions relating to coverage and amounts set out herein shall operate as a limitation of ENTRANT's liability under the terms of this Agreement.

ARTICLE X **ASSIGNMENT**

Section 10.01. Assignment by ENTRANT. ENTRANT shall not cause or permit the Assignment of this Agreement, in whole or in part, or ENTRANT's rights hereunder without first obtaining the written consent of OWNER. OWNER's right to grant or withhold its consent to any proposed Assignment shall be within its sole discretion. Any purported Assignment in violation of this Section 10.01 shall be null, void and of no effect and shall constitute an Event of Default as provided below. Nothing herein shall prohibit ENTRANT from engaging independent contractors to perform the reclamation of the Property or the transporting and placing of Backfill Material upon the Property.

Section 10.02. Assignment by OWNER. OWNER may freely cause the Assignment of its rights as lessor under this Agreement and/or the Property, subject to the terms of this Agreement.

ARTICLE XI **PAYMENT OF TAXES AND FEES**

ENTRANT shall pay all taxes, fees, levies, excises, assessments, license fees, permit fees, bond premiums and other governmental-related charges, general or special, ordinary or extraordinary, foreseen and unforeseen, of any kind or nature whatsoever that may be assessed, imposed or required by the United States or the Commonwealth of Virginia arising from ENTRANT's operations under this Agreement. To the extent required, OWNER shall pay when due all real estate taxes assessed against the Property.

ARTICLE XII
DEFAULT, TERMINATION AND FORFEITURE

Section 12.01. Events of Default. Any one or more of the following shall constitute an Event of Default under this Agreement:

- a. If ENTRANT shall fail to pay any rent or other payment to be made to OWNER hereunder for a period of ten (10) days following receipt of written notice that such rent or other payment is due, or if OWNER shall fail to pay any Backfill Payment or other payment to be made to ENTRANT hereunder for a period of ten (10) days following receipt of written notice that such payment is due;
- b. If ENTRANT shall file a voluntary petition for bankruptcy, shall be adjudicated bankrupt or insolvent, shall make a general assignment for the benefit of creditors or shall have (either voluntarily or involuntarily) appointed any trustee, receiver or liquidator to arrange its affairs;
- c. The Assignment of this Agreement in violation of Section 10.01;
- d. The creation by ENTRANT of any condition on the Property which constitutes an environmental hazard or common law nuisance and is likely to impose upon OWNER a duty to abate or mitigate such condition or to incur expenditures to maintain such condition so as to avoid pollution or damage to the environment or persons or Property; or
- e. Failure of ENTRANT to perform or observe any covenant, provision, term, restriction or condition required to be performed or observed by ENTRANT under the terms of this Agreement or imposed upon ENTRANT by operation of law.

Section 12.02. Remedies.

- a. All of the payments herein agreed to be paid by OWNER to ENTRANT shall be paid as specified herein without demand and shall be deemed and treated as rents reserved upon contract by ENTRANT which reserves to itself all rights and remedies under all present and future laws of the jurisdiction where the Property is located for the collection of same.
- b. In the event of any default by ENTRANT which is not cured by ENTRANT within sixty (60) days (or which ENTRANT has not commenced to cure, with respect to a default which cannot reasonably be cured within in sixty (60) days) following receipt of notice from OWNER, OWNER shall have the right to exercise any remedy available at law or equity.

- c. Exercise by OWNER or ENTRANT of any remedy provided herein shall not preclude such party from exercising any other remedy provided herein or available at law or equity, it being the intention of the Parties that their remedies hereunder shall be cumulative and shall survive the termination of this Agreement.

Section 12.03. ENTRANT's Rights and Obligations After Termination. In the event of termination of this Agreement for any reason, ENTRANT agrees to cease its operations on the Property and remove its personnel and equipment as herein provided. ENTRANT shall have the right for a period of sixty (60) days to remove its machinery, tools, equipment and other personal property, erected or placed upon the Property by ENTRANT after the date hereof. All such machinery, tools, equipment or other personal property, not removed prior to the expiration of six (6) months following the termination of this Agreement, shall then at the election of OWNER be deemed affixed to the Property and shall become and remain the sole Property of OWNER, or shall be removed by OWNER at ENTRANT's expense, and ENTRANT shall reimburse OWNER the cost of such removal upon demand.

ARTICLE XIII **GENERAL PROVISIONS**

Section 13.01. Memorandum for Recording. This Agreement shall not be recorded for, by or on behalf of either Party.

Section 13.02. Headings. The sections, titles and other headings of this Agreement (other than the definitions) are inserted only for convenience and shall not control or affect the meaning, construction or interpretation of the Agreement or affect its terms and provisions. Unless otherwise indicated to the contrary, references to Articles and Sections shall be to Articles and Sections of this Agreement.

Section 13.03. Governing Law. This Agreement shall be interpreted and governed by the laws of the Commonwealth of Virginia, without regard to the law thereof regarding choice of law.

Section 13.04. Laws and Regulations; Severability. This Agreement shall be subject to all applicable federal, state and local laws, rules and regulations or public bodies exercising jurisdiction over the Agreement or the development or operation of the Property. In the event any provision of this Agreement is, or the operations contemplated hereby are, found to be inconsistent with or contrary to any such law, rule or regulation, the latter shall be deemed to control and this Agreement shall be regarded as modified accordingly, and as so modified shall continue in full force and effect.

