

# **ADDENDUM 303.o-3**

**Access Agreements Between**

**Decker Coal Company**

**&**

**Spring Creek Coal Company**



Navajo Transitional  
Energy Company

March 5, 2020

Mr. Leonard Wolff  
General Manager  
Decker Coal Mine  
P.O. Box 12  
Decker, MT 59025

RE: Notice of Ownership Change and Consent of Assignment

Dear Leonard,

As you are aware, Navajo Transitional Energy Company, LLC (NTEC), a Navajo Nation limited liability company is successor to Spring Creek Coal LLC, a Delaware limited liability company, and Arrowhead I LLC, a Delaware limited liability company, effective October 24, 2019. NTEC is hereby providing you formal notice of the change in ownership related to the agreements listed on Attachment A.

All correspondence related to the continued cooperation between Spring Creek and Decker Mines should continue to be directed to the following:

NTEC  
Mr. Dave Schwend  
General Manager  
Spring Creek Mine  
P.O. Box 67  
Decker, MT 59025

All correspondence related to the agreements listed on Attachment A should be directed to the following:

NTEC  
c/o Land Department  
PO Box 3001  
Gillette, WY 82717-3001

Some of the agreements listed on Attachment A require consent of the Grantor/Lessor. Please execute on the line provided on Attachment A to acknowledge the change of ownership and consent to the assignment of these agreements, and return a copy to me.

If you have any questions, please feel free to call me at 307-685-6293.

Sincerely,

Debbie L. Bruse  
Land Manager

Attachment A .

**Attachment A**  
**To**  
**Notice of Ownership Change Letter**  
**Dated March 5, 2020**  
**Spring Creek Coal LLC and Arrowhead I LLC to Navajo Transitional Energy Company, LLC**

Agreements

General Easement for Coal Haul Road and Mining Associated Purposes, by and between Decker Coal Company and Spring Creek Coal Company, dated April 27, 1979.  
(SCC\_ROW\_EASE\_RD\_1007)

Easement by and between Decker Coal Company and Spring Creek Coal Company dated August 23, 1979 and as Restated and Reconfirmed January 27, 2000 and as Amended February 5, 2009. (SCC\_ROW\_UTIL\_RR\_1008)

Right Of Way Easement by and between Decker Coal Company and Spring Creek Coal Company, dated September 19, 1980. (SCC\_ROW\_UTIL\_ELEC\_1005)

Land Lease Agreement by and between Decker Coal Company and Spring Creek Coal LLC, dated February 5, 2009. (SCC\_SURF\_SUA\_COAL\_1028)

Mutual Overstrip Lands Agreement by and among Spring Creek Coal LLC and Arrowhead I LLC and Decker Coal Company, dated December 5, 2012. (SCC\_SURF\_MOLA\_COAL\_1033)

Mutual Access Agreement for Groundwater Monitoring Wells and Surface Water Monitoring Sites, by and between Decker Coal Company, Spring Creek Coal LLC and Arrowhead I LLC, dated December 5, 2012. (AHM\_ROW\_MUA\_ACCESS\_100-1)

Surface Use Agreement for Water Facilities, by and between Decker Coal Company and Spring Creek Coal LLC, dated December 5, 2012. (SCC\_ROW\_EASE\_H2O\_1011)

Framework Agreement on Air Permit Boundaries by and among Spring Creek Coal LLC, Arrowhead I LLC, and Decker Coal Company, dated December 5, 2012.  
(CPLX\_SURF\_JSC\_AGMT\_AIR\_001)

Mutual Overstrip Agreement by and between Spring Creek Coal LLC and Decker Coal Company, LLC, dated September 7, 2016. (SCC\_SURF\_MOA\_COAL\_1033B)

Any other agreement by and among Spring Creek Coal LLC, Arrowhead I LLC and Decker Coal Company LLC not specifically listed.

By executing below, I acknowledge the change of ownership from Spring Creek Coal LLC and Arrowhead I LLC to Navajo Transitional Energy Company, LLC, effective October 24, 2019, and consent to the assignment of the abovementioned agreements:

\_\_\_\_\_  
Leonard Wolff  
General Manager, Decker Mine

Date: \_\_\_\_\_

Recording Requested By and  
When Recorded Return to:

Spring Creek Coal LLC  
PO Box 3009  
Gillette, WY 82717

**354293 Bk 147 Pg 217 - 221**

Big Horn County Recorded 9/11/2017 At 11:40 AM  
Clerk and Recorder, Clk & Rcdr By   
Fee: \$45.00 Return To: SPRING CREEK COAL LLC

SPACE ABOVE THIS LINE FOR  
RECORDER'S USE ONLY

## MEMORANDUM OF OVERSTRIP AGREEMENT

THIS MEMORANDUM OF OVERSTRIP AGREEMENT ("Memorandum") is made and entered into this 7 day of September, 2016 (the "Effective Date"), by and between by and between SPRING CREEK COAL LLC ("Lessee"), a Delaware limited liability company whose address is Attn. Land Department, PO Box 3009, Gillette, WY 82717, and DECKER COAL COMPANY, LLC ("Landowner"), a Montana limited liability company whose address is PO Box 12, Decker, MT 59025. The Lessee and the Landowner are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

## RECITALS

WHEREAS, Landowner and Lessee entered into that certain Overstrip Agreement, dated even herewith (the "Overstrip Agreement"), relating to Lessee's right to use the surface of certain lands owned by Landowner as more particularly described in Exhibit A attached hereto (the "Leased Premises") to facilitate Lessee's mining operations on lands adjacent to the Leased Premises. The Overstrip Agreement is expressly incorporated herein by reference and made a part hereof as though fully set forth herein.

WHEREAS, by this Memorandum, Landowner and Lessee desire to provide public notice of the Overstrip Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landowner and Lessee agree as follows:

1. Public Notice. All persons and companies acquiring leasehold interests or other rights from Landowner, successors in interest to either of the Parties and members of the general public are hereby placed on notice of inquiry as to the specific provisions of the Overstrip Agreement, all of which are incorporated herein by reference with the same force and effect as if herein set forth in full. This Memorandum shall be recorded in the real estate records of Big Horn County, State of Montana, in lieu of recording the entire Overstrip Agreement.
2. Grant to Lessee. The Overstrip Agreement grants to Lessee the right, license and easement to encroach, backslope and overstrip upon, into, over and under Leased Premises, subject to the limitations contained in the Overstrip Agreement.



3. Future Leases. All leases for mineral development and other leases covering all or part of the Leased Premises that are granted by Landowner after the Effective Date shall be subject to Lessee's rights under the Overstrip Agreement.

4. Lessee's Notice and Possession. The Overstrip Agreement requires Lessee to provide to Landowner at least six (6) months prior written notice prior to taking possession of the Leased Premises or a portion thereof for any of its operations thereunder. Upon receipt of such notification, Landowner's (and its tenant's, if any) rights to farm or otherwise occupy the Leased Premises shall terminate as of the date specified in such notice.

5. Overstrip Agreement Term. The term of this Overstrip Agreement shall commence on the Effective Date and shall continue in effect until the later of twenty (20) years from the Effective Date or until the completion of all mining and reclamation activities being conducted in, on, or under the Leased Premises by Lessee, its successors or assigns, unless earlier terminated in accordance with the provisions of the Overstrip Agreement.

6. Conflicts. In the event of any conflict between the terms of this Memorandum and the terms of the Overstrip Agreement, the terms of the Overstrip Agreement shall control.

7. Captions and Capitalized Terms. Caption headings are inserted herein only as a matter of convenience of reference, and in no way serve to define, limit, or describe the scope of intent of, or in any way affect, this Memorandum. Capitalized terms not defined in this Memorandum shall have the meanings ascribed to them in the Overstrip Agreement.

**IN WITNESS WHEREOF,** the Parties have executed this Memorandum of Overstrip Agreement as of the Effective Date.

**LANDOWNER:**

**Decker Coal Company, LLC**

By: Carl W. Griffith  
Its: Carl W. Griffith  
ACTING GENERAL MANAGER  
OPERATIONS MANAGER

354293 Bk147 Pg 218

Big Horn County Recorded 9/11/2017 at 11:40 AM

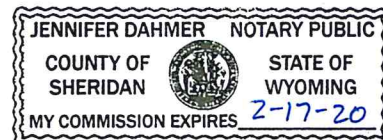
STATE OF Montana )  
 ) ss  
COUNTY OF Big Horn )

The foregoing instrument was acknowledged before this 7<sup>th</sup> day of September, 2016, by Curt W. Griffith as Acting General Manager of Decker Coal Company, LLC.

WITNESS my hand and official seal.

Jennifer Dahmer  
Notary Public

My Commission expires: February 17, 2020



354293 Bk147 Pg 219  
Big Horn County Recorded 9/11/2017 at 11:40 AM

**LESSEE:**

Spring Creek Coal LLC

David Schwend

By: David Schwend  
Its: General Manager

STATE OF Montana )  
 ) ss  
COUNTY OF Big Horn )

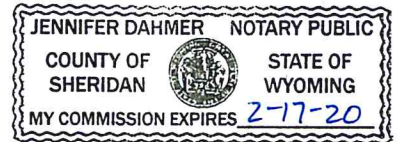
The foregoing instrument was acknowledged before this 7<sup>th</sup> day of September, 2016, by **David Schwend** as **General Manager** of Spring Creek Coal LLC.

WITNESS my hand and official seal.

Jennifer Dahmer

Notary Public

My Commission expires: February 17, 2020



354293 Bk147 Pg 220

Big Horn County Recorded 9/11/2017 at 11:40 AM

**Exhibit A**  
**to Memorandum of Overstrip Agreement**

Legal Description of Leased Premises:

Township 8 South, Range 40 East, Montana Principal Meridian

Section 29: W½

Section 32: N½

Containing 640 acres, more or less

354293 Bk147 Pg 221

Big Horn County Recorded 9/11/2017 at 11:40 AM



## OVERSTRIP AGREEMENT

**THIS OVERSTRIP AGREEMENT** (this “Agreement”) is made and entered into this 7 day of September, 2016 (the “Effective Date”), by and between SPRING CREEK COAL LLC (“Lessee”), a Delaware limited liability company whose address is PO Box 3009, Gillette, WY 82717, and DECKER COAL COMPANY, LLC (“Landowner”), a Montana limited liability company whose address is PO Box 12, Decker, MT 59025. The Lessee and the Landowner are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, Landowner owns the surface of the following described land located in Big Horn County, Montana:

Township 8 South, Range 40 East, Montana Principal Meridian  
Section 29: W½  
Section 32: N½

Containing 640 acres, more or less (hereafter, the “Leased Premises”); and

WHEREAS, Lessee has Federal Coal Leases covering lands in Sections 30 and 31, T. 8 S., R. 40 E. lying adjacent to the Leased Premises (the “Adjacent Lands”), and also controls the surface of the Adjacent Lands; and

WHEREAS, Lessee has satisfied the Overstrip Agreement Request and Priority of Use requirements contained in that certain Mutual Overstrip Lands Agreement between Lessee, Arrowhead I LLC and Landowner’s predecessor, Decker Coal Company, a joint venture, dated December 5, 2012 (the “MOL Agreement”); and

WHEREAS, Lessee holds an existing General Easement for Coal Haul Road and Mining Associated Purposes dated April 27, 1979 from Landowner covering a portion of the Leased Premises (the “General Easement”), pursuant to which Lessee already has constructed stockpiles, electrical transmission and distribution lines, service roads, coal haul roads, and hydrologic control structures on those lands; and

WHEREAS, Lessee desires to acquire additional rights to use the surface of the Leased Premises to facilitate mining operations on the Adjacent Lands, and Landowner is willing to grant Lessee such rights pursuant to the terms and conditions of this Agreement.

