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APR 14 2011

OSM KNOXVILLE
FIELD OFFICE

Keeana Sajadi Boarman
Attorney at Law
859.244.7553 (t)
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kboarman@fbtlaw.com

April 13, 2011

VIA OVERNIGHT DELIVERY SERVICE and ELECTRONIC MAIL

Earl D. Bandy, Jr.
Field Office Director
Office of Surface Mining
John J. Duncan Federal Building
710 Locust Street, Second Floor
Knoxville, TN 37902

Re: Notice of Intervention in Opposition to the State of Tennessee's Petition

Dear Mr. Bandy:

Please find enclosed a Notice of Intervention on behalf of National Coal, LLC, in opposition to the State of Tennessee's Petition to Designate Certain Lands in Tennessee as Unsuitable for Surface Coal Mining Operations.

Should you have any questions or need anything further from me, please do not hesitate to contact me.

Sincerely,



Keeana Sajadi Boarman

KSB/jnj

Enclosures

LEXLibrary 454610v1

**THE U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
KNOXVILLE FIELD OFFICE**

**In re Designation of Certain Lands)
Within the North Cumberland)
Wildlife Management Area and the)
Emory River Tracts Conservation)
Easement, Anderson, Campbell, Morgan)
and Scott Counties, Tennessee as)
Unsuitable for Surface Coal Mining)
Operations)**

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APR 14 2011

**OSM KNOXVILLE
FIELD OFFICE**

**NOTICE OF INTERVENTION
IN OPPOSITION TO THE STATE OF TENNESSEE'S PETITION**

Pursuant to 30 C.F.R. § 764.15(c), National Coal, LLC (formerly National Coal Corporation) (the “Intervenor”) requests that the United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement grant the Intervenor the right to intervene in opposition to the Petition to Designate Certain Lands in Tennessee as Unsuitable for Surface Coal Mining Operations (the “Petition”) filed by the State of Tennessee (the “Petitioner”) on October 1, 2010.

Under 30 C.F.R. § 764.15(c), “any person may intervene in the proceeding by filing allegations of facts describing how the designation determination directly affects the intervenor, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor’s name, address and telephone number.” Part I below identifies the Intervenor and its contact information, and describes its interests and how designation would directly affect those interests. The remaining parts of this Notice provide supporting evidence and identify those sections of the Petition to which the Intervenor’s allegations pertain.

The Petition seeks designation as unsuitable for surface coal mining operations the area within 600 feet of all ridge lines lying within the North Cumberland Wildlife Management Area

(“WMA”), comprised of the Royal Blue WMA, the Sundquist WMA, and the New River WMA (also known as the Brimstone Tract Conservation Easement), and the Emory River Tracts Conservation Easement, and encompassing approximately 67,326 acres (collectively, the “Petition Area”).¹ The Petition relies on two of the designation criteria set forth in section 522 of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1272 (“SMCRA”), asserting that (1) surface mining operations in the Petition Area would be incompatible with numerous State land use plans and programs under 30 U.S.C. § 1272(a)(3)(A),² and that (2) the Petition Area meets the definition of “fragile lands,” under 30 U.S.C. § 1272(a)(3)(B), and surface mining would significantly damage the natural systems and esthetic, recreational, cultural, and history values of the ridge lines and their viewsheds that exist within these fragile lands.³

As set forth below, the Intervenor fully supports the allegations included in the Notice of Intervention in Opposition to the State of Tennessee’s Petition (the “Opposition Notice”) filed by Tennessee Mining Association and National Mining Association, on behalf of themselves and their members, and Campbell County, Tennessee. Because the Intervenor’s interests would be directly and adversely affected by designating the Petition Area as unsuitable for surface coal mining operations, the Intervenor submits this Notice and intervenes in opposition to the Petition. As the Opposition Notice recognizes, the Petition contains assertions of overbroad and unsupported allegations that surface coal mining is incompatible with the State’s land use plans for the Petition Area.

¹ Petition at 1.

² *Id.* at 3-4, 8-20.

³ *Id.* at 4, 20-28.

I. IDENTIFICATION OF THE INTERVENOR AND ITS INTERESTS, AND DESCRIPTION OF HOW DESIGNATING THE PETITION AREA AS UNSUITABLE FOR SURFACE MINING ADVERSELY AFFECTS THOSE INTERESTS.

National Coal, LLC
c/o James C. Justice Companies, Inc.
Attn: Stephen W. Ball, General Counsel
106 Lockheed Drive
P.O. Box 2178
Beaver, West Virginia 25819
(304) 252-1074
sball@justicecompanies.com

The Intervenor is a Tennessee limited liability company that has mineral rights and derives significant revenue from surface coal mining operations in the Petition Area. The mineral rights are owned pursuant to the deeds set forth in Exhibit A. Pursuant to an Easement with the Petitioner (the “Easement”),⁴ the Intervenor has an easement to the surface above the mineral rights and the express right to conduct surface coal mining operations. If the Petition is granted, the Intervenor will be precluded from mining a substantial amount of coal by surface mining methods. In addition, its employees, independent contractors, vendors and others with ancillary interests will lose substantial income if surface coal mining is precluded.

II. THE PETITION AREA SHOULD NOT BE DESIGNATED UNSUITABLE FOR SURFACE COAL MINING OPERATIONS BECAUSE MINING IN THE PETITION AREA IS COMPATIBLE WITH EXISTING STATE OR LOCAL LAND USE PLANS OR PROGRAMS.

A. Surface Coal Mining Operations are Compatible with Existing State and Local Land Use Plans and Programs Providing for Conservation and Protection of Public Lands.

The Petition provides that a primary goal of each of the 2007 “Connecting the Cumberlands” Conservation Project, the Management Plan for the Royal Blue Wildlife Management Area, the mission statement for the Sundquist Wildlife Management Area and

⁴ Attached as Exhibit B.