Section 13.05. Waiver, Modification or Amendment. No failure or delay on the part of either OWNER or ENTRANT in exercising any of their respective rights hereunder upon any failure

by the other Party to perform or observe any condition, covenant or provision herein contained shall operate as a waiver thereof, nor shall any single or partial exercise of any of such rights preclude any other or further exercise thereof or the exercise of any other right hereunder. Neither this Agreement nor any provision hereof may be supplemented, changed, waived, discharged or terminated orally, or by any course of dealing or trade usage, but only by an instrument in writing signed by the Party against whom the enforcement of the supplement, change, waiver, discharge or termination is sought.

Section 13.06. Binding Effect. The terms, conditions and covenants contained in this Agreement shall extend to, be binding upon, and inure to the benefit of, the successors, legal representatives and assigns of the Parties hereto, subject to the restrictions on assignment set forth in Article X.

Section 13.07. Entire Agreement. This Agreement is the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior representations, negotiations, writings, memoranda and agreements with respect to the subject matter hereof. Any prior agreements, promises, negotiations or representations not expressly set forth herein are of no force and effect.

Section 13.08 Time of Essence. Time is of the essence of each and every obligation in this Agreement.

[signatures on following pages]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement, the day and year first above written:

INDUSTRIAL DEVELOPMENT AUTHORITY OF RUSSELL COUNTY, VIRGINIA

By: _____
Name:
Title:

RUSSELL COUNTY RECLAMATION, LLC

By: _____
Name:
Title:

EXHIBIT A
DESCRIPTION OF THE PROPERTY

Tract 1 (the Prep Plant tract):

A tract or parcel of surface land lying and being entirely between the rights of way of Virginia Rte. 615 and Norfolk Southern Railway ("NS"), BEGINNING at an iron pin set (1) in the west right of way of said Rte. 615 at Sta. 381+00, 65 feet west of the centerline, with said point being approximately 575 feet north of the entrance of the main access road to the preparation plant and 1,400 feet south of the intersection with said Rte. 600, thence running southwest with the right of way a centerline distance of

5,887.25 feet to an iron pin set (2) at the intersection of said Rte. 615 right of way and the eastern right of way of NS, at Rte. 615 Sta. 322+12.75 and NS Sta. 95+65.13, from NS plans, with said point being 75 feet north of the highway centerline and 50 feet east of the railroad centerline, thence running with the railroad right of way northeast a centerline distance of

4,662.61 feet using arc definition of curves and

4,661.46 feet using chord definition, to an iron pin set (3) in the right of way at Sta. 142+26.59, 50 feet east of the centerline, thence leaving the NS right of way and running east through the lands of Russell County Reclamation, LLC ("RCR") so as to create this tract

N 87-22-13 E, 309.72 feet to an iron pin set (4), thence

S 74-44-50 E, 732.23 feet to the point of Beginning, and containing 119.05 acres, excepting and reserving however, two small cemeteries having a total of 0.17 acres, for a net area of 118.88 acres, more or less.

Tract 2 (the Detached tract):

A tract or parcel of surface land lying and being just northwest of the southwestern portion of the above described Tract 1, northwest of the NS railroad and on the northeast side of said Rte. 615, BEGINNING at a PK nail set (5) in a rock in the centerline of Middle Fork in the right of way of said Rte. 615 at Sta. 303+00, 39.38 feet northeast of the centerline, thence leaving Rte. 615 and running through the lands of RCR so as to create this tract

N 1-06-04 W, 110.21 feet to an iron pin (6) set at approximately 15 feet east of the centerline of said stream, thence

N 44-50-05 E, 428.21 feet to an iron pin (7) set on the west edge of an old logging road, thence

N 16-28-02 W, 110.14 feet to an iron pin (8) set in the east edge of an old road

bed, thence

N 46-50-59 E, 282.23 feet to an iron pin (9) on top of a knob, thence
N 54-43-40 E, 96.39 feet to an iron pin (10) set in the centerline of the spur,
thence running with the spur, crossing the knob and continuing on to the
northwest side of said spur

N 29-10-11 E, 440.86 feet to an iron pin set (11) on the north edge of an old
logging road at approximately 150 feet northwest of the centerline of the spur,
thence

N 66-27-30 E, 369.93 feet to an iron pin set (12) on a steep slope approximately
80 feet northwest of the centerline of the spur, thence

S 12-26-24 E, 183.76 feet to an iron pin set (13) in the centerline of the spur in the
west edge of an old logging road, thence

S 23-56-32 E, 332.95 feet to an iron pin set (14) on top of a knob, thence running
generally down the spur and off its end

S 21-14-25 E, 1,145.49 feet to an iron pin set (15) on a reclaimed slope at
approximately 200 feet northwest of an access road, being that which runs
northeast along the railroad, thence running generally southwest above said access
road

S 61-53-17 W, 383.12 feet to an iron pin set (16) on a slope approximately 180
feet northwest of said access road, thence

S 55-33-33 W, 319.04 feet to an iron pin set (17) on a slope approximately 190
feet northwest of the access road, thence

S 60-55-51 W, 295.94 feet to an iron pin set (18) on a slope approximately 70 feet
north of the access road at a gate, thence

N 60-04-12 W, 237.08 feet to an iron pin set (19) in the northeastern right of way
of said Rte. 615 at Sta. 312+00, 40 feet northeast of its centerline, with said point
being approximately 200 feet northwest of the entrance of said access road, and
980 feet northwest of the Rte. 615 railroad bridge, thence running northwest with
said right of way a centerline distance of

900.00 feet to the point of Beginning and containing 43.70 acres, more or less.