### AGREEMENT

NOW, THEREFORE, for the consideration stated the MOL Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and of the mutual promises and agreements contained herein, the Parties agree as follows:

#### PART 1 – GRANT OF RIGHTS

**1-1 Grant to Lessee.** Subject to the conditions and limitations of this Agreement, Landowner, to the extent it has the right, title and interest to do so, hereby grants to Lessee the

right, license and easement to encroach, backslope and overstrip upon, into, over and under Leased Premises, provided, however, that such right is limited to the right to remove, place and/or displace topsoil and overburden in, on and under the Leased Premises, conduct environmental studies, construct access roads, conveyors, structures, monitoring wells, sedimentation ponds, flood control structures, pipelines, power lines, berms, fences, and gates upon the surface of Leased Premises and to operate mining equipment and environmental monitoring devices and to transport mining equipment and mining materials upon, into, over and under Leased Premises, which, in Lessee's reasonable discretion, are necessary or convenient in conjunction with Lessee's coal mining and related operations on the Adjacent Lands. Lessee shall not have any right hereunder to remove, damage or mine any coal in and under Leased Premises or to undertake any other activities or operations not expressly allowed by this Agreement.

**1-2 Surface Use and Land Use Payment Obligations.** Lessee shall be entitled to use as much of the surface of the Leased Premises as is reasonably necessary for Lessee to conduct the Operations (as hereafter defined), and shall be entitled to mine through and destroy any fixtures or facilities located on the surface of the Leased Premises. Lessee shall not be required to pay Landowner for use of the Leased Premises, but Lessee shall pay Landowner fair market value for any improvements or fixtures existing as of the Effective Date that are destroyed as a result of Lessee's Operations. Lessee shall repair and replace any fences or gates removed as a result of its Operations in order to allow the Landowner, or its tenant or assigns, to continue grazing operations on the Landowner's adjoining lands during the term of this Agreement. Following Reclamation (as defined herein) of the Leased Premises, Lessee shall replace all fences removed from the Leased Premises so as to allow Landowner, or its tenant or assigns, to re-commence grazing operations following termination of this Agreement.

**1-3 Restricted Access for Air Permit Requirements.** Lessee shall be entitled to control public access to the Leased Premises through the use of existing fencing and gates and the installation of new fencing, gates, and/or signage. This control will not limit use by Landowner or its permitted lessees under paragraph 4-1.

**1-4 Waiver of Lateral and Subjacent Support.** Landowner waives all right to lateral and subjacent support on the Leased Premises from the Adjacent Lands, insofar as such support is disturbed or removed by the Operations and/or mining operations on the Adjacent Lands, it being the purpose and intent of the Parties that Lessee shall have the right and privilege necessary to permit it to remove coal from the Adjacent Lands up to the boundary between the Leased Premises and the Adjacent Lands.

## **PART 2 – TERM**

**2-1 Term of Agreement.** The term of this Agreement shall commence on the Effective Date and shall continue in effect until the later of twenty (20) years from the Effective Date or until all activities described in or permitted under Part One of this Agreement (collectively "Operations") or Reclamation (hereafter defined) is being conducted in, on, or under the Leased Premises by Lessee, its successors or assigns is completed (the "Term"). Notwithstanding the foregoing, this Agreement shall be subject to the terms and conditions set out in other provisions hereof, including termination before the end of the Term as provided in Part 6.

**2-2 Suspension of Mining Operations.** Landowner agrees that the suspension of Operations by Lessee during the Term shall be without prejudice to its right to resume Operations and to continued Operations on and use of the Leased Premises in connection with its mining operations

upon the Adjacent Lands. If such Operations are so suspended, Lessee shall provide an explanation thereof, together with related maps, if any, to Landowner.

### **PART 3 – TITLE AND LEASED PREMISES**

**3-1 No Liens and Encumbrances.** Landowner represents and warrants, to the best of its knowledge, that as of the Effective Date there are no unrecorded liens or encumbrances on the Leased Premises unless otherwise disclosed to Lessee by Landowner in writing, or unpaid taxes on the Leased Premises except taxes not yet due and payable.

**3-2 Special Warranty of Title.** Landowner, for itself, its successors and assigns, covenants and warrants to Lessee, its successors and assigns, the right to the Leased Premises hereby granted, and shall forever defend Lessee against the claims of all persons claiming by, through or under Landowner, its successors or assigns, but not otherwise.

**3-3 Disclaimer of Warranty Regarding Leased Premises.** Landowner makes no warranty, either express or implied, that the Leased Premises are fit for any purpose, and make no other warranty respect to the Leased Premises except as specifically stated in this Agreement.

### **PART 4 – POSSESSION, OBLIGATIONS AND AGREEMENTS**

**4-1 Landowner's Use of the Leased Premises.** Landowner expressly covenants that it shall not, during the term of this Agreement, permit or grant the use or occupancy of, or the right of ingress and egress over and across, the Leased Premises to any third party whose use would unreasonably interfere with Lessee's Operations. All leases for mineral development and other leases covering all or part of the Leased Premises that are granted by Landowner after the Effective Date shall be subject to Lessee's rights under this Agreement, including its rights of possession under paragraph 4-2.

**4-2 Lessee's Notice and Possession.** Lessee is already in possession of that portion of the Leased Premises which is covered by the existing General Easement, and shall take possession of the remainder of the Leased Premises on the Effective Date. Landowner's (and its tenant's, if any) rights to farm, graze or otherwise occupy the Leased Premises shall terminate as of the Effective Date. To the extent Lessee's possession results in termination of existing leasehold interests or uses that were of record as of the Effective Date or otherwise disclosed to Lessee by Landowner in writing prior to the Effective Date, Lessee shall be responsible for the payment of any such damages to Landowner or Landowner's tenant or third party lessee arising out of the termination of such leaseholds; provided, however, that Lessee shall not be required to pay Landowner any lost profits or consequential damages resulting from termination of any such lease or use. Landowner shall be responsible for any and all costs associated with terminating any leasehold interests or uses that were not of record as of the Effective Date and not disclosed to Lessee pursuant to the terms of the MOL Agreement; and the payment of any such damages, whether determined by agreement or otherwise, shall not be a condition precedent to the right of Lessee to immediate possession on the Effective Date.

**4-3 Surface Owner Consent.** Landowner hereby agrees to grant surface owner consent and to execute all necessary approvals required by Lessee for permitting the use of the Leased Premises under this Agreement. In addition Landowner will not object unreasonably to any permitting actions related to the use of the Leased Premises under this Agreement.

**4-4 Confidentiality.** All shared data, information, plans, permits, approvals, maps, studies, reports, documents, plats, cross-sections, surveys, correspondence, oral communications, notices,

applications and materials provided by one Party to the other Party pursuant to the terms of this Agreement (“Exchange Information”) shall be kept in strict confidence and shall not be disclosed to any other person or entity or used for any purpose other than for the specific purposes set forth under this Agreement without the prior written consent of the Party providing the Exchange Information. Both Parties shall protect and safeguard the Exchange Information and shall prevent the unauthorized use, dissemination, or publication of the Exchange Information and shall prevent the unauthorized use, dissemination, or publication of the Exchange Information. All Exchange Information shall remain the property of the Party who developed or produced it. Notwithstanding the foregoing, the obligations of confidentiality set forth in this paragraph 4-4 shall not apply to Exchange Information that: (i) was at the time of the disclosure by the disclosing Party to the receiving Party already in the possession of the receiving Party; (ii) was at the time of disclosure by the disclosing Party to the receiving Party, or subsequently became through no act or omission by the receiving Party, known to the general public through publication filing in public records or otherwise, (iii) is required to be disclosed pursuant to Applicable Law (as defined below), or (iv) consists of environmental baseline information as to which the owning Party has given the receiving Party written consent to use in permit preparation, permit applications and/or permit documents. Notwithstanding the requirements of Part 7 herein, either Party shall have the right to seek injunctive relief from a court of competent jurisdiction for any breach or violation of the provisions of this paragraph 4-4.

**4-5 Inspection.** Landowner, at its sole risk and expense, shall have the right, but not the obligation, to inspect or examine the surface conditions and facilities located on the Leased Premises in connection with Lessee’s Operations pursuant to this Agreement. Landowner shall not have any affirmative obligation to supervise or oversee Lessee’s Operations on the Leased Premises, including without limitation Lessee’s safety compliance or safety measures. All such inspections shall be conducted in conformance with Applicable Law and Lessee’s internal safety, health and operating rules. Lessee may limit or prohibit access to all or portions of the Leased Premises, its Operations and facilities in its sole discretion for safety purposes or if such access would otherwise compromise regulatory compliance concerns.

## **PART 5 – CERTAIN COVENANTS AND OBLIGATIONS OF LESSEE**

**5-1 Permits and Bonds.** Lessee shall obtain all permits, approvals, bonds and licenses required to conduct its Operations on the Leased Premises.

**5-2 Compliance with Law and Regulations.** Lessee agrees to conduct Operations upon and under the Leased Premises in a good and workmanlike manner, and shall comply in conducting Operations hereunder with all applicable laws, rules and regulations now existing or hereafter enacted or adopted by federal, state or local authorities having jurisdiction over the Leased Premises (collectively, “Applicable Law”) and shall have the right, without any charge claim of damage to the Leased Premises, to do and perform, with respect to the Leased Premises, whatever may be required or advisable in order to comply with Applicable Law.

**5-3 No Liens and Encumbrances.** Lessee covenants that it will not cause or allow any liens or encumbrances to be placed on the Leased Premises as a result of its Operations.

**5-4 Records, Surveys and Maps.** Lessee agrees to keep accurate records, surveys and maps of all Operations conducted upon the Leased Premises, and Lessee shall permit Landowner or its agent at all reasonable times and upon reasonable notice to examine such records, surveys and maps.



**5-5 Removal of Personal Property.** Except as may be otherwise provided in the General Easement or agreed by the Parties, Lessee shall remove any and all, improvements, machinery, equipment and other properties ("Personal Property") placed by it or its contractors on the surface of the Leased Premises within six (6) months after termination of this Agreement. In the event Lessee fails to remove any Personal Property (excluding any Personal Property installed pursuant to the General Easement or which the Parties have agreed shall remain) within the required time period, Landowner shall have the right to remove the Personal Property from its lands to the Adjacent Lands at the reasonable expense of Lessee. Expenses owed to Landowner, if any, under this paragraph will be paid in full thirty (30) days from the date an invoice detailing the amounts owed is received by Lessee.

**5-6 Reclamation.** Following completion of Operations on the Leased Premises, Lessee shall be responsible for reclamation of the Leased Premises in accordance with its mine permit and Applicable Law. For purposes of this Agreement, "Reclamation" shall mean all restoration and remediation requirements imposed by Applicable Law and shall include, without limitation, the final placement of overburden, the grading of the final post-mining topography, final placement of topsoil, reseeding of the area and reclamation management, and shall include all associated bonding obligations and requirements. For purposes of clarification, Reclamation shall not be deemed to have ended until Lessee obtains final bond release with respect to the Leased Premises.

**5-7 Indemnification.** Lessee hereby agrees and promises to indemnify, defend and hold Landowner harmless from and against all claims, costs, expenses and liabilities of every kind and character, including without limitation reasonable costs and attorney's fees incurred by Landowner in defending against such liabilities (collectively "Claims") arising out of or relating to damage or injury to property (unless such damage is permitted by this Agreement) or persons, including death, and environmental liabilities, arising out of or resulting from Lessee's Operations or possession of the Leased Premises or Lessee's failure to comply with Applicable Law; provided, however, that Lessee's obligation to indemnify Landowner (a) shall not apply to any Claims to which and to the extent that Landowner was contributorily negligent, and (b) shall not apply to any damage to the Leased Premises that is allowed by paragraph 1-2 or any other provision of this Agreement.

**5-8 Insurance.** Unless waived in writing by Landowner, Lessee shall at Lessee's expense maintain, with an insurance company or companies authorized to do business in the state where the work is to be performed, appropriate insurance coverages.

**5-9 Safety.** During the performance of the activities permitted hereunder including, but not limited to Operations and Reclamation (collectively, "Permitted Activities"), Lessee and its parents, subsidiaries and affiliates, and its and their employees, consultants, agents, visitors, contractors, subcontractors and invitees, successors and assigns (collectively "Lessee Parties"), shall follow all applicable federal, state and local laws and regulations regarding health, safety and environment. Lessee shall supervise and direct all Permitted Activities, using its best skill and attention, and Lessee shall be solely responsible for and have control over the means, methods, techniques, sequences and procedures of such activities and all Lessee Parties. Landowner disclaims any right to control Lessee's manner of performance of any Permitted Activities or any of the Lessee Parties. Lessee has the sole obligation to provide all necessary protection and supervision to regulate, control and maintain the safety of all Lessee Parties and of property associated with the activities to be conducted by Lessee Parties on the Leased Premises.