Tennessee's Comprehensive Wildlife Conservation Strategy is conservation and protection of areas included within the Petition Area.⁵ The Petition then makes conclusory allegations that surface coal mining operations are incompatible with such goals and that habitats will be destroyed. The Intervenor supports the argument set forth in the Opposition Notice that, because it must be assumed that mining will be conducted in compliance with contemporary mining practices (and thus in compliance with applicable law), it must also be assumed that no discharges from mining operations will cause the harms that Petitioner claims will occur.⁶ As the Opposition Notice recognizes, active mining is no different in terms of temporary disturbances than commercial construction projects.⁷

In fact, as the Opposition Notice describes in detail, surface coal mining operations and associated reclamation is *beneficial* to the Petition Area.⁸ Permitting requirements and other applicable laws set forth stringent reclamation obligations on the part of the Intervenor and others mining in the Petition Area. These obligations serve to restore any disturbed habitats. In addition, through easements and other shared use agreements, the Tennessee Wildlife Resources Agency ("TWRA") may specify the type of vegetation or the contours that should remain in the reclamation plan.⁹ By specifying vegetation and location, a new habitat for species not previously prevalent may be created.¹⁰ Furthermore, most of the Petition Area will be subject to re-mining requirements that will require reclamation of previously unreclaimed highwalls and restoration of abandoned mine sites, thereby enhancing (and not destroying) the habitat.¹¹

⁵ Petition at 8-20.

⁶ Opposition Notice at 7-9.

⁷ *Id.* at 16.

⁸ *Id.* at 15.

⁹ *Id.* at 16.

¹⁰ *Id.* at 17.

¹¹ *Id.* at 16-17.

B. Surface Coal Mining Operations are Compatible with Existing State and Local Land Use Plans and Programs Providing for Public Recreational Opportunities.

The Petition provides that a primary goal of each of the 2007 “Connecting the Cumberlands” Conservation Project, the Management Plan for the Royal Blue Wildlife Management Area and the mission statement for the Sundquist Wildlife Management Area is the preservation and protection of public recreational opportunities within the Petition Area, such as hunting, fishing, hiking, biking, horseback riding and wildlife viewing.¹² The Petition then makes conclusory allegations that surface coal mining operations damage scenic resources and viewsapes and cause noise, dust and vibration, all of which are incompatible with recreational goals.¹³ As discussed in the previous section, surface coal mining operations will be (and are assumed to be) conducted in compliance with contemporary mining practices, and thus will comply with applicable laws relating to noise, debris and similar concerns. Further, the Intervenor and other mining operators will comply with applicable reclamation liabilities, which restore any scenic resources and viewsapes that may be temporarily disturbed by current mining practices. Finally, as previously discussed, active mining is no different in terms of temporary disturbances than commercial construction projects. Thus, to the extent there is any impact on recreational use, it is minimal and temporary.

C. Surface Coal Mining Operations are Compatible with Existing State and Local Land Use Plans and Programs Providing for Economic Development.

The Petition provides that a primary goal of each of the 2007 “Connecting the Cumberlands” Conservation Project is sustainable economic development.¹⁴ The Petitioner alleges that surface coal mining operations damage the natural and scenic values that attract

¹² Petition at 8-17.

¹³ *Id.* at 11-12, 14-16.

¹⁴ *Id.* at 12-13.

tourism, which is in conflict with one of the keys to Petitioner's long-term sustainable economic development plan.¹⁵ As previously discussed, while surface coal mining may temporarily disrupt an area in much the same way as a construction site, the impact is minimal and reclamation requires restoration of any habitats affected. Mining and subsequent reclamation, then, are consistent with natural and scenic values that attract tourism. Also, as previously discussed, mining is not inconsistent with recreational values such that would deter tourism. Further, as the Opposition Notice recognizes, cities in the region have even marketed coal mining and reclamation sites as tourist attractions,¹⁶ which directly conflicts with the Petitioner's proposition that mining deters tourism.

The Petitioner also alleges that surface coal mining operations destroy the forests that would provide a sustainable timber harvest and valuable products and local jobs, which is in conflict with one of the keys to Petitioner's long-term sustainable economic development plan.¹⁷ To the extent that any timber is removed from the Petition Area in connection with surface coal mining operations, the area will be reclaimed in accordance with applicable law, which may provide for reforestation, and in accordance with contractual agreements with TWRA, pursuant to which TWRA may specify the type of vegetation. Further, as the Opposition Notice recognizes, re-mining provides the added benefit of restoring previously abandoned mine sites.¹⁸ In fact, the coal mining industry planted 250,000 trees in 2009 and 2010 in areas scarred by past mining.¹⁹

¹⁵ *Id.* at 12-13.

¹⁶ Opposition Notice at 18-19.

¹⁷ Petition at 12-13.

¹⁸ Opposition Notice at 17.

¹⁹ *Id.* at 16.

Not only does surface coal mining not impair the Petitioner's goals for sustainable economic development, but it also has a substantial local economic footprint of its own.²⁰ As further described in the Opposition Notice, PricewaterhouseCoopers, LLP issued a report in 2010 that provided that the impact of coal mining in Tennessee was as follows: (i) contribution from coal mining to the gross domestic product of Tennessee was \$604,000,000; (ii) with respect to employment, coal mining represented \$6,480,000,000; and (iii) \$47,000,000 in state and local taxes.²¹ Granting the Petition, then, would deprive the State of these significant contributions.

D. Petitioner Has Recognized That Surface Coal Mining Operations are Compatible with Existing State and Local Land Use Plans and Programs.

As the Opposition Notice recognizes, the Easement expressly authorizes surface mining operations in areas covered by the Petition, but provides that the Petitioner and the Intervenor will work together to resolve any issues in the event that the Petitioner notifies the Intervenor that that Petitioner believes any mine site will materially adversely affect an endangered or threatened species or a unique rare geological phenomenon.²² Because the Intervenor has not received any such notice, the Petitioner must not believe that any mine site will have such a material adverse effect. Furthermore, as set forth in the Opposition Notice, the fact that the Petitioner executed the Easement, which expressly allows surface coal mining operations, intimates that even the Petitioner agrees that mining is compatible with state and local land use plans.²³

²⁰ *Id.* at 17.

²¹ *Id.*

²² *Id.* at 10-11; Easement at 1-2.

²³ Opposition Notice at 10-11.

III. THE PETITION AREA SHOULD NOT BE DESIGNATED UNSUITABLE FOR SURFACE COAL MINING OPERATIONS BECAUSE SUCH OPERATIONS WOULD NOT AFFECT FRAGILE OR HISTORIC LANDS AND/OR RESULT IN SIGNIFICANT DAMAGE TO IMPORTANT HISTORIC, CULTURAL, SCIENTIFIC, AND ESTHETIC VALUES AND NATURAL SYSTEMS.