Tract 3 (the Southern tract of the Truck Scale property):

A small tract or parcel of surface land lying and being on the east side of Rte. 615
and the south side of Rte. 600 where it leaves Rte. 615 running east,
BEGINNING at an iron pin set (20) in the east right of way of Rte. 615 at Sta.
383+17.10, 40 feet east of the centerline, with said point being approximately 800
feet north of the entrance of the main access road to the preparation plant and 740
feet south of the scale house, thence running north with the right of way a
centerline distance of
1,173.95 feet to the intersection of Rte. 600, thence leaving Rte. 615 and running
easterly with said Rte. 600 a centerline distance of

288.98 feet to an iron pin set (21) at Sta. 12+88.98, 25.32 feet southeast of the
centerline, in the projection of the southeastern chain-link fence line of the
transformer storage lot, which lot was excepted and reserved Parcel 2 described in
the deed whereby RCR acquired subject property from Contura Capp Land, LLC,

as referenced below, at a point 2.54 feet northwest of the westernmost post, thence running through and with said southeastern fence line S 31-10-37 E, 95.19 feet to the southernmost fence post, thence leaving said transformer lot and running through the lands of RCR so as to create this tract S 16-22-33 E, 338.79 feet to an iron pin set (22) in a line of lands of the Clinchfield Coal Company et al., thence with one line of Clinchfield S 33-17-03 W, 931.26 feet to the point of Beginning, and containing 6.91 acres, more or less.

Tract 4 (the Northern tract of the Truck Scale property):

A small tract or parcel of surface land lying and being entirely between the rights of way of Rte. 600 and Rte. 778, and covering that area completely, BEGINNING at an iron pin set (23) in the intersection of said rights of way at Sta. 0+53.62 of Rte. 778, 20 feet southeast of its centerline, and Sta. 14+95.30 of Rte. 600, 20 northwest of its centerline, thence leaving Rte. 778 and running southwesterly with the Rte. 600 right of way a centerline distance of 495.30 feet to the intersection of said Rte. 600 and Rte. 615 at the point where Rte. 600 leaves Rte. 615 on the main highway, thence continuing northerly with the Rte. 600 right of way a centerline distance of 508.08 feet to an iron pin set (24) in the intersection of the rights of way of said Rtes. 600 and 778 at Sta. 399+99.13 of Rte. 600, 54.87 feet east of its centerline, and Sta. 6+95.68 of Rte. 778, 20 feet southwest of its centerline, thence leaving Rte. 600 and running southeasterly with the right of way of Rte. 778 a centerline distance of 642.06 feet to the Beginning, and containing 1.74 acres, more or less,

with the four above described tracts containing a total of 171.23 acres, more or less, and all being a part or portion of the surface lands conveyed from Contura CAPP Land, LLC to Russell County Reclamation, LLC by deed dated March 27, 2018 as shown recorded in Russell County as Instrument 1800664,

and all as shown on Sheets 1 and 3 of the Plat, set of three, entitled "Russell County Reclamation, LLC ... Russell County Industrial Authority" dated January 7, 2020, attached hereto and made a part hereof, of record in Russell County Plat Cabinet ___ in Slides ____.

EXHIBIT B

DETERMINATION OF BACKFILL MATERIAL WEIGHTS

ENTRANT will utilize the same approved methodology as utilized between ENTRANT and the Virginia Division of Mined Land Reclamation ("DMLR") for the purposes of tracking and submitting invoices for payment for Backfill Material delivered to the Property.

On a daily basis, each truck operator will keep a written log of the weight of Backfill Material for each load placed on the Property. At the end of the truck driver's shift, the truck driver will review the number of loads and weight of each load and enter his signature on the day's weight ticket of Backfill Material delivered. The job foreman will collect the daily truck weight tickets from each truck driver and forward them to the Project Manager.

The Project Manager will review the weight tickets and prepare a monthly reconciliation of the Backfill Material placed on the Property utilizing the conversion factor from tons to cubic yards as set forth in Section 4.04 of the Agreement.

Each load of Backfill Material will be weighed by the truck's on-board, in-cab scale. These scales are calibrated seasonally by the OEM dealer (Volvo, McLung-Logan Equipment Co, Inc, Norton, VA). From time to time, a CAT 980 Loader with on-board scales will also be utilized to check weights of Backfill Material.



United States Department of the Interior
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
Charleston Field Office
1027 Virginia Street, East
Charleston, West Virginia 25301