## PART 6 – TERMINATION

**6-1 Surrender and Relinquishment.** Lessee may, at any time, surrender and cancel this Agreement as to all or part of the Leased Premises and be relieved from further obligations or liability hereunder with respect to the lands surrendered; but in no case shall surrender be effective until Lessee shall have completed Reclamation of any disturbance, if any, caused by Lessee on, in or under the Leased Premises or portion thereof surrendered.

**6-2 Default.** In the event that Landowner considers that Lessee has not complied with all of its obligations under this Agreement, Landowner shall notify Lessee in writing, setting out specifically in what respects Lessee has breached the terms of this Agreement. Lessee shall then have sixty (60) days after receipt of said notice within which to meet or commence to meet all or any part of the breaches alleged by Landowner. If Lessee fails to correct or commence to correct the default within the 60-day period (and remedy the default within a reasonable time period thereafter), Landowner may terminate this Agreement at any time upon written notice to Lessee. All of Lessee's obligations under this Agreement, including the Reclamation obligations, shall survive the expiration or termination of this Agreement.

**6-3 Rights Surviving.** All rights (except the actual right to conduct Operations) and easements hereinabove granted to Lessee shall survive the surrender or termination of this Agreement, until such time as Reclamation is final and complete on the Leased Premises or as otherwise provided in this Agreement.

**6-4 Notice of Termination.** Following termination of this Agreement, Lessee agrees that, upon request of Landowner, it will execute a notice of termination in recordable form evidencing the termination of this Agreement.

**6-5 Effect on General Easement.** The Parties agree that termination of this Agreement shall not have any effect on Lessee's rights under the General Easement, which shall remain in effect for the period provided therein.

## PART 7 – MEDIATION AND ARBITRATION

**7-1 Mediation.** In the event there is an alleged breach of this Agreement that is not cured, the Parties shall first attempt to resolve the matter through mediation before a mining engineer that has a background in and significant experience with coal mining operations and reclamation ("Qualifying Engineer"). The Parties hereby specify that, as their first choice, the Qualifying Engineer shall be a principal, employee or consultant of Tetra Tech, Inc., or if such company is unwilling or unable to provide a Qualifying Engineer, then their second choice is Golder Associates (each a "Designated Company"). Either Party may initiate the mediation by (a) giving notice to the other Party, and (b) notifying the first Designated Company and requesting that a Qualifying Engineer be provided to act as mediator. The Parties agree to schedule a settlement conference with a Qualifying Engineer serving as mediator within 45 days after the date on which a Party has received notice of mediation.

**7-2 Rules Regarding Arbitration.** Subject to the requirements of paragraph 7-6, any dispute, controversy or claim arising out of or related to this Agreement, or the breach thereof that is not resolved through mediation pursuant to paragraph 7-1, shall be determined by binding arbitration in accordance with this Agreement and the Rules of the American Arbitration Association ("AAA") for Commercial Arbitration ("AAA Rules"), except as those rules are modified pursuant to this Part 7.

**7-3 Initiation of Claim and Arbitrator.** Arbitration shall be initiated by a written claim for binding arbitration by either Party setting forth the nature of the dispute and the issues to be decided and as otherwise provided by the AAA Rules. Either Party may initiate a claim for arbitration in the event that a dispute has not been resolved within 45 days after the date on which a Party receives notice of mediation. The arbitration shall be conducted before a panel of three arbitrators, none of whom has a direct or indirect interest in either Party or the subject matter of the arbitration, two of whom shall be attorneys with at least ten years' experience in mining law, and the other of whom shall be a Qualifying Engineer. Landowner and Lessee each shall appoint an attorney arbitrator, and the two arbitrators so appointed shall select a Qualifying Engineer arbitrator from one of the Designated Companies or another company mutually agreeable to the Parties; *provided, however*, that if the two arbitrators appointed by the Parties fail to select the third arbitrator within thirty (30) days after written notice from either Party requesting arbitration, the third arbitrator shall be selected under the expedited AAA Rules.

**7-4 Process.** The arbitration shall be held in Billings, Montana. The AAA Rules shall apply to the extent not inconsistent with the provisions set forth herein. The hearing shall commence no later than sixty (60) days after the written claim for arbitration, provided, however, that the Parties shall have no fewer than thirty (30) days from selection of the third arbitrator to prepare for the hearing. The hearing shall be conducted on a confidential basis without continuance or adjournment. The arbitrators may allow on written application limited discovery and shall establish a time limit for any deposition authorized, provided that such authorized discovery shall not extend the time period provided for a hearing and a final decision unless otherwise mutually agreed to by the Parties. Upon mutual stipulation, the Parties may submit the controversy to the arbitrators on briefs and without a hearing. The briefs shall be fully submitted no later than sixty (60) days after the written claim for arbitration. Each Party shall prepare and submit a single brief setting forth its respective position and proposing a resolution to the dispute (which may include multiple alternative proposals that such Party would find acceptable), and, if a hearing is held, shall present its position to the arbitrators as set forth in its brief. The arbitrators shall make their decision within thirty (30) days after the hearing, or if no hearing is held, within thirty (30) days of receipt of briefs. All decision of the arbitrators shall be final and binding on the Parties. Each Party shall be responsible for its own costs and expenses and the costs, expenses and fees of its counsel, experts and representatives. The Parties shall share equally the costs and expenses of the arbitrators. In the event that the arbitrators determine that a Party has breached this Agreement or that a Party has brought a frivolous claim, the arbitrators shall require the attorneys' fees and expenses of the prevailing Party to be paid by the other Party.

**7-5 Limitation.**

(a) The Parties shall maintain the status quo (remaining before the dispute) during any dispute until such dispute is determined by the arbitration. Either Party may seek interim and/or injunctive relief with a court of law in the forum specified in paragraph 7-6 to prevent irreparable harm through preliminary injunction proceedings. No controversy submitted to arbitration hereunder shall, and the arbitrators shall have no right to grant injunctive relief to, stay or restrict either Party's Operations that are conducted on lands owned or controlled by that Party or that do not interfere or conflict with the other Party's activities on the Leased Premises. Each Party shall continue to perform its obligations under this Agreement pending conclusion of the arbitration. No Party shall be considered in default hereunder during the pendency of arbitration proceedings relating to such alleged default.

(b) The arbitrators shall have no authority or jurisdiction to determine issues of arbitrability. The arbitrators shall apply the law of res judicata collateral estoppel, the decisions of prior arbitrators under this Agreement as precedent and the Montana statutes of limitations as to underlying claims for relief or causes of action.

**7-6 Enforcement; Forum and Choice of Law.** This agreement to arbitrate shall be specifically enforceable. The Parties agree to abide by all awards rendered in such proceedings. All awards may be filed with the clerk of one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property. Each of the Parties stipulates and agrees to the jurisdiction of the United States District Court for the District of Montana and, if that court rejects subject matter jurisdiction, in the appropriate Montana state court. for the purposes of any suit, request for injunctive relief, action or other proceeding brought by the other Party hereto to enforce any arbitration award or order made or issued pursuant hereto. Any arbitration and/or other court action shall apply the substantive law of the State of Montana. Nothing herein shall be deemed to waive the right of a Party to seek removal of a matter from federal court to state court if such removal is otherwise permissible. Each Party hereby consents to service of process at the office for service of notices set forth herein as its office for service of process.

## **PART 8 – MISCELLANEOUS**

**8-1 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. Whenever in this Agreement the names of the respective parties are used with the addition of their successors and assigns, it is not intended that an inference arise that, where such a designation is not used, such successors and assigns are not intended.

**8-2 Assignment.** Landowner expressly reserves the right to sell, convey, trade, assign or otherwise dispose of its fee interest in the Leased Premises; provided, however, than any such transfer or disposition shall be subject to the terms and provisions of this Agreement. Lessee shall have the right to freely assign or sublease all or part of its rights or obligations under this Agreement to any parent, subsidiary or affiliate of Lessee, or to any successor holder of the mine permit for the Spring Creek Mine which is a parent, subsidiary or affiliate of Lessee, and no transfer of this Agreement resulting from any internal merger or corporate reorganization shall require consent. Any other assignment, transfer or sublease of Lessee's rights and obligations under this Agreement shall require the prior written consent of Landowner, which consent shall not be unreasonably withheld, conditioned or delayed.

**8-3 Taxes and Assessments.** Landowner agrees that it shall timely pay all taxes and assessments levied against the Leased Premises. Lessee agrees that it shall pay, when due, all taxes and assessments levied upon improvements placed upon Leased Premises by Lessee. Any incremental change in property or other tax levy (from any jurisdiction) caused by a land use change resulting from Lessee's Operations shall be the responsibility of Lessee.

**8-4 Notices.** All notices and other communications required or permitted to be given hereunder shall be in writing, and delivered personally or sent by registered or certified mail, postage prepaid, or by recognized overnight courier, as follows:

If to Landowner: Decker Coal Company, LLC  
PO Box 12  
Decker, MT 59025



Attn: General Manager

If to Lessee: Spring Creek Coal LLC  
PO Box 3009  
Gillette, WY 82717  
Attn: Land Manager

or addressed to such other persons or addresses which Landowner or Lessee may have given notice of to the other. All notices shall be deemed to have been duly given at the time of receipt by the party to which such notice is addressed.

**8-5 Governing Law.** This Agreement and the rights and obligations thereunder of the Parties hereto shall be construed in accordance with and governed by the laws of the State of Montana.

**8-6 Entire Agreement; Amendment.** This Agreement, together with the General Easement, contain the entire agreement between the Parties hereto with respect to the transactions contemplated hereby. This Agreement may not be modified or amended except by an instrument in writing signed by each of the Parties hereto.

**8-7 Counterparts.** This Agreement may be executed in any number of counterparts which together shall constitute one and the same instrument.

**8-8 Recording.** The Parties agree that they will execute a Memorandum of Overstrip Agreement in a form substantially similar to that attached as **Exhibit A** (the "Memorandum"), and that the executed Memorandum will be placed of record in the records of Big Horn County, State of Montana. This Agreement will not be placed of record.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the dates set forth in the acknowledgments below, effective as of the Effective Date.

**LANDOWNER:**

**Decker Coal Company, LLC**

By: Curt W. Griffith  
Its: Curt W. Griffith  
ACTING GENERAL MANAGER  
OPERATIONS MANAGER

**LESSEE:**

**Spring Creek Coal LLC**

By: David Schwend  
Its: David Schwend  
General Manager

Exhibit A

Memorandum of Overstrip Agreement

[attached]

*Recording Requested By and  
When Recorded Return to:*

Spring Creek Coal LLC  
PO Box 3009  
Gillette, WY 82717

---

SPACE ABOVE THIS LINE FOR  
RECORDER'S USE ONLY

## MEMORANDUM OF OVERSTRIP AGREEMENT

THIS MEMORANDUM OF OVERSTRIP AGREEMENT ("Memorandum") is made and entered into this 7 day of September, 2016 (the "Effective Date"), by and between by and between SPRING CREEK COAL LLC ("Lessee"), a Delaware limited liability company whose address is Attn. Land Department, PO Box 3009, Gillette, WY 82717, and DECKER COAL COMPANY, LLC ("Landowner"), a Montana limited liability company whose address is PO Box 12, Decker, MT 59025. The Lessee and the Landowner are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

### RECITALS

WHEREAS, Landowner and Lessee entered into that certain Overstrip Agreement, dated even herewith (the "Overstrip Agreement"), relating to Lessee's right to use the surface of certain lands owned by Landowner as more particularly described in Exhibit A attached hereto (the "Leased Premises") to facilitate Lessee's mining operations on lands adjacent to the Leased Premises. The Overstrip Agreement is expressly incorporated herein by reference and made a part hereof as though fully set forth herein.