The Petitioner alleges that, because the Petition Area contains valuable habitat for priority migratory songbirds, “fragile lands” exist within the Petition Area.²⁴ The Petitioner also cited its own Connecting the Cumberlands conservation project for the proposition that the Petition Area has exceptional recreational values and a concentration of ecologic and esthetic features, which are, according to the Petitioner, additional examples of how the Petition Area falls within the definition of “fragile lands.”²⁵ As the Opposition Notice recognizes, the Petitioner “makes an inconsistent illogical leap that [the Petition Area is] ecologically different from other lands in the affected wildlife management areas.”²⁶ Further, the only support cited by the Petitioner is its own conservation project.²⁷ In light of the inconsistent illogical leap and the lack of independent support, the Petitioner failed to demonstrate that the Petition Area includes fragile or historic lands.

Even assuming, *arguendo*, that the Petition Area includes fragile or historic lands, the Petitioner failed to establish that such lands would be affected so as to result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems, as required by statute. The Petitioner merely repeated its previous conclusory allegations that surface coal mining operations would destroy valuable habitat, create visual and noise disturbances, create public safety concerns and interfere with economic developments.²⁸ As discussed in the preceding sections of this Notice, such claims are without merit, and surface

²⁴ Petition at 21.

²⁵ *Id.*

²⁶ Opposition Notice at 19.

²⁷ Petition at 21.

²⁸ *Id.* at 23-24.

coal mining is entirely compatible with conservation, recreational and economic values. While the Petitioner asserts a new argument that surface coal mining has a negative impact on water quality, such an assertion is also without merit because it must be assumed that coal mining will be conducted in compliance with current practices (and thus applicable law), which imposes stringent standards concerning water quality.

V. THE PETITION AREA SHOULD NOT BE DESIGNATED UNSUITABLE FOR SURFACE COAL MINING OPERATIONS BECAUSE THE PETITION FAILS TO COMPLY WITH THE BASIC REQUIREMENTS OF SMCRA.

The Intervenor joins the Opposition Notice with respect to Section V that the Petition fails to comply with the requirements of 30 C.F.R. § 764.13.²⁹ As set forth in the Opposition Notice, the Petition (i) fails to specify the portion(s) of the Petition Area to which each allegation applies, (ii) is not supported by evidence that establishes the validity of the allegations for the particular type of mining operation for each portion of the Petition Area (e.g., the Petition fails to specify how surface coal mining operations would be incompatible with the conservation goals of Tennessee’s “Connecting the Cumberlands” conservation project), (iii) is overly broad in scope, and (iv) does not include evidence of impacts that are not preventable under current SMCRA regulations.³⁰ Accordingly, the Petition is not complete and the Intervenor requests that the completeness decision be reversed.

VI. THE PETITION AREA SHOULD NOT BE DESIGNATED UNSUITABLE FOR SURFACE COAL MINING OPERATIONS BECAUSE THE PETITION ATTEMPTS TO UNLAWFULLY INTERFERE WITH BINDING CONTRACTUAL OBLIGATIONS.

As previously discussed, the Intervenor and the Petitioner are parties to the Easement, pursuant to which the Petitioner expressly granted to the Intervenor the right to mine coal in the Petition Area by surface mining methods. Granting the Petition would unlawfully interfere with

²⁹ Opposition Notice at 24-28.

³⁰ *Id.*

this long-standing contractual relationship, which was re-affirmed *after* the Petition was filed. Further, the Intervenor fully supports the allegations set forth in Section VI of the Opposition Notice that granting the Petition would materially impact additional contracts so as to deprive owners of their mineral rights.³¹

VII. CONCLUSION.

For the reasons set forth above, the Intervenor respectfully submits this Notice and requests that the Petition to designate the Petition Area as unsuitable for surface coal mining operations be denied.

Respectfully submitted,



Paul E. Sullivan
Frost Brown Todd, LLC
250 W. Main St., Suite 2800
Lexington, KY 40507
Telephone: (859) 244-3211
Facsimile: (859) 231-0011
psullivan@fbtlaw.com
Counsel for Intervenor

³¹ *Id.* at 28-30.

Exhibit A

See Attached.

Schedule 4 18(a)

ANDERSON COUNTY PROPERTY SUMMARY

TAX MAP	PARCEL	GRANTEE:	GRANTOR:	COUNTY	BOOK	PAGE	DESCRIPTION	OWNERSHIP	ACRES
25	8.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1364	868	NEW RIVER HWY	SURFACE FEE	1,250.26
26	28.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	22.00
26	30.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
26	34.02	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	15.00
26	36.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	16.50
26	36.01	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
26	38.01	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
26	30.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
37	18.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
37	18.02	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	2.00
37	19.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.60
37	21.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
37	22.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	8.50
37	23.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	7.00
37	42.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	4.00
48	14.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1364	868	INDIAN FORK LANE	SURFACE FEE	54.07
48	15.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1364	868	INDIAN FORK LANE	SURFACE FEE	46.82
48	16.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1364	868	INDIAN FORK LANE	SURFACE FEE	12.14
49	1.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	INDIAN FORK LANE	MINERAL DEED	10.00
49	2.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	INDIAN FORK LANE	MINERAL DEED	1.70
49	4.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	5.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	33.00
49	6.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	2.20
49	7.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	2.20
49	8.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	10.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	3.40
49	11.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	3.50

Schedule 4.18(a)

ANDERSON COUNTY PROPERTY SUMMARY

TAX	MAP	PARCEL	GRANTEE:	GRANTOR:	COUNTY	BOOK	PAGE	DESCRIPTION	OWNERSHIP	ACRES
49	12.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	12.01		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	13.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	2.70
49	14.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	2.00
49	15.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	15.01		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	2.00
49	22.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	3.40
49	23.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	24.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	25.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	10.50
49	26.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	27.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	28.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	29.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	30.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	26.50
49	30.01		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	31.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.10
49	32.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.10
49	33.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	34.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	35.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	37.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
49	39.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
*49	*44.00		RANGER ENERGY INVESTMENTS	NATIONAL COAL CORPORATION	ANDERSON	1520	1798	NEW RIVER HWY	SURFACE FEE	210.77
49	47.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1364	868	PATTERSON MOUNTAIN	SURFACE FEE	22.53
49	48.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1364	868	PATTERSON MOUNTAIN	SURFACE FEE	58.65
50	1.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	STATE HWY 116	MINERAL DEED	21,687.00
50	2.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
50	3.00		NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1364	868	NEW RIVER HWY	SURFACE FEE	270.46

Schedule 4.18(a)

ANDERSON COUNTY PROPERTY SUMMARY

<u>TAX</u>	<u>MAP</u>	<u>PARCEL</u>	<u>GRANTEE:</u>	<u>GRANTOR:</u>	<u>COUNTY</u>	<u>BOOK</u>	<u>PAGE</u>	<u>DESCRIPTION</u>	<u>OWNERSHIP</u>	<u>ACRES</u>
	59	1.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	MORGAN COUNTY LINE	MINERAL DEED	1.00
	59	3.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	FORK MOUNTAIN	MINERAL DEED	1.00
	59	7.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
	59	9.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	1.00
	59	410.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, INC.	ANDERSON	1342	716	NEW RIVER HWY	MINERAL DEED	79.00

* National Coal still owns the mineral rights, but has leased these rights to Premium Coal.