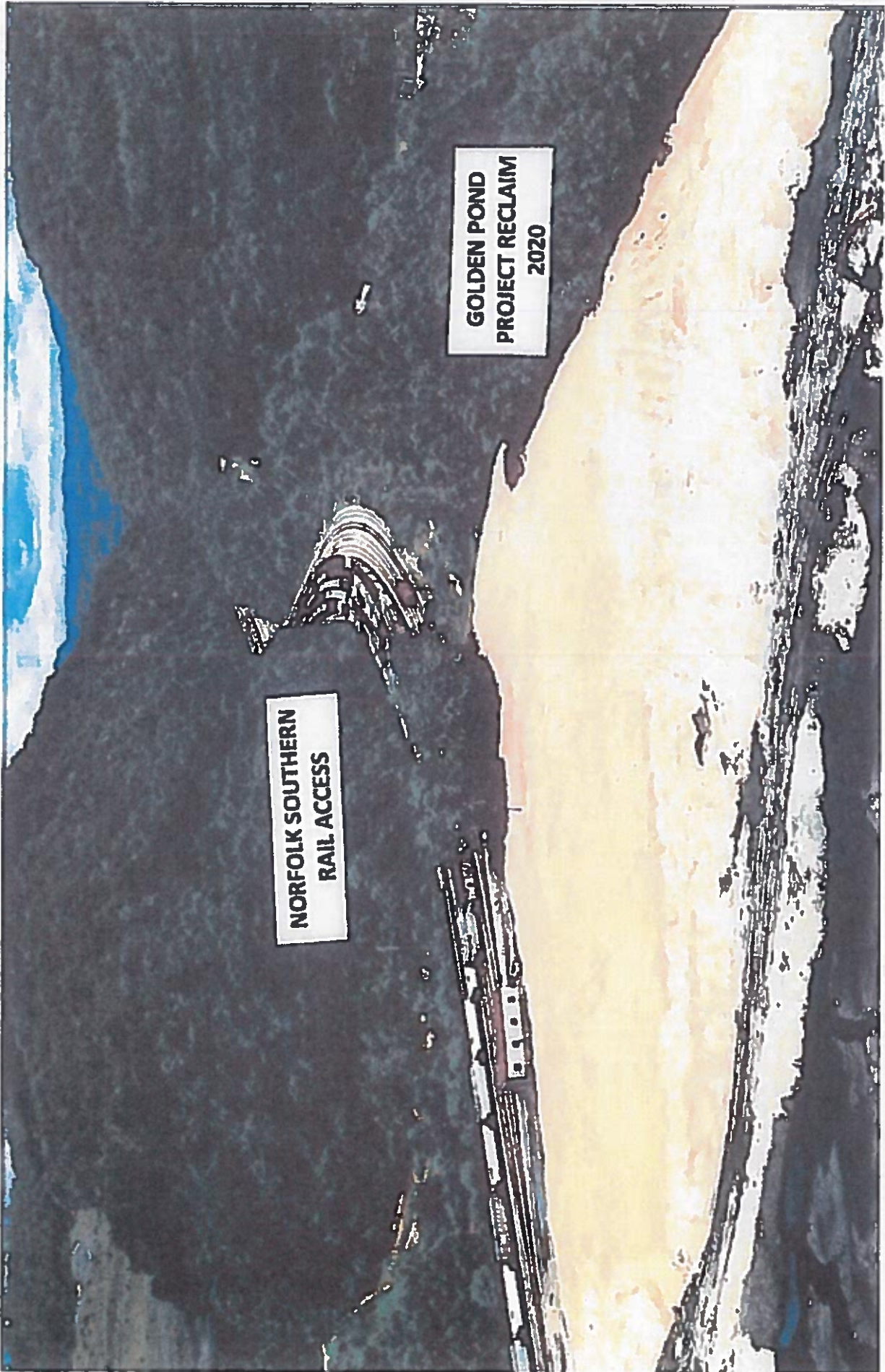
Mr. William Wampler
2700 Lee Hwy
Bristol, VA 24202

Dear Mr. Wampler,

Thank you so much for your tour of the Golden Pond Enhancement and Project Reclaim on August 28, 2019. Your first-hand knowledge of the site made this visit invaluable to the Charleston Field Office during our 2019 Offsite Training. Some of attendees rarely see the active reclamation or mining sites, and being able to see reclamation in action provides a wonderful perspective to the work others in the SMCRA community are performing. Specifically viewing an AML PILOT project, where non-traditional approaches to reclamation and end uses are utilized, gives each of us a glimpse into a new and different type of project. We truly appreciate your time and effort towards our visit to your site.