WHEREAS, by this Memorandum, Landowner and Lessee desire to provide public notice of the Overstrip Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landowner and Lessee agree as follows:

1. Public Notice. All persons and companies acquiring leasehold interests or other rights from Landowner, successors in interest to either of the Parties and members of the general public are hereby placed on notice of inquiry as to the specific provisions of the Overstrip Agreement, all of which are incorporated herein by reference with the same force and effect as if herein set forth in full. This Memorandum shall be recorded in the real estate records of Big Horn County, State of Montana, in lieu of recording the entire Overstrip Agreement.
2. Grant to Lessee. The Overstrip Agreement grants to Lessee the right, license and easement to encroach, backslope and overstrip upon, into, over and under Leased Premises, subject to the limitations contained in the Overstrip Agreement.

3. Future Leases. All leases for mineral development and other leases covering all or part of the Leased Premises that are granted by Landowner after the Effective Date shall be subject to Lessee's rights under the Overstrip Agreement.

4. Lessee's Notice and Possession. The Overstrip Agreement requires Lessee to provide to Landowner at least six (6) months prior written notice prior to taking possession of the Leased Premises or a portion thereof for any of its operations thereunder. Upon receipt of such notification, Landowner's (and its tenant's, if any) rights to farm or otherwise occupy the Leased Premises shall terminate as of the date specified in such notice.

5. Overstrip Agreement Term. The term of this Overstrip Agreement shall commence on the Effective Date and shall continue in effect until the later of twenty (20) years from the Effective Date or until the completion of all mining and reclamation activities being conducted in, on, or under the Leased Premises by Lessee, its successors or assigns, unless earlier terminated in accordance with the provisions of the Overstrip Agreement.

6. Conflicts. In the event of any conflict between the terms of this Memorandum and the terms of the Overstrip Agreement, the terms of the Overstrip Agreement shall control.

7. Captions and Capitalized Terms. Caption headings are inserted herein only as a matter of convenience of reference, and in no way serve to define, limit, or describe the scope of intent of, or in any way affect, this Memorandum. Capitalized terms not defined in this Memorandum shall have the meanings ascribed to them in the Overstrip Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Memorandum of Overstrip Agreement as of the Effective Date.

**LANDOWNER:**

**Decker Coal Company, LLC**

By: Carl W. Griffith  
Its: Acting General Manager  
Operations Manager

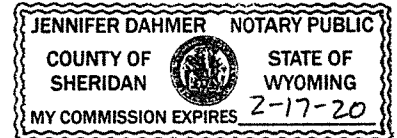
STATE OF Montana )  
 ) ss  
COUNTY OF Big Horn )

The foregoing instrument was acknowledged before this 7<sup>th</sup> day of September, 2016, by Curt W. Griffith as Acting General Manager of Decker Coal Company, LLC.

WITNESS my hand and official seal.

Jennifer Dahmer  
Notary Public

My Commission expires: February 17, 2020





**LESSEE:**

Spring Creek Coal LLC

By: David Schwend  
Its: General Manager

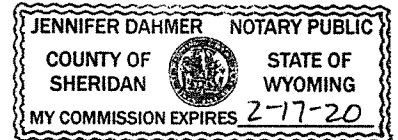
STATE OF Montana )  
 ) ss  
COUNTY OF Big Horn )

The foregoing instrument was acknowledged before this 7<sup>th</sup> day of September, 2016, by **David Schwend** as **General Manager** of Spring Creek Coal LLC.

WITNESS my hand and official seal.

Jennifer Dahmer  
Notary Public

My Commission expires: February 17, 2020



**Exhibit A**  
**to Memorandum of Overstrip Agreement**

Legal Description of Leased Premises:

Township 8 South, Range 40 East, Montana Principal Meridian

Section 29: W½

Section 32: N½

Containing 640 acres, more or less

## MUTUAL OVERSTRIP LANDS AGREEMENT

This Mutual Overstrip Lands Agreement (“Agreement”), dated December 5, 2012 (the “Effective Date”), is by and among Spring Creek Coal LLC, a Delaware limited liability company (“SCC”), Arrowhead I LLC, a Delaware limited liability company (“Arrowhead”, and with SCC, the “SCC Parties”) and Decker Coal Company, a joint venture (“Decker”). The term “Parties” shall mean the SCC Parties and Decker and “Party” shall mean either the SCC Parties or Decker.

### RECITALS

A. The SCC Parties own and operate the Spring Creek Mine and Decker owns and operates the Decker Mine (each a “Mine”). Each Party conducts surface mining for the severance, removal, transportation and treatment of coal from its respective Mine, including all related and incidental activities such as backslowing, permitting, bonding, reclamation, and installation and operation of water drainage, electric transmission and telecommunication facilities (“Operations”). The two Mines are located adjacent to and/or in the vicinity of each other in Big Horn County, Montana.

B. Concurrently with the execution of this Agreement, Cloud Peak Energy Resources LLC, SCC and Arrowhead (collectively, the “Cloud Peak Parties”) and Ambre Energy North America, Inc., KCP Properties, Inc., KCP, Inc. (“KCP”) and Decker (collectively, the “Ambre Parties”) have entered into that certain Agreement for Neighboring Mine Accommodations (the “Mine Accommodation Agreement”), pursuant to which the Cloud Peak Parties and the Ambre Parties are entering into certain agreements including, among others, this Agreement, which collectively will (i) facilitate mining and related activities at both Mines, (ii) establish certain rights and obligations between the parties as owners of neighboring Mines, and (iii) provide benefit to both Mines.

C. The SCC Parties own, control or have been granted the right to use the surface of certain lands more particularly described in Exhibit A-1 hereto (“SCC/Arrowhead Lands”), Decker owns, controls or has been granted the right to use the surface of certain lands more particularly described in Exhibit A-2 (“Decker Lands”), and neither Party currently controls the surface of certain other federal public domain lands more particularly described in Exhibit A-3 (“Uncontrolled Lands”). The area covered by the SCC/Arrowhead Lands, the Decker Lands and the Uncontrolled Lands collectively are referred to herein as the “Overstrip Area.” The Overstrip Area is depicted on the map attached hereto as Exhibit B.

D. Certain portions of the Overstrip Area contain unleased coal as of the Effective Date, and it thus cannot be ascertained as of the Effective Date which Party will need access to the Overstrip Area or when such access will be needed.

E. The Parties desire to enter into this Agreement (1) granting reciprocal easements and rights to go upon and use portions of the Overstrip Area to gather environmental baseline data and conduct exploration drilling, and (2) setting out the framework for overstrip agreements

to be entered into by the Parties which will allow use of the Overstrip Area as may be necessary for the benefit of each Party's respective Mine.

## **AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

### **SECTION 1. DEFINITIONS**

1.1 The following terms shall have the definitions set forth in the cited Sections:

<b>Term</b>	<b>Citation</b>
AAA Rules	Section 7.2
AAA	Section 7.2
Agreement	Introduction
Ambre Parties	Recital B
Applicable Law	Section 4.1
Arrowhead	Introduction
Claims	Section 6.2
Cloud Peak Parties	Recital B
Decker	Introduction
Decker Lands	Recital C
DEQ	Section 3.2d
Designated Company	Section 7.1
Effective Date	Introduction
Exchange Information	Section 5.1
KCP	Recital B
Mine	Recital A
Mine Accommodation Agreement	Recital B
Mining	Section 3.1
Operations	Recital A
Overburden	Section 3.1
Overstrip Agreement	Section 3.1
Overstrip Agreement Request	Section 3.2a
Overstrip Area	Recital C
Overstrip Easement	Section 3.1
Party; Parties	Introduction
PMT	Section 3.4g

Preliminary Access Notice	Section 2.2
Preliminary Activities	Section 2.2
Qualifying Engineer	Section 7.1
SCC	Introduction
SCC/Arrowhead Lands	Recital C
SCC Parties	Introduction
Uncontrolled Lands	Recital C
YCM RR Spur	Section 3.6

## SECTION 2. PRELIMINARY ACTIVITIES

### 2.1 Grant of Preliminary Access Easements

a. Grant to Decker. Subject to the conditions and limitations of this Agreement, the SCC Parties, to the extent they have the right, title and interest to do so, hereby grant to Decker the right, license and easement to enter upon the SCC/Arrowhead Lands to gather environmental baseline information and conduct exploratory drilling. Decker shall not have any right to undertake any other activities or operations on the SCC/Arrowhead Lands not expressly allowed by this Section 2.1a unless and until the Parties enter into an Overstrip Agreement granting Decker such rights.

b. Grant to the SCC Parties. Subject to the conditions and limitations of this Agreement, Decker, to the extent it has the right, title and interest to do so, hereby grants to the SCC Parties the right, license and easement to enter upon the Decker Lands to gather environmental baseline information and conduct exploratory drilling. The SCC Parties shall not have any right to undertake any other activities or operations on the Decker Lands not expressly allowed by this Section 2.1b unless and until the Parties enter into an Overstrip Agreement granting the SCC Parties such rights.

2.2 Preliminary Access Notice; Conduct of Preliminary Activities. Any Party proposing to conduct activities authorized by Section 2.1a or 2.1b (“Preliminary Activities”) shall give the other Party no less than thirty (30) days written notice (“Preliminary Access Notice”) prior to commencement of any such activities that affect any portion of the Overstrip Area the surface of which is owned by or leased by the other Party. The Preliminary Access Notice shall describe the Preliminary Activities that will be conducted and the anticipated duration of such activities, and identify the affected Overstrip Area lands. Following the 30-day period, a Party shall have the right to conduct the Preliminary Activities that were identified in the Preliminary Access Notice; provided, however, that no Preliminary Activities may interfere with Mining by the other Party, and any Party conducting Preliminary Activities shall be required to mitigate the impact of such Preliminary Activities to existing uses and grazing tenants.

2.3 Data Sharing. Each Party agrees to share with the other Party all environmental baseline information and exploration drilling results that it obtains from the Overstrip Area, promptly after obtaining such data. Any such shared data that a Party obtains from the other Party shall be

subject to the confidentiality restrictions contained in Section 5.1 of this Agreement; provided, however, that the receiving Party may use shared environmental baseline information in connection with permit preparation, permit applications and/or permit documents relating to its Mine after obtaining the written consent of the other Party, which consent will not be unreasonably withheld.

2.4 Reclamation Resulting from Preliminary Activities. A Party conducting Preliminary Activities shall be responsible for all reclamation obligations arising out of or relating to the Preliminary Activities, provided, however, that such Party shall have no reclamation obligation if the Preliminary Activities are completed prior to Mining by the other Party of the disturbed lands and Mining consumes the disturbances resulting from the Preliminary Activities. Preliminary Activities shall not result in a modification of the respective bonding obligations of the Parties unless otherwise agreed to by the Parties.

2.5 Appurtenant Easements. The Parties hereby agree that the reciprocal easements granted in Sections 2.1a and 2.1b are non-exclusive, perpetual, are appurtenant to and run with and burden the land, are binding on the Parties as well as all successors and assigns thereof, and that the easements upon, into, over and under the SCC/Arrowhead Lands benefit the Decker Lands, and that the easements upon, into, over and under the Decker Lands benefit the SCC/Arrowhead Lands.

### **SECTION 3. OVERSTRIP AGREEMENTS**

3.1 Overstrip Agreements. The Parties agree to enter into one or more agreements from time to time (each an “Overstrip Agreement”), on the terms set forth in this Section 3, pursuant to which one Party shall grant to the other Party the right, license and easement (“Overstrip Easement”) to encroach, backslope and overstrip upon into, over and under all or part of the Overstrip Area that is owned or controlled by the other Party, which may include the right to remove, place and/or displace earth, rock and other material (“Overburden”) in, on and under such Overstrip Area and to operate mining equipment and environmental monitoring devices and to transport mining equipment and mining material upon, into, over and under such Overstrip Area, which, in the reasonable judgment of the Party receiving the Overstrip Easement, are necessary or convenient in conjunction with such Party’s Operations. Subject to the restrictions specified in this Section 3.1, a proposed use of Overstrip Area lands in an Overstrip Agreement Request may include the right to dig surface drainage structures, ponds, or dams and construct any access roads sedimentation ponds, pipelines, power lines, berms, or fences, or to mine coal resources (“Mining”) in and under Overstrip Area lands owned by the other Party, but will not necessarily do so. The Parties agree to use their commercially reasonable efforts to construct any necessary surface drainage structures, ponds, or dams and construct any access roads sedimentation ponds, pipelines, power lines, berms, or fences on the lands controlled by such Party, and an Overstrip Agreement request may include Mining only on lands as to which it controls the coal rights. Other than Preliminary Activities, no Party shall have any right hereunder to undertake any other activities or operations not expressly allowed by an Overstrip Agreement entered into by the Parties.