Schedule 4.18(a)

CAMPBELL COUNTY PROPERTY

TAX	MAP	PARCEL	GRANTEE:	GRANTOR:	COUNTY	BOOK	PAGE	DESCRIPTION	OWNERSHIP	ACRES
	43	12.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	90.00
	44	2.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	390	***MINE 12 STINKING CREEK	FEE SIMPLE	148.00
	44	7.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	390	***MINE 12 STINKING CREEK	FEE SIMPLE	48.50
	44	16.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	390	***MINE 12 STINKING CREEK	FEE SIMPLE	38.50
	44	17.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	390	***MINE 12 STINKING CREEK	FEE SIMPLE	170.97
	44	18.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	390	***MINE 12 STINKING CREEK	FEE SIMPLE	80.00
	44	26.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	36.00
	44	27.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	4.42
	44	28.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	5.00
	44	29.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	19.30
	44	29.01	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	1.00
	44	30.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	13.20
	44	31.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	7.20
	44	32.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	41.19
	44	33.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	1.51
	44	34.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	59.70
	44	35.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	395	***MINE 12 STINKING CREEK	MINERAL DEED	177.75
	44	54.00	REX COAL, INC.*	LAFOLLETTE ENTERPRISES, L.P.	CAMPBELL	W446	390	***MINE 12 STINKING CREEK	FEE SIMPLE	11.00
	53	2.00	REX COAL, INC.*	BRUCE WAYNE FERGUSON, SR.	CAMPBELL	W446	388	***MINE 12 STINKING CREEK	FEE SIMPLE	77.81
			* Rex Coal, Inc. was changed to Jacksboro Coal Company, Inc. by Amendment dated 12/15/08, filed 12/17/08							
	55	4.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	HWY 25 W	MINERAL DEED	2.40
	55	29.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	DUFF ROAD	MINERAL DEED	1.35
	55	29.01	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	DUFF ROAD	MINERAL DEED	1.00
	55	29.02	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	DUFF ROAD	MINERAL DEED	1.22
	55	62.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	DUFF ROAD	MINERAL DEED	3.00
	63	5.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	HIGH-TOP HOLDINGS	MINERAL DEED	1.00

Schedule 4.18(a) CAMPBELL COUNTY PROPERTY										
TAX	MAP	PARCEL	GRANTEE:	GRANTOR:	COUNTY	BOOK	PAGE	DESCRIPTION	OWNERSHIP	ACRES
	63	12.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	HIGH-TOP HOLDINGS	MINERAL DEED	4.50
	63	14.01	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	HIGH-TOP HOLDINGS	MINERAL DEED	1.50
	88	1.00	NATIONAL COAL CORPORATION	NEW RIVER PROCESSING, INC.	CAMPBELL	W406	186	TURLEY**	FEE SIMPLE	265.97
	137	1.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	KOPPERS PROPERTY	MINERAL DEED	3.00
	137	2.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	2.00
	137	4.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	1.50
	137	6.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	1.00
	139	6.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	11,045.00
	139	8.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	NICKS CREEK ROAD	MINERAL DEED	1.00
	141	1.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	74.60
	141	3.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	NEW RIVER ROAD	MINERAL DEED	7.50
	141	5.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	FELLOWSHIP LANE	MINERAL DEED	48.00
	141	6.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	NEW RIVER ROAD	MINERAL DEED	6.20
	141	7.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	FELLOWSHIP LANE	MINERAL DEED	2.00
	141	8.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	NEW RIVER ROAD	MINERAL DEED	1.00
	141	9.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	FELLOWSHIP LANE	MINERAL DEED	1.00
	141	10.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	FELLOWSHIP LANE	MINERAL DEED	1.00
	141	11.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	FELLOWSHIP LANE	MINERAL DEED	4.30
	141	12.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	FELLOWSHIP LANE	MINERAL DEED	1.00
	141	13.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	FELLOWSHIP LANE	MINERAL DEED	1.00
	141	14.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	NEW RIVER ROAD	MINERAL DEED	1.40
	141	15.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	35.50
	141	17.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	2.00
	141	18.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	1.00
	141	19.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	2.80
	141	20.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	10.90
	141	21.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	4.30
	141	22.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	1.50
	141	24.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	6.00
	141	25.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONEY FORK ROAD	MINERAL DEED	14.00

Schedule 4.18(a)

CAMPBELL COUNTY PROPERTY

TAX	MAP	PARCEL	GRANTEE:	GRANTOR:	COUNTY	BOOK	PAGE	DESCRIPTION	OWNERSHIP	ACRES
	141	26.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONE FORD ROAD	MINERAL DEED	2.70
	141	33.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONE FORD ROAD	MINERAL DEED	1.50
	141	34.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONE FORD ROAD	MINERAL DEED	1.00
	141	35.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONE FORD ROAD	MINERAL DEED	21.00
	141	36.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONE FORD ROAD	MINERAL DEED	13.00
	141	37.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONE FORD ROAD	MINERAL DEED	26.00
	141	38.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	LONZA LANE	MINERAL DEED	52.40
	141	46.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	WELCHS CAMP LANE	MINERAL DEED	5.00
	142	12.00	NATIONAL COAL CORPORATION	CUMBERLAND TIMBER COMPANY, LLC	CAMPBELL	396	496	STONE FORD ROAD	MINERAL DEED	1.00
								** Active Facilities		
								*** Under Construction		

Exhibit B

See Attached.