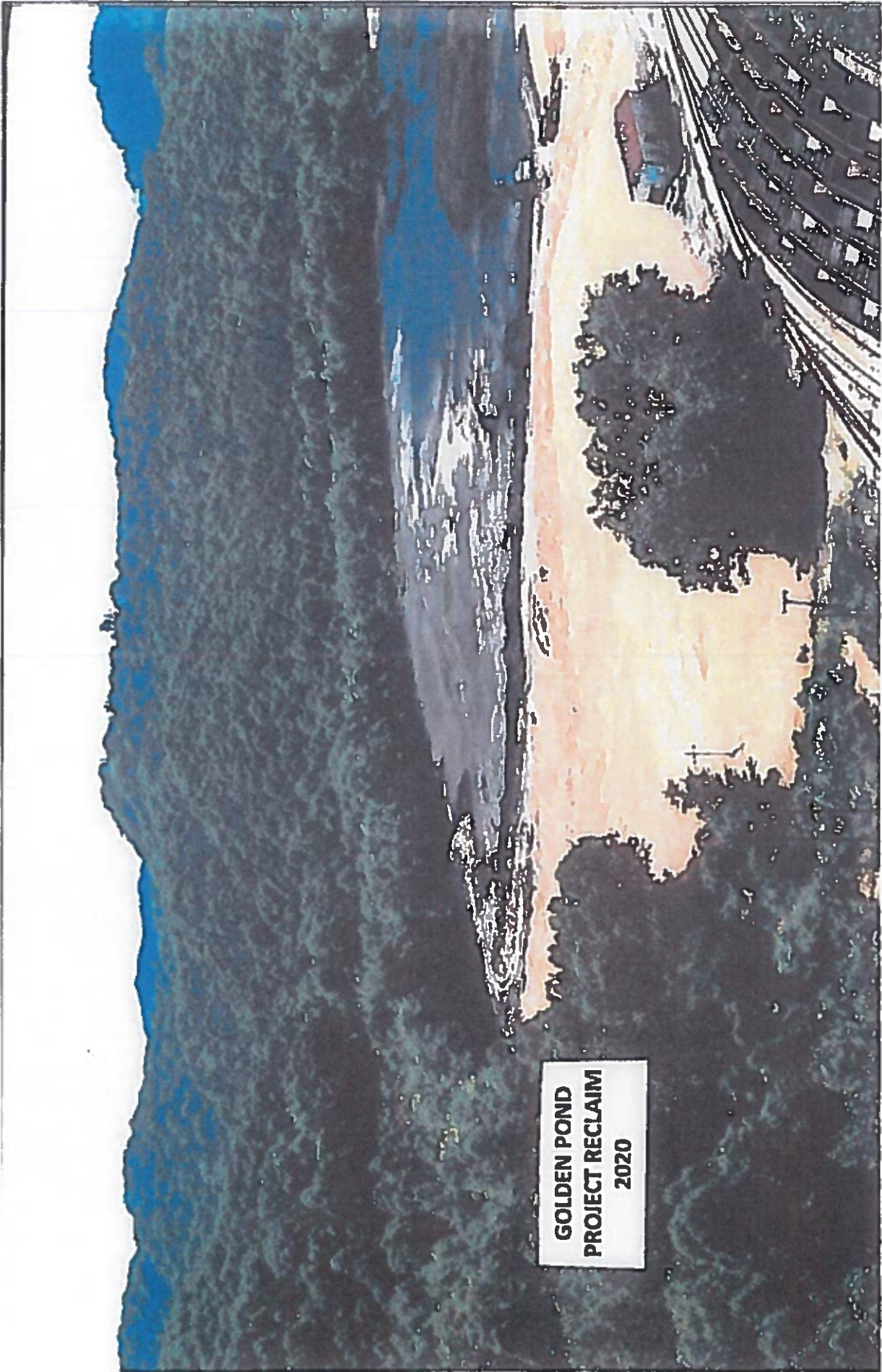
Sincerely,

Roger W. Calhoun, Director
Charleston Field Office

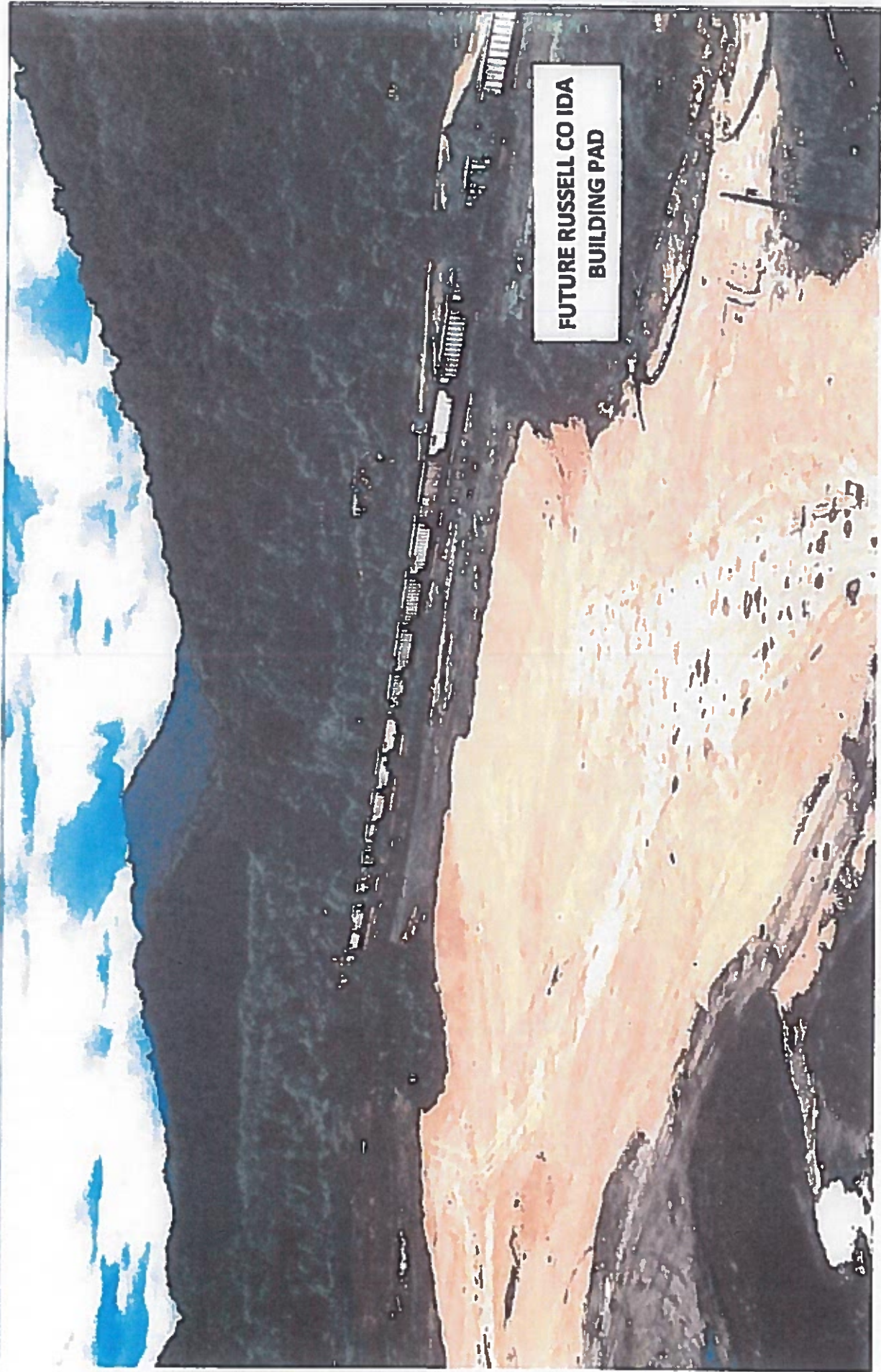


**NORFOLK SOUTHERN
RAIL ACCESS**

**GOLDEN POND
PROJECT RECLAIM
2020**



**GOLDEN POND
PROJECT RECLAIM
2020**



**FUTURE RUSSELL CO IDA
BUILDING PAD**

State Plane Meridian, Ground Distances

Option Tract

No. 613 & 600 C CURVE TABLE

CHORD	ARC LENGTH	CHORD BEARS	DELTA ANGLE	CHORD BEARS	CHORD LENGTH
613	122.27	100.00	114.29	100.00	122.27
600	122.27	100.00	114.29	100.00	122.27

* Sta. 600 begins in CB at an arc length of 102.61' from the PC