### 3.2 Overstrip Agreement Requests; Requirements; Priority of Use.

a. A Party desiring to obtain an Overstrip Agreement granting it an Overstrip Easement on any portion of the Overstrip Area owned or controlled by the other Party and/or desiring to establish priority of use with respect to lands it owns or controls shall provide written notice to the other Party (an “Overstrip Agreement Request”) no later than one hundred eighty (180) days prior to the date on which such activities are to commence.

b. A Party making an Overstrip Agreement Request must reasonably demonstrate its need for an Overstrip Easement based on the coal lease rights it holds and the planned timing of its Operations on the applicable portion of the Overstrip Area in accordance with prudent mining practices. No Party may provide an Overstrip Agreement Request until such time as it holds the right to mine coal in the land adjacent to or underlying the portion of Overstrip Area covered by such request.

c. An Overstrip Agreement Request shall specify the Overstrip Area to be used, the commencement date and description of the proposed Mining and/or other activities to be conducted, and the expected duration of the proposed activities. The Overstrip Agreement Request also shall include a schematic plan and map showing the uses to be made of the Overstrip Area and the planned duration of such uses, such that it provides sufficient information from which to make a reasoned judgment of whether the request is limited to reasonable uses and duration of the applicable Overstrip Area lands and of possible conflicts between the Parties’ respective activities affecting such Overstrip Area lands.

d. Subject to the provisions of Section 3.3, the first Party to provide an Overstrip Agreement Request and satisfy the need requirement of this Section 3.2 shall be entitled to receive an Overstrip Agreement granting it priority of use with respect to the applicable portion of the Overstrip Area. For purposes of this Agreement, a Party having “priority of use” under this Agreement or an Overstrip Agreement executed pursuant hereto shall have the right, in the event that the other Party proposes conflicting uses of the same Overstrip Area lands, to conduct its then existing and identified proposed activities on such lands. Priority of use first will be given first to any existing uses that are have been approved by the Montana Department of Environmental Quality (“DEQ”). Subsequent priorities of use will be granted in the order that Overstrip Agreement Requests detailing such activities are submitted and approved.

e. In the event that, following execution of an Overstrip Agreement, changes are made to a Party’s mine plan insofar as it affects use of Overstrip Area lands that are owned or controlled by the other Party, or the planned duration of such Party’s use of such Overstrip Area lands changes, that Party shall be required to deliver another Overstrip Agreement Request with respect thereto. Following delivery of such Overstrip Agreement Request, the Parties shall enter into negotiations pursuant to the terms of Section 3.3 to amend the existing Overstrip Agreement.

f. Delivery of an Overstrip Agreement Request and execution of an Overstrip Agreement pursuant thereto shall not preclude the delivery of a subsequent Overstrip Agreement Request by the other Party covering all or part of the same Overstrip Area lands; provided, however, that the proposed uses of such land and timing does not interfere with the activities of the Party with priority of use and the Party delivering such subsequent Overstrip Agreement

Request specifically agrees to assume reclamation and bond responsibility with respect to the affected Overstrip Area lands as . Such Overstrip Agreement Request shall be considered and approved pursuant to the provisions of Section 3.3, and may result in a new Overstrip Agreement, amendment of an existing Overstrip Agreement, or both.

### 3.3 Consideration and Approval of Overstrip Agreement Requests.

a. Proposed uses of Overstrip Area lands are subject to approval by the other Party if it either owns or controls the affected fee surface, or in the case of federal or State-owned surface, it is the surface lessee. Proposed uses of Overstrip Area lands consisting of fee surface or leased surface controlled by the Party delivering an Overstrip Agreement Request are not subject to approval by the other Party (and receipt of an Overstrip Agreement Request shall serve as notice to the receiving Party that such lands will be occupied and that the Party giving notice has priority of use thereon) unless such Overstrip Area lands already are subject to an existing Overstrip Agreement Request or Overstrip Agreement that gives the other Party priority of use. A Party receiving an Overstrip Agreement Request has ten (10) days following its receipt thereof in which to acknowledge in writing its receipt thereof. Representatives of the Parties shall meet (either in person or by conference call) no later than fifteen (15) days from the date of delivery of an Overstrip Agreement Request to consider the completeness of the request and whether it satisfies the need requirement of Section 3.2. Following such meeting the Party making the Overstrip Agreement Request shall provide such additional information with respect thereto, if any, as is reasonably requested by the other Party. Approval of an Overstrip Agreement Request that is complete and satisfies the need requirement of Section 3.2 shall not be unreasonably withheld.

b. Within thirty (30) days after receipt of an Overstrip Agreement Request, the Party owning or controlling the land shall notify the other Party of any surface leases or uses affecting the portions of the Overstrip Area covered by the notice that will be affected by such the activities proposed in such Overstrip Agreement Request.

c. The Parties shall use commercially reasonable efforts to develop a detailed plan of use of the affected Overstrip Area lands (as more specifically described in Section 3.4) and to negotiate and enter into an Overstrip Agreement within ninety (90) days after an Overstrip Agreement Request is delivered. In the event the Parties do not agree as to whether an Overstrip Agreement Request is complete or satisfies the need requirement, or they are unable to agree on the terms of an Overstrip Agreement within said 90-day period, the matter shall be submitted to non-binding mediation pursuant to Section 7.1, and if the disagreement is not resolved through mediation the matter will be submitted to binding arbitration pursuant to Section 7.

d. Prior to the execution of an Overstrip Agreement for that portion of the Overstrip Area covered by the Overstrip Agreement Request and unless otherwise agreed to in writing by the Parties or as determined pursuant to Section 7 hereof, the Party making the Overstrip Agreement Request shall have no right to conduct the proposed activities on or affecting lands of the other Party.

3.4 Matters to be Covered by an Overstrip Agreement. The Parties agree that each Overstrip Agreement to be entered into with respect to a portion of the Overstrip Area shall contain a detailed plan of use of the affected Overstrip Area lands addressing the following matters:

- a. Activities to be undertaken on the applicable Overstrip Area lands and duration of use;
- b. Termination of any conflicting surface leases or uses relating to the Overstrip Area where Mining is to be conducted;
- c. Use and removal of surface facilities installed by a Party, including provisions for joint use of roads, ponds and other infrastructure if such joint use will not adversely affect the Operations of the Party with priority of use, with assumption of reclamation liability by the last Party to use such surface facilities;
- d. Agreement on a coal resource recovery plan on any common boundaries between the coal leases held by the Parties;
- e. Use and discharge of water;
- f. Agreement with respect to final pit voids, topsoil stockpiles, and ponds which accommodate secondary mining, and reclamation responsibility with respect thereto; and
- g. A mutually-acceptable post mining topography (“PMT”) for the affected portion of the Overstrip Area based on approved and proposed mine plans of the Parties, and provision of topsoil and overburden volumes to achieve required PMT and reclamation requirements.

3.5 Additional Provisions to be Included in Overstrip Agreements. Each Overstrip Agreement entered into by the Parties also shall include the following:

- a. Provisions substantially similar to those contained in Section 4 of this Agreement detailing the obligations of the Parties with respect to compliance with law, permits and bonds, obtaining necessary third-party consents, and land payment obligations;
- b. Provisions substantially similar to those contained in Section 5 of this Agreement detailing the obligations of the Parties with respect to confidentiality and inspection;
- c. Provisions similar to the additional provisions contained in Section 6 of this Agreement; and
- d. Mediation and arbitration provisions substantially similar to that contained in Section 7 of this Agreement.

3.6 Relocation of Youngs Creek Mine Railroad Spur. Any Overstrip Agreement that is entered into after the Effective Date and which provides for Operations on or use of Overstrip Area lands by Decker that will require relocation of the planned or constructed railroad spur to the Youngs Creek Mine (“YCM RR Spur”) shall provide that such relocation will be at the sole cost and expense of Decker. In the event that the YCM RR Spur has been designed but not

constructed, the relocation costs for which Decker will be responsible include the costs of design work associated with the relocation and additional costs, if any, of constructing the YCM RR Spur along an alternative route.

#### **SECTION 4. CERTAIN OBLIGATIONS OF THE PARTIES**

4.1 Compliance with Laws. Each Party shall conduct its respective Operations within the Overstrip Area in compliance with all applicable laws, rules and regulations now existing or hereinafter enacted or adopted by federal, state and local authorities having jurisdiction over the Overstrip Area (“Applicable Law”), and each Party shall have the right, without any charge therefore or claim of damage thereto, to do and perform, with respect to the Overstrip Area, whatever may be required or deemed by it to be required or advisable in order to comply with any state or federal laws or the rules, regulations or orders of any other governmental authority having jurisdiction over the Overstrip Area.

4.2 Permits and Bonds. The SCC Parties and Decker each shall obtain all permits, approvals, bonds and licenses necessary and required to conduct their respective Operations within the Overstrip Area. Each Party shall revise or amend its respective mine permit, and secure approval of such revisions or amendments by in accordance with a mine plan approved by DEQ to conduct Mining and Mining-related activities within the Overstrip Area. Each Party agrees not to object to permitting actions undertaken by the other Party pursuant to this Agreement or an Overstrip Agreement entered into pursuant hereto.

4.3 Consents. The SCC Parties and Decker each shall obtain all third-party consents necessary and required to conduct their respective Operations within the Overstrip Area.

4.4 Land Use Payment Obligations. Both Parties agree that this Agreement and the Overstrip Agreements to be entered into pursuant hereto are for the mutual benefit of both Parties, and that neither Party shall be required to pay the other Party for its use of Overstrip Area lands as to which the other Party owns or controls the surface. Notwithstanding the foregoing, each Party shall be liable to the other Party for any increase in the other Party’s tax liabilities on Overstrip Area lands resulting from such Party’s Operations or other activities on Overstrip Area lands owned by the other Party. A party obtaining an Overstrip Agreement on Uncontrolled Lands shall be responsible for obtaining from the BLM the necessary rights to use such lands and for paying the costs associated with such use. Also, any additional costs in surface use fees on federal or state lands shall be the responsibility of the Party whose activity requires the additional surface use fee.

#### **SECTION 5. MINING OPERATION COORDINATION**

5.1 Confidentiality. All shared data, information, plans, permits, approvals, maps, studies, reports, documents, plats, cross-sections, surveys, correspondence, oral communications, notices, applications and materials provided by one Party to the other Party pursuant to the terms of this Agreement (“Exchange Information”) shall be kept in strict confidence and shall not be disclosed to any other person or entity or used for any purpose other than for the specific purposes set forth

under this Agreement without the prior written consent of the Party providing the Exchange Information. Both Parties shall protect and safeguard the Exchange Information and shall prevent the unauthorized use, dissemination, or publication of the Exchange Information and shall prevent the unauthorized use, dissemination, or publication of the Exchange Information. All Exchange Information shall remain the property of the Party who developed or produced it. Notwithstanding the foregoing, the obligations of confidentiality set forth in this Section 5.1 shall not apply to Exchange Information that: (i) was at the time of the disclosure by the disclosing Party to the receiving Party already in the possession of the receiving Party; (ii) was at the time of disclosure by the disclosing Party to the receiving Party, or subsequently became through no act or omission by the receiving Party, known to the general public through publication filing in public records or otherwise, (iii) is required to be disclosed pursuant to Applicable Law, or (iv) consists of environmental baseline information as to which the owning Party has given the receiving Party written consent to use in permit preparation, permit applications and/or permit documents. Notwithstanding the requirements of Section 7 herein, either Party shall have the right to seek injunctive relief from a court of competent jurisdiction for any breach or violation of the provisions of this Section 5.1.