This instrument prepared by:
Tennessee Wildlife Resources Agency
Ellington Agricultural Center
440 Hogan Road
Nashville, Tennessee 37220

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement"), is made and entered into this 15th day of ~~November~~, 2010 by and between the STATE OF TENNESSEE on behalf of itself and its successors, hereinafter called Surface Owner or State, and NATIONAL COAL CORPORATION, a Tennessee corporation, its employees, affiliates, partners, coventurers, successors, assigns, contractors and representatives, herein collectively called Coal Mineral Owner:

RECITALS:

Surface Owner is the owner of approximately 74,900 acres of surface property in Scott, Campbell, Morgan and Anderson Counties, Tennessee. Surface Owner acquired these surface rights ("Surface Rights") subject to numerous outstanding prior conveyances, including, without limitation, the prior ownership of the Coal Mineral Owner of all coal reserves on and in the Property (as defined below) and rights of development of the coal reserves underlying the Surface Rights together with certain rights of the Coal Mineral Owner to acquire by deed areas of surface within the Property from the Surface Owner for coal development on and under the Property and on properties of the Coal Mineral Owner contiguous to the Property.

Other parties hold additional forms of property rights which co-exist on said properties and which affect the timber ownership and harvesting ("Timber Interests") and oil, gas, and coalbed methane ownership and development ("Oil & Gas Interests").

Coal Mineral Owner and Surface Owner wish to enter into this Agreement setting forth each of the parties' agreements with respect to each party's use of the Property.

WITNESSETH:

That for and in consideration of the sum of FIVE HUNDRED NO/100 DOLLARS (\$500.00), and other valuable consideration in hand paid, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I

USE OF PROPERTY

1.1 **Rights.** Surface Owner hereby grants and conveys to Coal Mineral Owner the following rights:

a. to use all surface, underground, or other geologic formations and other substances therein to mine, excavate, remove, transport, ship, and market by all methods of mining, including but not limited to surface mining and deep mining methods of all the coal in all seams in, on and underlying those certain tracts of land identified as the "New River Tract" more particularly described by deed reference hereinbelow;

b. to transport, treat and store coal production;

c. to conduct geological and geophysical exploration utilizing any scientific methods (whether now known or hereafter discovered);

d. a right-of-way, servitude and easement to locate, construct, operate, maintain, repair, remove, replace, change the size of, and operate coal mines, transportation, storage, or related uses with appurtenances thereunto;

e. to use roadways for the transportation of cars, trucks, equipment, workers, supplies, and other things deemed necessary or convenient by Coal Mineral Owner; and

f. a right-of-way and easement to locate, construct, maintain, repair, remove, replace, and operate utility access pole line or lines, including poles, cross arms, wires, buried equipment, guys, guy stubs, anchors, brace poles, fixtures and appurtenances deemed necessary or convenient by the Coal Mineral Owner;

These rights are granted on, over or under that certain property located in Anderson County, Campbell County, and Scott County, Tennessee, and being that certain property conveyed to the State of Tennessee and placed of record in Anderson County, Tennessee in **Deed Book 1328 Page 486**, in Campbell County, Tennessee in **Deed Book 395, Page 25**, and in Scott County, Tennessee in **Deed Book 241, Page 15** and being the same property the coal mineral interests of which were conveyed to Coal Mineral Owner by deed from Cumberland Timber Company, LLC, a Tennessee limited liability company, dated April 9, 2003, and recorded in Anderson County, Tennessee in **Deed Book 1342, Page 716**, in Campbell County, Tennessee in **Book W396, Page 496**, and in Scott County, Tennessee in **Deed Book 242, Page 4** (the "Property" or "Surface Estate").

1.2 Ingress and Egress; Use of existing roads. In association with the rights herein granted, the Surface Owner further grants and conveys unto the Coal Mineral Owner all necessary rights of ingress and egress to and from the Property for the purposes set forth herein together with an additional 25 feet temporary easement along and adjacent to said rights-of-way during temporary periods of construction, maintenance, repair, removal or replacement. Coal Mineral Owner shall have the right of ingress and egress to and from said right-of-way for the purposes aforesaid, together with the right to transport equipment, materials, production, the right to take all actions it deems appropriate for the realization of the value of its coal mineral interests, and the right to use existing roads and the right to pass over, through and upon said

lands for the purpose of exercising the rights enumerated herein on adjoining property or other properties wherein Coal Mineral Owner has rights or interests.

ARTICLE II

EASEMENTS, RIGHTS OF WAY, WELL SITES, AND OTHER TEMPORARY SURFACE USE AGREEMENTS

2.1 **No Fee Purchase.** The parties acknowledge that the Coal Mineral Owner has certain purchase rights, easements, and coal development rights and powers (to include, without limitation, exploration, drilling, mining, collection, extraction, transportation and storage of coal) with regards to the Property and certain contiguous properties which it has acquired pursuant to prior agreements affecting the rights in the Property. Notwithstanding the foregoing, Surface Owner and Coal Mineral Owner have agreed, at this time, to utilize easements, rights of way agreements, licenses or other forms of conveyance (all falling short of a fee conveyance) in order to accommodate the Coal Mineral Owner's development of the coal mineral estates in or under the Property ("Coal Mineral Estate"). Surface Owner acknowledges that Coal Mineral Owner has not, through this Agreement or otherwise, surrendered Coal Mineral Owner's purchase rights, easements, coal development rights or powers. Coal Mineral Owner has agreed to utilize forms of the foregoing conveyance agreements as an accommodation to Surface Owner in order to allow Surface Owner to enhance the value of the Property, and in consideration therefore, Coal Mineral Owner shall receive, on an expedited basis, the granting of access to the Surface Estate for coal mineral exploration, mining and removal, transportation, utility transmission lines, roads, or other appurtenant uses of the Property.

2.2 **Previous Mining Activity.** The Surface Owner is aware of the current mining operations being conducted on the Property by the Coal Mineral Owner and/or its assigns. The Surface Owner, through the Tennessee Wildlife Resources Agency, previously granted

permission to the Coal Mineral Owner to access any necessary portals or other surface areas in connection with the extraction of coal currently being conducted by the Coal Mineral Owner and/or its assigns and hereby acknowledges and agrees that the Coal Mineral Owner and/or its assigns has permission for such access without the requirement of acquiring additional easements or the requirement of paying any additional fee (including, without limitation, the fee set forth in Section 2.6) with respect to such access.