No. 613 & 600 C LINE TABLE

LINE	BEARING	DISTANCE
613	S 114.29° E	122.27
600	S 114.29° E	122.27

No. 600 C CURVE TABLE

CHORD	ARC LENGTH	CHORD BEARS	DELTA ANGLE	CHORD BEARS	CHORD LENGTH
613	122.27	100.00	114.29	100.00	122.27
600	122.27	100.00	114.29	100.00	122.27

No. 600 C LINE TABLE

LINE	BEARING	DISTANCE
613	S 114.29° E	122.27
600	S 114.29° E	122.27

No. 778 C CURVE TABLE

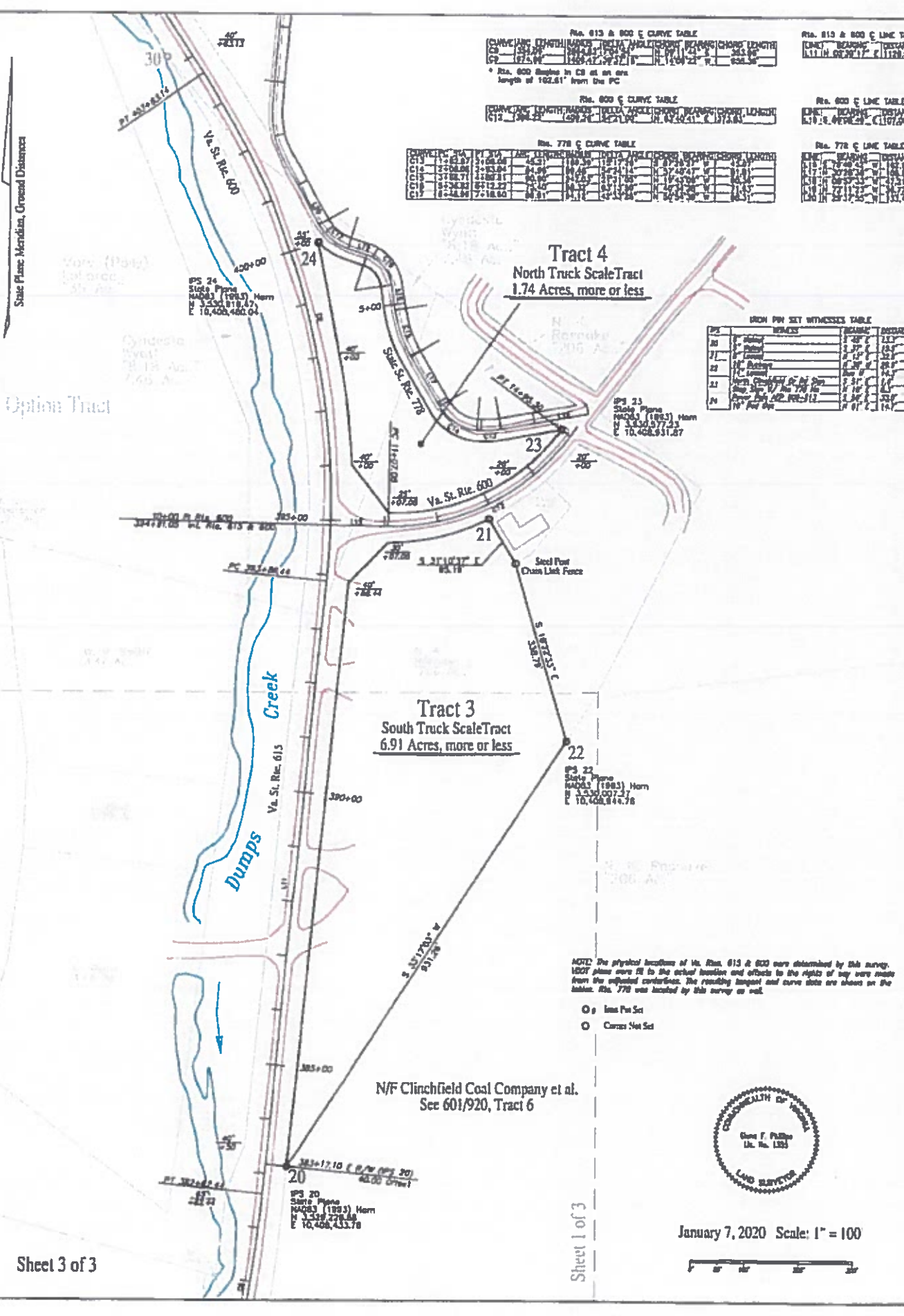
CHORD	ARC LENGTH	CHORD BEARS	DELTA ANGLE	CHORD BEARS	CHORD LENGTH
778	122.27	100.00	114.29	100.00	122.27
778	122.27	100.00	114.29	100.00	122.27