5.2 Inspection. Either Party, at its sole risk and expense, shall have the right, but not the obligation, to inspect or examine the surface conditions and facilities located within that portion of the Overstrip Area located as to which it owns or controls the surface with respect to the other Party's activities thereon pursuant to this Agreement. Neither Party shall have the affirmative obligation to supervise or oversee the operations of the other Party in the Overstrip Area, including without limitation such other Party's safety compliance or safety measures. All such inspections shall be conducted in conformance with Applicable Law and the internal safety, health and operating rules of the SCC Parties or Decker, as the case may be. Either Party may limit or prohibit access to all or portions of its lands, operations and facilities in its sole discretion for safety purposes or if such access would otherwise compromise regulatory compliance concerns.

## **SECTION 6. ADDITIONAL PROVISIONS**

6.1 Term. This Agreement shall be effective on the Effective Date and shall terminate when all Operations by the Parties have permanently ceased in Townships 8 and 9 South, Ranges 39 and 40 East, Big Horn County, Montana, and all reclamation operations within the Overstrip Area have been completed, including the final and complete release by government authorities to each Party of its reclamation bonds as to Overstrip Area, provided, however, that in no event shall this Agreement extend for a period of more than 60 years from the Effective Date unless extended by mutual written agreement of the Parties.

6.2 Indemnification. Except as otherwise expressly allocated to a Party under this Agreement, Decker and the SCC Parties shall each indemnify, defend and hold the other Party harmless from and against any and all claims, costs, expenses and liabilities of every kind and character, including without limitation reasonable costs and attorney's fees incurred by the other Party in defending against such liabilities (collectively "Claims") arising out of or relating to damage or injury to property (unless such damage is permitted by this Agreement) or persons, including death, resulting from the indemnifying Party's use or activities within the Overstrip

Area, provided, however, that such indemnification shall not apply to any Claim to which and to the extent that the indemnified Party is contributorily negligent.

6.3 Disclaimer of Warranty. The SCC Parties and Decker make no warranty or representation whatsoever with respect to the Overstrip Area, including without limitation that the lands covered by the Overstrip Area are fit for the purposes contemplated hereby or Overstrip Agreements to be entered into pursuant hereto, except that each of the SCC Parties and Decker, for themselves and their successors and assigns, covenants to warrant and forever defend title to lands owned the SCC Parties and Decker, respectively, against the claims of all persons claiming by, through, or under such Party, its successors or assigns.

6.4 Default. In the event either Party violates any of the terms, conditions or obligations of this Agreement and such default continues for thirty (30) days after the defaulting Party has received a written notice of default from the other Party or there is a disagreement about whether or not a default exists, the matter shall be submitted to non-binding mediation pursuant to Section 7.1, and if the disagreement is not resolved through mediation the matter will be submitted to binding arbitration pursuant to Section 7. If the arbitrators determine that the breach occurred and that the breach was material to the conduct of the Parties under this Agreement, the arbitrators may, at the election of the non-breaching Party and in addition to any other rights and remedies the non-breaching Party may have, rule that this Agreement is terminated in whole or in part.

## **SECTION 7. MEDIATION AND ARBITRATION**

7.1 Mediation. In the event the Parties are unable to reach agreement pursuant to the terms of Section 3.3 of this Agreement or there is an alleged breach of this Agreement that is not cured, the Parties shall first attempt to resolve the matter through mediation before a mining engineer that has a background in and significant experience with coal mining operations and reclamation ("Qualifying Engineer"). The Parties hereby specify that, as their first choice, the Qualifying Engineer shall be a principal, employee or consultant of Tetra Tech, Inc., or if such company is unwilling or unable to provide a Qualifying Engineer, then their second choice is Golder Associates (each a "Designated Company"). Either Party may initiate the mediation by (a) giving notice to the other Party, and (b) notifying the first Designated Company and requesting that a Qualifying Engineer be provided to act as mediator. The Parties agree to schedule a settlement conference with a Qualifying Engineer serving as mediator within 45 days after the date on which a Party has received notice of mediation.

7.2 Rules Regarding Arbitration. Subject to the requirements of Section 7.6, any dispute, controversy or claim arising out of or related to this Agreement, or the breach thereof that is not resolved through mediation pursuant to Section 7.1, shall be determined by binding arbitration in accordance with this Agreement and the Rules of the American Arbitration Association ("AAA") for Commercial Arbitration ("AAA Rules"), except as those rules are modified pursuant to this Section 7.

7.3 Initiation of Claim and Arbitrator. Arbitration shall be initiated by a written claim for binding arbitration by either Party setting forth the nature of the dispute and the issues to be



decided and as otherwise provided by the AAA Rules. Either Party may initiate a claim for arbitration in the event that a dispute has not been resolved within 45 days after the date on which a Party receives notice of mediation. The arbitration shall be conducted before a panel of three arbitrators, non of whom has a direct or indirect interest in either Party or the subject matter of the arbitration, two of whom shall be attorneys with at least ten years experience in mining law, and the other of whom shall be a Qualifying Engineer. The SCC Parties and the Decker Parties each shall appoint an attorney arbitrator, and the two arbitrators so appointed shall select a Qualifying Engineer arbitrator from one of the Designated Companies or another company mutually agreeable to the Parties; *provided, however*, that if the two arbitrators appointed by the Parties fail to select the third arbitrator within thirty (30) days after written notice from either Party requesting arbitration, the third arbitrator shall be selected under the expedited AAA Rules.

7.4 Process. The arbitration shall be held in Billings, Montana. The AAA Rules shall apply to the extent not inconsistent with the provisions set forth herein. The hearing shall commence no later than sixty (60) days after the written claim for arbitration, provided, however, that the Parties shall have no fewer than thirty (30) days from selection of the third arbitrator to prepare for the hearing. The hearing shall be conducted on a confidential basis without continuance or adjournment. The arbitrators may allow on written application limited discovery and shall establish a time limit for any deposition authorized, provided that such authorized discovery shall not extend the time period provided for a hearing and a final decision unless otherwise mutually agreed to by the Parties. Upon mutual stipulation, the Parties may submit the controversy to the arbitrators on briefs and without a hearing. The briefs shall be fully submitted no later than sixty (60) days after the written claim for arbitration. Each Party shall prepare and submit a single brief setting forth its respective position and proposing a resolution to the dispute (which may include multiple alternative proposals that such Party would find acceptable), and, if a hearing is held, shall present its position to the arbitrators as set forth in its brief. The arbitrators shall make their decision within thirty (30) days after the hearing, or if no hearing is held, within thirty (30) days of receipt of briefs. All decision of the arbitrators shall be final and binding on the Parties. Each Party shall be responsible for its own costs and expenses and the costs, expenses and fees of its counsel, experts and representatives. The Parties shall share equally the costs and expenses of the arbitrators. In the event that the arbitrators determine that a Party has breached this Agreement or that a Party has brought a frivolous claim, the arbitrators shall require the attorneys' fees and expenses of the prevailing Party to be paid by the other Party.

7.5 Limitation.

a. The Parties shall maintain the status quo (remaining before the dispute) during any dispute until such dispute is determined by the arbitration. Either Party may seek interim and/or injunctive relief with a court of law in the forum specified in Section 7.6 to prevent irreparable harm through preliminary injunction proceedings. No controversy submitted to arbitration hereunder shall, and the arbitrators shall have no right to grant injunctive relief to, stay or restrict either Party's Operations that are conducted on lands owned or controlled by that Party or that do not interfere or conflict with the other Party's activities on the Overstrip Area. Each Party shall continue to perform its obligations under this Agreement pending conclusion of the arbitration. No Party shall be considered in default hereunder during the pendency of arbitration proceedings relating to such alleged default.

b. The arbitrators shall have no authority or jurisdiction to determine issues of arbitrability. The arbitrators shall apply the law of res judicata collateral estoppel, the decisions of prior arbitrators under this Agreement as precedent and the Montana statutes of limitations as to underlying claims for relief or causes of action.

7.6 Enforcement; Forum and Choice of Law. This agreement to arbitrate shall be specifically enforceable. The Parties agree to abide by all awards rendered in such proceedings. All awards may be filed with the clerk of one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property. Each of the Parties stipulates and agrees to the jurisdiction of the United States District Court for the District of Montana and, if that court rejects subject matter jurisdiction, in the appropriate Montana state court. for the purposes of any suit, request for injunctive relief, action or other proceeding brought by the other Party hereto to enforce any arbitration award or order made or issued pursuant hereto. Any arbitration and/or other court action shall apply the substantive law of the State of Montana. Nothing herein shall be deemed to waive the right of a Party to seek removal of a matter from federal court to state court if such removal is otherwise permissible. Each Party hereby consents to service of process at the office for service of notices set forth herein as its office for service of process.

## **SECTION 8. MISCELLANEOUS**

8.1 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns. Neither of the Parties hereto shall assign its interest in this Agreement to any assignee other than a wholly-owned subsidiary or affiliate, or acquiring company or affiliate (i.e. one acquiring all or substantially all of the proposed assignor's assets or more than 50% of the voting interests in the proposed assignor) without (a) the prior written consent of the other Party hereto, which consent may not be unreasonably withheld and (b) the transferee's written agreement to the terms and conditions of this Agreement; provided, however, that either Party may transfer its interest in the Overstrip Area without the consent or permission of the other Party provided such assignment or transfer shall be made expressly subject to all of the terms and conditions of this Agreement which the transferee shall agree to and shall accept in writing.

8.2 Certain Obligations of KCP and Decker. Each of KCP and Decker hereby waives, for the benefit of the SCC Parties, any and all rights that it may now or hereafter have to claim or raise as a defense to performance or enforceability, in whole or in part, that Decker is not or ceases to be a legal entity capable of being bound by or performing its obligations under this Agreement and any Overstrip Agreement entered into pursuant hereto. KCP hereby agrees that in the event Decker ceases to exist as a legal entity, KCP shall arrange for the new entity owning the Decker Mine to assume and be responsible for all the obligations of Decker under this Agreement and each Overstrip Agreement entered into pursuant hereto that have not been performed.

8.3 Notices. All notices and other required or permitted communications under this Agreement shall be in writing, and shall be addressed respectively as follows:

If to the SCC Parties: Spring Creek Coal LLC  
and Arrowhead I LLC  
Attn: Land Manager  
P.O. Box 3009  
Gillette, WY 82717

Street address for Spring Creek Coal LLC:  
505 South Gillette Avenue  
Gillette, Wyoming 82716

If to Decker: Decker Coal Company  
P.O. Box 12  
Decker, MT 59025  
Attention: General Manager

With a copy to: KCP, Inc.  
c/o Ambre Energy North America, Inc.  
170 S. Main, Suite 700  
Salt Lake City, Utah 84101  
Attn: Chief Operating Officer

All notice shall be given (i) by personal delivery, or (ii) by registered or certified mail return receipt requested; or (iii) by overnight or other express courier service. Notices shall be effective and shall be deemed given on the date of receipt at the principal address if received during normal business hours, and, if not received during normal business hours, on the next business day following receipt. Any Party may change its address by written notice to the other Party.

8.4 Entire Agreement. This Agreement contains the entire agreement between the Parties hereto with respect to the transaction contemplated hereby and may not be modified except by an instrument in writing signed by each of the Parties hereto.

8.5 Governing Law. This Agreement and the rights and obligations thereunder of the Parties hereto shall be construed in accordance with and governed by the laws of the State of Montana.

8.6 Counterparts. This Agreement may be executed by the Parties in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute but one and the same instrument. This Agreement shall become operative when each Party has executed at least one counterpart of this Agreement.

8.7 Recording Memorandum. On the Effective Date, the Parties shall execute a memorandum of this Agreement substantially in the form of Exhibit C attached hereto, and such memorandum shall be recorded in the public records of Big Horn County, Montana.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum on the dates listed in the acknowledgments below but effective as of the Effective Date.

**SCC PARTIES:**

**Spring Creek Coal LLC**

By:   
Name: Bryan Pechersky  
Title: Senior Vice President

**Arrowhead I LLC**

By:   
Name: Bryan Pechersky  
Title: Senior Vice President

**DECKER:**

**Decker Coal Company  
By KCP, Inc. as Managing Partner**

By: \_\_\_\_\_  
Name: Everett King  
Title: President of KCP, Inc.

[Signature Page – Memorandum of Mutual Overstrip Lands Agreement]

The undersigned Parties have executed this Agreement as of the Effective Date.