2.3 Mine-Sites Potentially Affecting Environmentally Sensitive Areas. If Surface Owner believes any mine site (or other use requiring an easement) location tendered by Coal Mineral Owner will materially adversely impact an endangered or threatened species or a unique rare geological phenomenon located within the boundaries of the proposed mine site, then the Surface Owner shall immediately inform the Coal Mineral Owner of such anticipated impacts and the parties shall promptly meet to attempt to resolve the issues affecting the proposed mine site.

2.4 Mine Development Plans. Coal Mineral Owner shall attempt to inform Surface Owner, on an informal, periodic meeting basis, of its most current mining plans.

Coal Mineral Owner shall, prior to commencement of any mining operation, submit a copy of the mine plan to Surface Owner, including the total anticipated acreage Coal Mineral Owner intends to use for the mine plan (exclusive of roads which are not to be included in acreage limitations) and an explanation of whether this mine plan falls into (i) the maximum of 3,750 acres of surface designation rights including buffer zones of 100 feet for surface mining in areas where there has not been prior surface (contour or strip) mining on the affected seam within the designated area ("virgin cuts"); (ii) the maximum of 7,318.3 acres of surface designation rights, including buffer zones of 100 feet for non-forested property (any land

previously used in any mining or mineral extraction operations, including any coal seam face or the attendant existing highway or bench of such coal seam); or (iii) the unlimited number of ten (10) acre tracts for deep mining portals, all as referenced in the Second Amendment to the Asset Purchase Agreement of 1994 as amended. Surface Owner shall keep a record of the applicable acreage limitation and shall notify Coal Mineral Owner of the acreage remaining in categories (i) and (ii) referenced above immediately after receiving a mine plan. Coal Mineral Owner shall be entitled to exercise its surface designation rights from time to time in one or more separate instances, without limitation as to the number of exercises, during the term of this Agreement. Upon the exhaustion of all surface designation rights under this Agreement, the Coal Mineral Owner shall not be entitled to designate any additional surface areas and shall be limited to using its previously designated surface areas for purposes of its mining operations and shall be required to satisfy all reclamation liabilities required by law with respect to all such areas.

2.5 Cooperative Efforts on Vegetation and Reclamation. On affected coal mining areas, the parties shall cooperate to attempt to allow vegetation and reclamation procedures which will provide wildlife or recreation benefits if available for the same costs to Coal Mineral Owner as Coal Mineral Owner would otherwise expend in connection with reclamation of a coal mining area of Coal Mineral Owner under applicable state or federal law.

2.6 Compensation to Surface Owner. For the easement requested by Coal Mineral Owner and granted by Surface Owner in this Agreement, subject to Section 2.2, the Coal Mineral Owner shall pay to Surface Owner a one-time fee for each surface acre within the Property that Coal Mineral Owner permits with the appropriate state and federal authorities for purposes of its mining operations; such fee shall be payable when the applicable permit is issued and shall be

determined as follows: (a) for any non-forested tract, one dollar (\$1.00) per acre; and (b) for every forested tract, one hundred five dollars (\$105.00) per acre.

ARTICLE III

USE OF PROPERTY/ROADS

3.1 Use of Surface Estate by Surface Owner. Subject to the provisions of Section 3.3 and Section 3.10, the Surface Estate will be available for use by Surface Owner for a wildlife management area; provided that Surface Owner covenants that it will not use the Surface Estate in any manner, including recreation and conservation uses, which would detrimentally and materially affect the Coal Mineral Owner's rights in the Coal Mineral Estate. Further, Surface Owner and Coal Mineral Owner agree that Surface Owner's use of the Surface Estate for a wildlife management area is generally compatible with the Coal Mineral Owner's overall development plans for the Coal Mineral Estate.

3.2 Coal Mineral Estate. Coal Mineral Owner owns the right to develop and extract the Coal Mineral Estate and to use those portions of the estate of the Surface Owner in the Property which are necessary and convenient for such enterprise; provided that the Coal Mineral Owner will not operate in any manner which detrimentally and materially affects Surface Owner's rights in the Surface Estate; provided, however, that if Coal Mineral Owner's activities and operations are consistent with local, state and federal laws and regulations and with the other provisions of this Agreement, Coal Mineral Owner shall be deemed to not be detrimentally and materially affecting such Surface Owner's rights.

3.3 Construction of Roads or Other Improvements by Coal Mineral Owner. Coal Mineral Owner at its cost may construct new roads, modify existing roads on the Property or construct other improvements as reasonably necessary for its use of the Property, provided

that any new road or improvement constructed by Coal Mineral Owner shall be in compliance with the provisions of a general road plan or general construction plan delivered to Surface Owner thirty (30) days prior to the date of beginning of construction of any new (as opposed to existing) roads or other new improvements. All work related to roads or other improvements shall be done with attention to the existing environmental qualities of streams and riparian forests. The parties acknowledge that many existing roads on the Property are in close proximity to stream beds. Coal Mineral Owner shall utilize a commercially reasonable effort to avoid further degrading streams beyond the then current existing condition of such streams where feasible. Coal Mineral Owner will consider alternative location(s) which would, without materially greater cost to Coal Mineral Owner, reasonably be expected to avoid greater environmental impact or greater disturbance of water quality or soil stability within the watershed (except as necessary for stream fording or crossings or except in response to Coal Mineral Owner's determination of an emergency situation with regard to an existing or imminent emergency). Subject to Section 3.6, Coal Mineral Owner, at its cost, shall be responsible for the maintenance and repair of roads or other improvements it constructs or controls on the Property for the period of its substantial use of such roads or other improvements, and it may close and remove a road or other improvement unless Surface Owner wishes to undertake responsibility for such road or other improvement. Coal Mineral Owner may modify existing roads or other improvements as necessary so long as any road or other improvement so used is "improved" to as good as, or better, condition as its prior state notwithstanding Section 3.1 or the provisions thereof. Coal Mineral Owner will give reasonable notice to the Timber Interests that have been identified to Coal Mineral Owner in writing by Surface Owner prior to construction of roads or other new improvements so that such Timber Interests will have the opportunity to harvest and

sell the timber and pulpwood from the Property to be disturbed by Coal Mineral Owner's road or other new improvement construction.