No. 778 C LINE TABLE

LINE	BEARING	DISTANCE
778	S 114.29° E	122.27
778	S 114.29° E	122.27

IRON PIN SET WITNESSES TABLE

IPS	BEARINGS	DISTANCE
20	S 114.29° E	122.27
21	S 114.29° E	122.27
22	S 114.29° E	122.27
23	S 114.29° E	122.27
24	S 114.29° E	122.27



NOTE: The physical locations of Va. Rtes. 613 & 600 were determined by this survey. 1800' plus were file to the actual location and effects to the rights of way were made from the adjusted centerlines. The resulting impact and curve data are shown on the plan. Sta. 778 was located by this survey as well.

- Iron Pin Set
- Corner Net Set



January 7, 2020 Scale: 1" = 100'

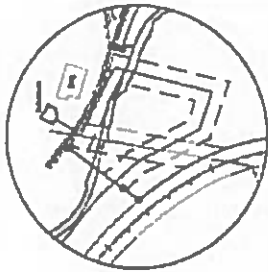
N/F Clinchfield Coal Company et al.
See 601/920, Tract 6

IPS 20
State Plane
NAD83 (1983) Horn
N 3,529,278.48
E 10,408,433.76

IPS 23
State Plane
NAD83 (1983) Horn
N 3,530,077.27
E 10,408,551.87

IPS 24
State Plane
NAD83 (1983) Horn
N 3,529,818.47
E 10,408,482.04

Inset (Same Scale)
Dickson-Russell Contura, LLC
Power Line Easements



See Pink Markers, Ground Distances

13470 Proves Lane Easement, 100 feet wide
 Right of Way and Easement, 100 feet wide

NOTES

Note 1: The physical locations of VA. Sta. 619 & 620 were established by this survey. NOT shown are the actual locations and offsets to the right of way were made from the adjacent construction. The resulting layout and curve data are shown on the tables.

Note 2: Because the plat sheets show project station (ground) distances, the MD 83 (1824) (M&E) measurements shown do not agree with those distances. The rounded number marker used to correct data please refer to project station in 1000'±.

Note 3: This survey was performed without the benefit of a title opinion.

North-South Railway (NSR) NOTES:

After studying the NSR right of way and track (ROW) maps 14-14-14-15, 15-15 & 15-16, and existing records with their representations, it was found that the various details of easements and utility easements, and resulting easements to the tracks, are not clearly shown on any of the current records regarding the location of the subject easements and easement right of way could be obtained early from. The data sheets in this report are based on the information concerning the project stationing and the location of the easements and utility easements which are shown on the maps. Further, at the meeting, it was noted that the right of way offsets and control of the side tracks within the right of way is uncertain. In order to determine the location of said right of way with an acceptable certainty, the following was done:

- 1) The tracks through the project area were surveyed by Jack Manning using photography shown at 2,100 feet above ground level on 12-17-2018. Accuracy was confirmed by the survey.
- 2) Upon the adjoining and right of way offsets were used to be taken from the right track of the two going under the VA State Sta. 615 bridge. Immediately after leaving the highway and railroad right of way intersection, the "centerline" transitioned over to the alignment of the three railroad tracks. The track was used as the centerline of the road through the project area.
- 3) Using the world map on the marked physical location of the centerline of the road through the project area, the centerline was taken to 2,100 feet for the purposes of this survey. The centerline was re-established using the closed condition of curves, through the project. PC 2747.24, which is actually in the transition between tracks, was used as ground. The resulting layout and curve data are shown on the tables.
- 4) Subject easements and easement right of way is 50 feet from the centerline of the road. Stationing is PC Sta. 16277.15 to PC Sta. 116461.97 on sheet on Sheet 1 of 3.

- Iron Pin Set
- Corner Not Set

Sheet 2 of 3

Sta. 619 & 620 & CURVE TABLE

STATION	CHORD BEARING	CHORD DISTANCE	CHORD BEARING	CHORD DISTANCE
619.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
619.50	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
620.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00

Sta. 619 & 620 & LINE TABLE

STATION	CHORD BEARING	CHORD DISTANCE	CHORD BEARING	CHORD DISTANCE
619.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
619.50	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
620.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00

IRON PIN SET OFFSETS TABLE

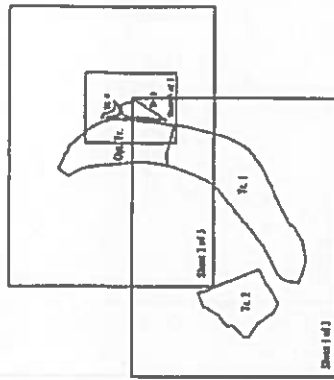
STATION	CHORD BEARING	CHORD DISTANCE	CHORD BEARING	CHORD DISTANCE
619.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
619.50	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
620.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00