**SCC PARTIES:**

**Spring Creek Coal LLC**

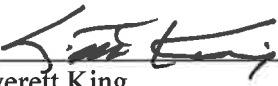
By: \_\_\_\_\_  
Name: Bryan Pechersky  
Title: Senior Vice President

**Arrowhead I LLC**

By: \_\_\_\_\_  
Name: Bryan Pechersky  
Title: Senior Vice President


**DECKER:**

**Decker Coal Company  
By KCP, Inc. as Managing Partner**

By:  \_\_\_\_\_  
Name: Everett King  
Title: President of KCP, Inc.

Executed as of the Effective Date for the purpose of signifying its agreement with the provisions of Section 8.2 of the Agreement only:

**KCP, Inc.**

By:  \_\_\_\_\_  
Name: Everett King  
Title: President

[Signature Page to Mutual Overstrip Lands Agreement]

**EXHIBIT A-1  
TO OVERSTRIP LANDS AGREEMENT**

**SCC/Arrowhead Lands in Overstrip Area**

**SCC Surface**

Township 9 South, Range 40 East

Section 6: E1/2E1/2

**Arrowhead Surface**

Township 9 South, Range 40 East

Section 17: N1/2SW1/4, SE1/4SW1/4

Section 18: E1/2

Section 19: S1/2NE1/4, NW1/4NE1/4, N1/2SE1/4, SE1/4SE1/4

Section 20: W1/2, SE1/4, S1/2NE1/4, NE1/4NE1/4

Section 21: SW1/4SE1/4, SW1/4SW1/4 (Portion)

Section 28: N1/2NW1/4, SW1/4NW1/4, NW1/4NE1/4

Section 29: N1/2

Section 30: NE1/4NE1/4

[Exhibit A-1 to Mutual Overstrip Lands Agreement]



## **EXHIBIT A-2 TO OVERSTRIP LANDS AGREEMENT**

### **Decker Lands in Overstrip Area**

#### **Decker Surface**

##### Township 8 South, Range 40 East

Section 29: NW1/4, SE1/4, SW1/4

Section 32: All

##### Township 9 South, Range 40 East

Section 5: NW1/4, NE1/4, SW1/4, N1/2SE1/4, SW1/4SE1/4

Section 8: N1/2NW1/4, SE1/4NW1/4, W1/2NE1/4, SE1/4

Section 17: N1/2, SE1/4

Section 21: S1/2NW1/4, NW1/4NW1/4, N1/2SW1/4, SE1/4SW1/4, SW1/4SW1/4 (Portion),  
SW1/4NE1/4, NW1/4SE1/4

#### **BLM Surface Controlled by Decker**

##### Township 9 South, Range 40 East

Section 5: SE1/4SE1/4

Section 7: SE1/4SE1/4

Section 8: E1/2NE1/4, SW1/4

Section 17: SW1/4SW1/4

Section 20: NW1/4NE1/4

**EXHIBIT A-3  
TO OVERSTRIP LANDS AGREEMENT**

**Uncontrolled Lands**

Township 9 South, Range 40 East

Section 7: NE1/4, W1/2SE1/4, NE1/4SE1/4

Section 8: SW1/4NW1/4

Section 19: NE1/4NE1/4

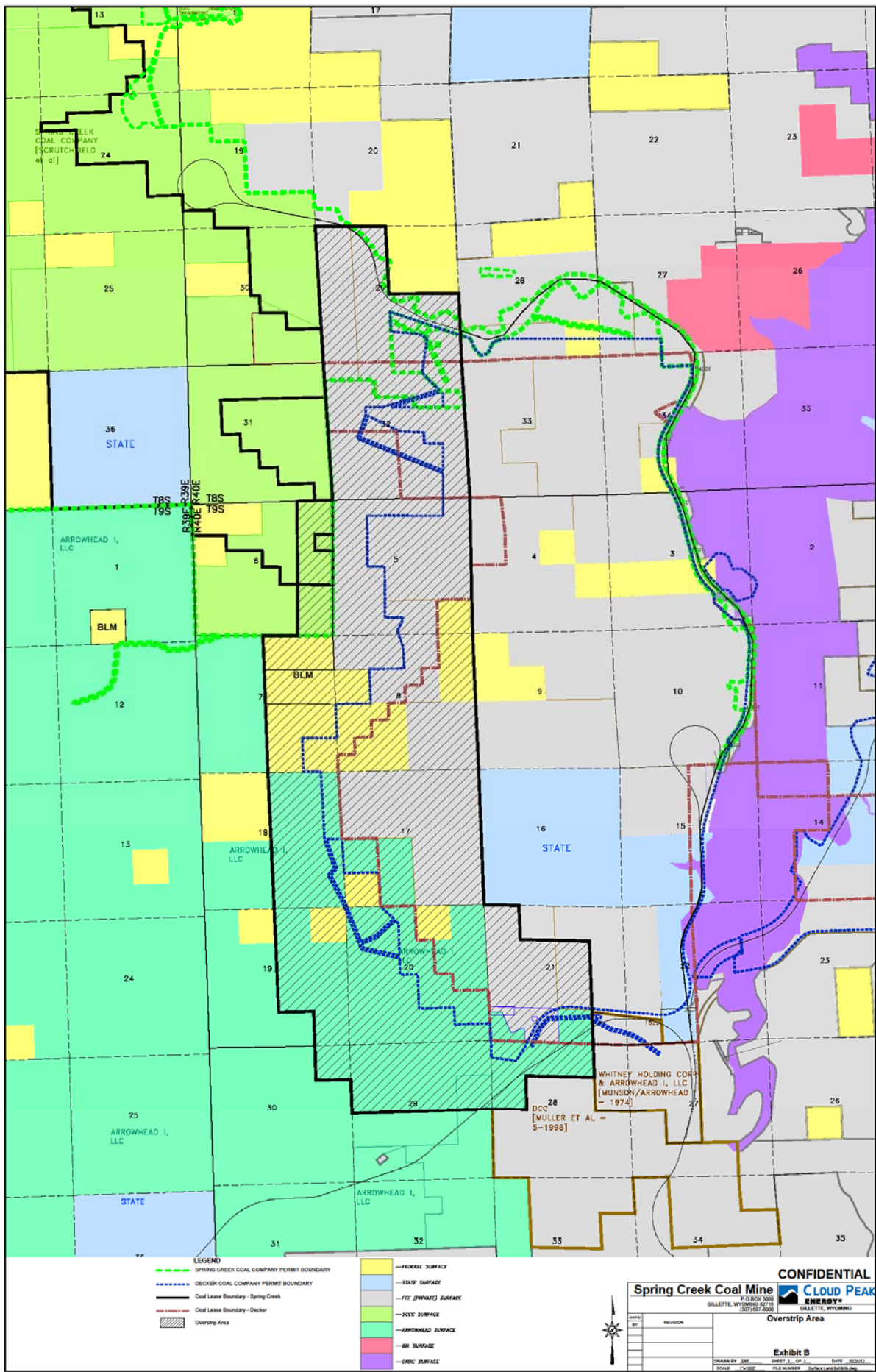
[Exhibit A-3 to Mutual Overstrip Lands Agreement]

**EXHIBIT B  
TO OVERSTRIP LANDS AGREEMENT**

**Map of Overstrip Area**

**[See Attached]**

**[Exhibit B to Mutual Overstrip Lands Agreement]**



# EXHIBIT C TO OVERSTRIP LANDS AGREEMENT

## Form of Memorandum of Agreement

STATE OF MONTANA                     )  
  ) ss.  
COUNTY OF BIG HORN                )

### MEMORANDUM OF OVERSTRIP LANDS AGREEMENT

NOTICE IS HEREBY GIVEN of that certain Overstrip Lands Agreement (“Agreement”) dated effective the \_\_\_\_ day of \_\_\_\_\_, 201\_ (the “Effective Date”), by and among Spring Creek Coal LLC, a Delaware limited liability company (“SCC”) and Arrowhead I LLC, a Delaware limited liability company (“Arrowhead” and with SCC, the “SCC Parties”), both of whose address is c/o Cloud Peak Energy, P.O. Box 3009, Gillette, WY 82717, and Decker Coal Company, a joint venture (“Decker”), whose address is P.O. Box 12, Decker, MT 59025. The term “Parties” means the SCC Parties and Decker and “Party” means either the SCC Parties or Decker.

The SCC Parties own and operate the Spring Creek Mine and Decker owns and operates the Decker Mine (each a “Mine”), both of which are located in Big Horn County, Montana. Each Party conducts surface mining for the severance, removal, transportation and treatment of coal from its respective Mine, including all related and incidental activities such as backsloping, permitting, bonding, reclamation, and installation and operation of water drainage, electric transmission and telecommunication facilities (“Operations”). In the Agreement, the Parties have granted to each other the following:

1. Grant of Preliminary Access Easements

a. Grant to Decker. Subject to the conditions and limitations contained in the Agreement, the SCC Parties, to the extent they have the right, title and interest to do so, have granted and hereby grant to Decker the right, license and easement to enter upon the surface of certain lands more particularly described in Exhibit A-1 hereto (“SCC/Arrowhead Lands”) to gather environmental baseline information and conduct exploratory drilling. Decker shall not have any right to undertake any other activities or operations on the SCC/Arrowhead Lands not expressly allowed by this Section 1.a. unless and until the Parties enter into an Overstrip Agreement (defined below) granting Decker such rights.

b. Grant to the SCC Parties. Subject to the conditions and limitations contained in the Agreement, Decker, to the extent it has the right, title and interest to do so, has granted and hereby grants to the SCC Parties the right, license and easement to enter upon the surface of

[Exhibit C to Mutual Overstrip Lands Agreement]

Page 1

certain lands more particularly described in Exhibit A-2 (“Decker Lands”) to gather environmental baseline information and conduct exploratory drilling. The SCC Parties shall not have any right to undertake any other activities or operations on the Decker Lands not expressly allowed by this Section 1.b. unless and until the Parties enter into an Overstrip Agreement granting the SCC Parties such rights.

2. Appurtenant Easements. The reciprocal easements granted in Sections 1.a. and 1.b. are non-exclusive, perpetual, are appurtenant to and run with and burden the land, are binding on the Parties as well as all successors and assigns thereof, and that the easements upon, into, over and under the SCC/Arrowhead Lands benefit the Decker Lands, and that the easements upon, into, over and under the Decker Lands benefit the SCC/Arrowhead Lands.

3. Overstrip Agreements. The Agreement provides that, subject to the conditions and limitations contained therein, the Parties agree to enter into one or more agreements from time to time (each an “Overstrip Agreement”), pursuant to which one Party shall grant to the other Party the right, license and easement (“Overstrip Easement”) to encroach, backslope and overstrip upon into, over and under all or part of the SCC/Arrowhead Lands, the Decker Lands and certain other lands more particularly described in Exhibit A-3 (“Uncontrolled Lands”, and with the SCC/Arrowhead Lands and the Decker Lands the “Overstrip Area”) that are owned or controlled by the other Party, which may include the right to remove, place and/or displace earth, rock and other material in, on and under such Overstrip Area and to operate mining equipment and environmental monitoring devices and to transport mining equipment and mining material upon, into, over and under such Overstrip Area, which, in the reasonable judgment of the Party receiving the Overstrip Easement, are necessary or convenient in conjunction with such Party’s Operations. Subject to the restrictions specified in the Agreement, a proposed use of Overstrip Area lands may include the right to dig surface drainage structures, ponds, or dams and construct any access roads sedimentation ponds, pipelines, power lines, berms, or fences, or to mine coal resources in and under Overstrip Area lands owned by the other Party, but will not necessarily do so. In the event that the Parties enter into an Overstrip Agreement, a memorandum of such agreement will be recorded in the Big Horn County, Montana records.

The Agreement has a term that continues in effect until all Operations by the Parties have permanently ceased in Townships 8 and 9 South, Ranges 39 and 40 East, Big Horn County, Montana, and all reclamation operations within the Overstrip Area have been completed, including the final and complete release by government authorities to each Party of its reclamation bonds as to Overstrip Area, provided, however, that in no event shall this Agreement extend for a period of more than 60 years from the Effective Date unless extended by mutual written agreement of the Parties.