3.4 Construction of Roads or Other Improvements by Surface Owner. Subject to this Agreement and any surface use plans then in effect, and in coordination in a reasonable manner with the Timber Interests, Oil & Gas Interests or other parties holding rights in the Property, Surface Owner at its cost may construct new roads, modify existing roads on the Property or construct other improvements as reasonably necessary for its use of the Property as a wildlife management area; provided that any road construction or modification or improvement built by Surface Owner shall not unreasonably interfere with Coal Mineral Owner's rights to conduct coal mineral development activities on the Property, or its obligations under applicable local, state or federal laws. Surface Owner, at its cost, shall be responsible for the maintenance and repair of roads and improvements it constructs and roads existing on the Property as of the date hereof (the "Existing Roads") (except to the extent such costs are attributable to the substantial use by Coal Mineral Owner or its licensees).

3.5 Coal Mineral Owner Use of Roads; Grant of Easement. Surface Owner hereby grants to Coal Mineral Owner a perpetual non-exclusive easement to use (which for purposes of this Agreement shall include using, crossing, modifying or improving) all roads now or hereafter located on the Property, including any Existing Roads or any roads subsequently built on the Property (whether by Surface Owner, owners of the Timber Interests or the Oil & Gas Interests or others) and all roads on real property of other parties or of Surface Owner which is contiguous or adjacent to or abuts in any way the Property and across which the Surface Owner now has or hereafter acquires an assignable easement. Coal Mineral Owner and Surface Owner recognize and agree that access to portions of the Property has historically been and

currently remains via roads and/or trails across and through adjoining land owned by third parties and/or by the State of Tennessee, and further agree that nothing herein nor any actions of the Surface Owner pursuant hereto shall unreasonably restrict Coal Mineral Owner's future access via such roads and/or trails, or materially affect the Coal Mineral Estate by limiting access to portions thereof or egress and ingress across and through such adjoining lands. Coal Mineral Owner agrees that Surface Owner may reasonably designate certain roads (including existing roads on adjoining properties) that may not be used by Coal Mineral Owner; for example, an access road to a Surface Owner facility. Coal Mineral Owner shall repair any damage to roads on the Property or on adjoining properties to the extent such damage is caused by Coal Mineral Owner, in proportion to its usage of such road(s).

3.6 Surface Owner use of Roads Constructed by Coal Mineral Owner; Grant of Easement. Coal Mineral Owner also hereby grants to Surface Owner a perpetual non-exclusive easement to use all roads on the Property now or hereafter constructed or controlled by Coal Mineral Owner, together with a non-exclusive easement to use all roads on real property of other parties or of Coal Mineral Owner which is contiguous or adjacent to or abuts in any way the Property and across which Coal Mineral Owner now has or hereafter acquires an assignable easement. Surface Owner shall repair any damage to all such roads caused by its use.

3.7 Obtaining Easement. If either party acquires an easement through the property of another landowner to obtain access to the Property, such party will use commercially reasonable efforts to have such easement run to the benefit of the other party.

3.8 Reimbursement for Assessed Road Costs from Third Parties. The parties acknowledge that under certain provisions of other agreements, the Surface Owner or Coal Mineral Owner may have an obligation to reimburse others for a road use fee and certain third

parties may have an obligation to reimburse Surface Owner or Coal Mineral Owner for a road use fee. Coal Mineral Owner and Surface Owner shall share any reimbursement for a road use fee due from the third parties to them in proportion to the amounts for the applicable reimbursement period paid by each to maintain and repair roads on the Property used by such third party, and shall pay the amounts due to any third party for use of roads located on the property of such third party in proportion to the amount of usage of such roads by each of them. Each party shall be responsible for repairing any damage caused by its use of roads on the property of any third party as required by any agreements requiring such repairs.

3.9 Road Abandonment. Except as provided in Section 3.10 or Section 3.11 hereof, if either party elects to temporarily or permanently abandon (including cessation of use and maintenance thereof) an Existing Road or a road constructed or controlled by it on the Property or any road subject to the reciprocal easement provisions herein, it will notify the other party who shall have the option to elect to keep the road open and take over repair and maintenance responsibilities for such road (the "Road Liabilities") at its sole cost during the proposed abandonment period. Any party electing to abandon a road shall provide 90 days' notice to the other party who shall then have 30 days to notify the party requesting abandonment that it elects to keep the road open in which case it shall assume the maintenance and other responsibilities set forth herein. The party requesting abandonment shall have no rights to use the road during the time the other party is responsible for the maintenance and other responsibilities set forth herein. Any roads abandoned shall be reclaimed at the sole cost of the abandoning party; provided, however, that a party shall not be deemed to be the abandoning party if the other party elects to keep the road open, as provided in this Section.

3.10 Temporary Road or Area Closure by Coal Mineral Owner. From time to time, Coal Mineral Owner may designate, by maps and/or markings, gates, fences or road signage as closed to public use, any road or areas on the Property that it believes necessary and reasonable for safety reasons be closed to public use to accommodate its operations; provided, that Coal Mineral Owner may close roads or areas only for those periods necessary for its operations and to perform its reclamation obligations or for emergency purposes or other obligations under local, state or federal law. In the absence of an emergency or a regulatory order, Coal Mineral Owner shall give Surface Owner ninety (90) days' notice before a road or an area will be closed.

3.11 Temporary Road or Area Closure by Surface Owner. Surface Owner may from time to time designate by maps and/or markings, gates, fences or road signage as closed to public use any roads or areas on the Property that should reasonably for public safety or wildlife management area reasons be closed to public use (provided that such closure shall not be arbitrary or capricious). Surface Owner shall give Coal Mineral Owner no less than ninety (90) days notice before such road or area will be closed, and Coal Mineral Owner will then to the extent commercially reasonable cooperate with and abide by such closure by Surface Owner, provided that such closure does not materially interfere with, nor otherwise have a material impact on Coal Mineral Estate development operations of Coal Mineral Owner in a manner in which Coal Mineral Owner cannot reasonably mitigate without incurring material additional cost or suffering material economic loss; and provided further, that Coal Mineral Owner's cooperation with such closure by Surface Owner will be only to the extent reasonably necessary and for those periods reasonably necessary to accommodate Surface Owner's public safety or wildlife management area reasons for such closure.