IRON PIN SET OFFSETS TABLE

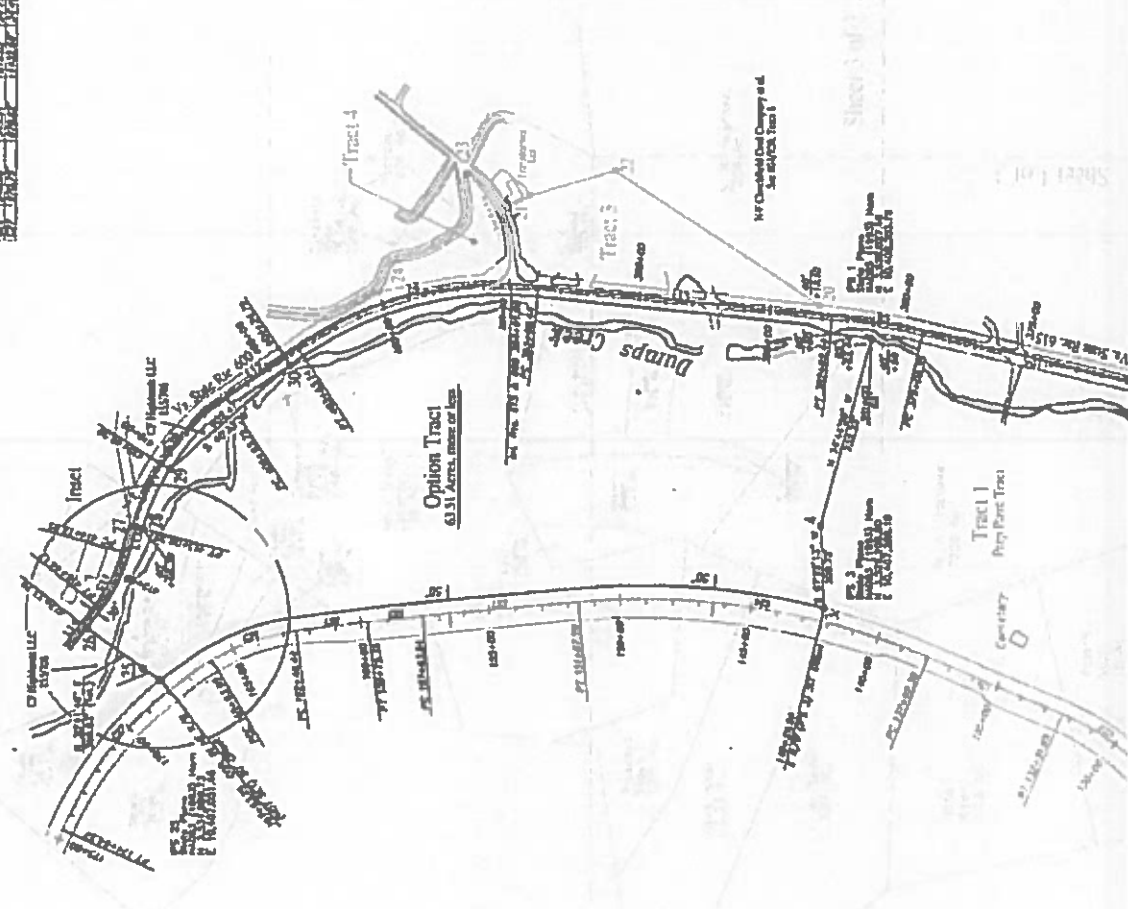
STATION	CHORD BEARING	CHORD DISTANCE	CHORD BEARING	CHORD DISTANCE
619.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
619.50	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
620.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00

STATION	CHORD BEARING	CHORD DISTANCE	CHORD BEARING	CHORD DISTANCE
619.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
619.50	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00
620.00	S 89° 58' 00" W	100.00	S 89° 58' 00" W	100.00

Plat Sheet Index



January 7, 2020 Scale: 1" = 300'



Mr. McFaddin,

Thanks very much for reaching out to Norfolk Southern's Industrial Development team. John Matney has shared some info about the Moss 3 reclamation project and we are pleased to be involved.

Yes we would like very much to visit the site in the near future... Currently we are assembling some possible dates for a visit and as soon as I have some options I will get them to you.

You may know that Norfolk Southern maintains an inventory of sites throughout our service area... These sites are typically sorted into three categories; A **Prime Site**, An **Available Site** and a **Potential Site**...In this case, it would be our desire to include the Moss No.3 site as a **Prime Site**.

In order to be considered an NS Prime site, the following criteria must be met:

- Must have an NS Conceptual plan prepared for the site, demonstrating efficient rail access to the site.
- Be for sale, with price and established terms and conditions determined.
- Have a clear plan and understanding of all utilities available at the site along with any advantages and/or constraints. A timeline for utility construction if required.
- Have supporting documentation such as workforce availability, topo, aerial images, flood map, etc.
- Be able to produce an electronic brochure (PDF) of the site materials so that NS/EDC can react quickly to project requests.

We can discuss these items in more detail when we meet together on-site... As you can imagine, in today's business climate, it is important to have rail servable sites readily available for fast-track development and the Moss No.3 site is certainly a candidate for Prime status. Going forward, after getting a concept plan together to demonstrate rail service, NS would be happy to provide a letter stating our pledge to provide rail service to the site and in return we ask that you include the NS Prime Site logo in your marketing materials. This logo would be an indicator to a prospect that NS has worked with the state and local EDC to insure rail service to the site.

I look forward to meeting on-site and we are pleased you have reached out to NS Industrial Development and look forward to aiding in the marketing of your site.

With kindest regards,

Jeff Cline

Industrial Development Manager

Industrial Development - Western VA & WV

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