3.12 Boundary Maintenance. Both Coal Mineral Owner and Surface Owner shall have the right to perform such surveying and boundary marking and to erect gates or fences, as needed in respect to the ownership and management of their respective estates in the Property; provided that, neither will place markings, signs, gates or fences on or around the Property in such a manner as would interfere with or hinder the other's rights or the actual or intended uses of the Property, as defined herein. Neither party shall cut, damage or destroy any Property boundary trees, boundary markers, corner trees, or corner markings, or knowingly permit others to do so. If any boundary or corner markers or trees are cut or destroyed by the actions of either party or such party's agents or invitees, the party shall at its cost replace the cut or destroyed marker or tree with a permanent and accurately placed survey monument. Should Coal Mineral Owner and Surface Owner disagree as to the location or nature of any boundary, the parties shall attempt to resolve any boundary dispute.

3.13 No Interference. The reciprocal road use easements granted herein shall not be used in any manner which would interfere with the other party's road construction, road removal, reclamation or other rights or obligations pursuant to this Agreement or local, state or federal laws.

3.14 Preparation and Exchange of Plans, and Agreement to Confer. Each party shall update and exchange plans for the Property at regular intervals. In addition each party will no less frequently than annually provide the other party with all material updates and other material modifications of their respective plans, as such modifications are made from time to time. Surface Owner and Coal Mineral Owner will meet at mutually convenient locations, dates and times, not less often than annually, to discuss and coordinate the implementation of their respective plans. Each party agrees to additionally confer with the other party upon reasonable

notice to discuss the plans for use of the Property or any portion thereof during the ensuing 12-month period. No party shall be required to meet more frequently than on a quarterly basis.

3.15 Fire. Surface Owner and Coal Mineral Owner agree that prevention and early detection, control and rapid suppression of forest and brush fires on the Property are in the best interests of both parties. Neither party will use or intentionally set forest or brush fires; or intentionally allow forest or brush fires to be used or set; provided, that if the written concurrence of the other party is obtained, a party may utilize planned, controlled and contained burning for legitimate land, wildlife, timber management, or mining purposes; and further provided, that a party may use backfires to control or suppress wildfires. Surface Owner and Coal Mineral Owner will cooperate with each other in prevention, detection, control, and suppression of wildfires. Upon detection or upon becoming aware of any wildfire on the Property, a party shall immediately notify by telephone the other party.

ARTICLE IV

MISCELLANEOUS PROVISIONS

4.1 Insurance. The Coal Mineral Owner, its successors and approved assigns, agrees to maintain adequate public liability insurance, and will provide satisfactory evidence of such insurance to the State (in the reasonable discretion of the State). Further, the liability limits of this insurance must not be less than the exposure and limits of the State's liability under the Claims Commission Statute. Tenn. Code. Ann. § 9-8-307, as it may be from time to time amended and/or construed by the claims commission and the courts. This statute currently limits liability of the State to \$300,000 per claimant, \$1,000,000 per occurrence. The insurance policy shall include a provision for the insurance company to notify the State in writing of any cancellation or changes of the policy at least 30 days in advance of the cancellation or change.

4.2 Release. Upon such time as the Coal Mineral Owner determines that it no longer needs all of the rights herein granted, some of which may exceed the life of others, the Coal Mineral Owner shall execute an express release in recordable form to the Surface Owner or its successor in title to such rights.

4.3 Applicable Law. All utilization of any right-of-way or easement hereunder shall be subject to all local, state or federal law affecting such use.

4.4 Term of Easement. This Agreement shall be continuous in term and Surface Owner shall have no right to unilaterally terminate this Agreement, absent the written consent of Coal Mineral Owner; provided, however, subject to other recorded agreements, this Agreement shall terminate when all mineral rights in the Property revert to the Surface Owner on July 5, 2093, unless such mineral rights are earlier mutually terminated or reverted to the Surface Owner by written agreement.

4.5 Confidentiality. Each of the parties hereto acknowledges and agrees that the plans and other information exchanged pursuant to, or in connection with the transactions contemplated by, this Agreement are confidential, subject to applicable law.

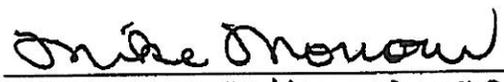
COAL MINERAL OWNER:

SURFACE OWNER:

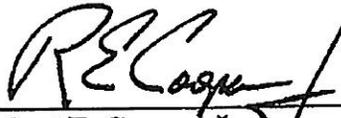
NATIONAL COAL CORPORATION

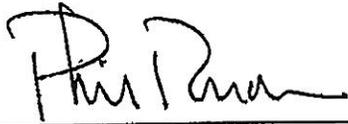
STATE OF TENNESSEE

By: 
DANIEL A. ROLING
PRESIDENT AND CEO

By: 
~~M.D. Goetz, Jr.~~ Mike Morrow
Acting Commissioner, Department of Finance
and Administration

APPROVED:

By: 
Robert E. Cooper, Jr.
Attorney General and Reporter

By: 
Phil Bredesen
Governor

STATE OF TENNESSEE]

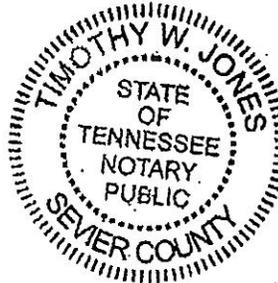
COUNTY OF KNOX]

Personally appeared before me, the undersigned Notary Public for said state and county, Daniel A. Roling, President and CEO of National Coal Corporation a Tennessee corporation, with whom I am personally acquainted and who, upon oath, acknowledged that he is the President and CEO of National Coal Corporation and that he as President and CEO, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of National Coal Corporation by himself as President and CEO.

Witness my hand and official seal on this the 1st day of November, 2010.


Notary Public

My Commission Expires 7-23-2013



STATE OF TENNESSEE]

COUNTY OF DAVIDSON]

Personally appeared before me, the undersigned Notary Public of the State and County
aforementioned, personally appeared ~~M. D. Goetz, Jr., Commissioner~~ ^{Pat Pentecost, Acting Commissioner} of the Department of
Finance & Administration, with whom I am personally acquainted and who, upon oath,
acknowledged that he is the Commissioner of the Department of Finance and Administration,
and that he as Commissioner, being authorized so to do, executed the foregoing instrument for
the purpose therein contained by signing the name of the State of Tennessee by himself as
Commissioner.

Witness my hand and seal at office, this 16 day of Nov, 2010.

Pat Pentecost

Notary Public

My Commission expires: 1-3-2011