The Agreement and this Memorandum of Overstrip Lands Agreement (“Memorandum”) and the rights and obligations of the Parties under the Agreement and this Memorandum shall be construed in accordance with and governed by the laws of the State of Montana.

This Memorandum is executed for the purpose of providing notice of the existence of the Agreement among the SCC Parties and Decker. All of the terms and provisions of the

[Exhibit C to Mutual Overstrip Lands Agreement]

Page 2

Agreement are incorporated herein by reference for all purposes. This Memorandum is not intended to alter or vary the terms of the Agreement, and in the event of any conflict between the Agreement and this Memorandum, the Agreement shall control. Copies of the Agreement are on file with the signatories to this Memorandum.

This Memorandum may be executed by the Parties in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute but one and the same instrument.

*[Signature Page Follows]*

[Exhibit C to Mutual Overstrip Lands Agreement]  
Page 3

**IN WITNESS WHEREOF**, the Parties hereto have executed this Memorandum on the dates listed in the acknowledgments below but effective as of the Effective Date.

**SCC PARTIES:**

**Spring Creek Coal LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Arrowhead I LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**DECKER:**

**Decker Coal Company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**ACKNOWLEDGEMENTS**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
201\_, by \_\_\_\_\_, the \_\_\_\_\_ of Spring Creek Coal LLC, a  
Delaware limited liability company.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_.

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
201\_, by \_\_\_\_\_, the \_\_\_\_\_ of Arrowhead I LLC, a  
Delaware limited liability company.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_.

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
201\_, by \_\_\_\_\_, the \_\_\_\_\_ of Decker Coal Company, a  
joint venture.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_.

5823932\_8.DOC

4834-8088-9873, v. 2

[Exhibit C to Mutual Overstrip Lands Agreement]  
Page 6

AMENDMENT  
TO  
RESTATED AND RECONFIRMED EASEMENT

THIS AMENDMENT, made and entered into this 5<sup>th</sup> day of Feb., 2009, by and between Decker Coal Company, a joint venture between Western Minerals, Inc., an Oregon corporation, and KCP, Inc., a Delaware corporation ("Decker") AND Spring Creek Coal Company, a Montana corporation ("Spring Creek").

WITNESSETH:

WHEREAS, an Easement from Decker to Spring Creek dated August 23, 1979 and recorded January 7, 1980 in Book 24 M/F, Pages 678-688, under Document 264759, was Restated and Reconfirmed on January 27, 2000 as recorded on June 15, 2000 in Book 54MFII, Pages 807-818, under Document 322705, all in the records of Big Horn County, Montana described fourteen (14) individual parcels within an easement and right-of-way corridor for the construction, reconstruction, operation, maintenance and removal of a railroad and power line; and

WHEREAS, Spring Creek's mine permit boundary currently encompasses all of the above referenced lands as well as some adjacent lands not included in the legal descriptions of any of the 14 parcels described above; and

WHEREAS, Spring Creek desires to amend the Easement and Decker is willing to approve and agree to such amendment, to include those lands currently owned by Decker which are located along the railroad corridor, within the Spring Creek coal mine permit area as depicted on Exhibit A and tabulated in Exhibit B of this amendment.

NOW, THEREFORE, in consideration of the premises, the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows;

THIS AMENDMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- 1) A notice of Termination and Release of Easement shall be executed and recorded in Big Horn County Montana upon termination or abandonment as described under condition 5 of both the original easement.
- 2) All other Terms and Conditions shall remain as described in the original Easement dated August 23, 1979 and as Restated and Reconfirmed on January 27, 2000.

WESTERN MINERALS, INC.

By: ANT Taylor

Title: VP Technical Ser

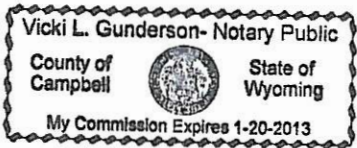
+Bd

ATTEST: [Signature]

STATE OF WYOMING )  
 ) ss  
COUNTY OF CAMPBELL )

The foregoing instrument was acknowledged before me on this 6th day of February, 2008, by ANT Taylor, VP of Western Minerals, Inc., an Oregon corporation, on behalf of the corporation.

[Signature]  
Notary Public



My Commission Expires: 1-20-13

KCP, INC.

By: [Signature]

Title: Senior Vice President

ATTEST: [Signature]

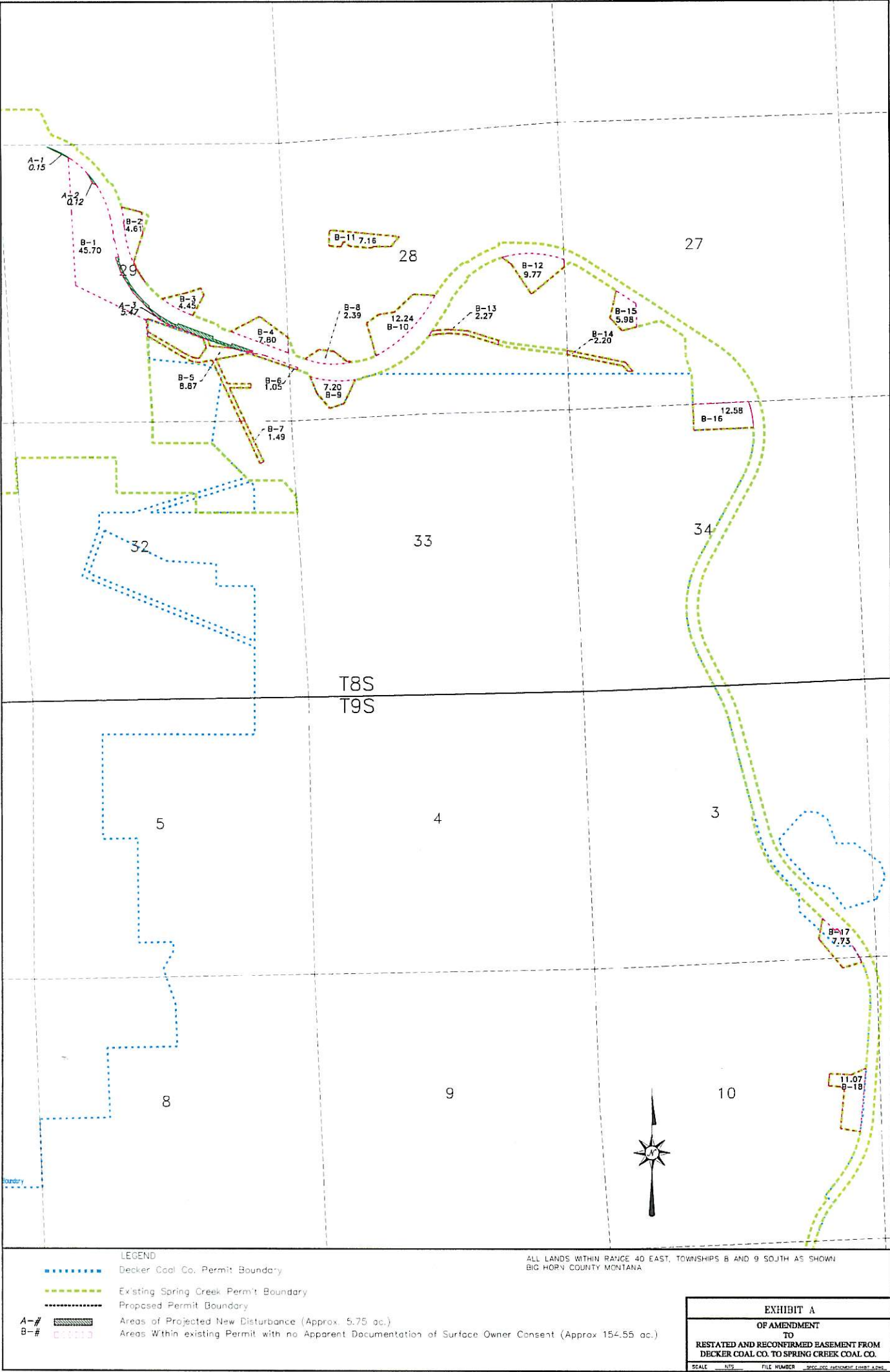
STATE OF COLORADO )  
COUNTY OF Broomfield ) ss

The foregoing instrument was acknowledged before me on this 5 day of February, 2008, by Ned Eckstein, SVP of Western Minerals, Inc., an Oregon corporation, on behalf of the corporation.  
KCP Delaware

[Signature]  
Notary Public

**MERINDA CRAYTON**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
My Commission Expires Dec. 20, 2011

My Commission Expires: Dec. 20, 2011



**EXHIBIT B**  
**OF**  
**AMENDMENT**  
**TO**  
**RESTATED AND RECONFIRMED EASEMENT**

Area	Acres	Twnsbp.	Range	Sec	QQ	Description	Total
<i>New disturbance within Permit Area but outside of historic agreement areas</i>							
A-01	0.15	T.8 S.	R. 40 E.	29	NW/4NW/4	(Pt of)	
A-02	0.12	T.8 S.	R. 40 E.	29	NE/4NW/4	(Pt of)	
A-03	5.47	T.8 S.	R. 40 E.	29	SE/4	(Pt of)	
							5.74
<i>Permit Areas without legal descriptions in historic agreements</i>							
B-01	45.7	T.8 S.	R. 40 E.	29	E/2NW/4, NE/4SW/4	(Pts of)	
B-02	4.61	T.8 S.	R. 40 E.	29	SE/4NW/4	(Pt of)	
B-03	4.45	T.8 S.	R. 40 E.	29	NW/4SE/4	(Pt of)	
B-04	7.8	T.8 S.	R. 40 E.	29	NE/4SE/4	(Pt of)	
B-05	8.87	T.8 S.	R. 40 E.	29	SE/4	(Pt of)	
B-06	1.05	T.8 S.	R. 40 E.	29	SE/4SE/4	(Pt of)	
B-07	1.49	T.8 S.	R. 40 E.	32	NE/4NE/4	(Pt of)	
B-08	2.39	T.8 S.	R. 40 E.	28	SW/4	(Pt of)	
B-09	7.2	T.8 S.	R. 40 E.	28	SW/4	(Pt of)	
B-10	12.24	T.8 S.	R. 40 E.	28	S/2	(Pt of)	
B-11	7.16	T.8 S.	R. 40 E.	28	S/2NW/4	(Pt of)	
B-12	9.77	T.8 S.	R. 40 E.	28	SE/4NE/4, NE/4SE/4	(Pt of)	
B-13	2.27	T.8 S.	R. 40 E.	28	W/2SE/4	(Pt of)	
B-14	2.2	T.8 S.	R. 40 E.	27	SW/4SW/4	(Pt of)	
B-15	5.98	T.8 S.	R. 40 E.	27	NW/4SW/4	(Pt of)	
B-16	12.58	T.8 S.	R. 40 E.	34	NE/4NW/4, NW/4NE/4	(Pt of)	
B-17	7.73	T.9 S.	R. 40 E.	3,	SE/4SE/4, 10 NE/4NE/4	(Pt of)	
B-18	11.07	T.9 S.	R. 40 E.	10	SE/4NE/4, NE/4SE/4,	(Pt of)	
							154.56
<i>Total acreage of all Parcels included within Amendment to Restated and Reconfirmed Easement</i>							160.3

AUG - 8 2000

## RESTATED AND RECONFIRMED EASEMENT

DECKER COAL COMPANY, a joint venture between Western Minerals, Inc., an Oregon corporation, and KCP, Inc., a Delaware corporation, hereinafter called "Grantor," for good and valuable consideration, receipt of which is hereby acknowledged, hereby conveys to SPRING CREEK COAL COMPANY, a Montana corporation, hereinafter called "Grantee," an easement and right-of-way corridor for the construction, reconstruction, operation, maintenance, and removal of a railroad and power line, over and across lands of Grantor described in Exhibit "A," hereto attached and by this reference made a part hereof, together with the right of ingress to and egress from said corridor for the purposes aforesaid.

## SUBJECT TO AND UPON the following terms and conditions:

1. Grantee shall pay to Grantor reasonable compensation for any damage caused by Grantee, or its agents, to any property of Grantor, on or in the vicinity of Grantor's real property, arising out of the construction, reconstruction, operation, maintenance or existence of said corridor.
2. Grantee hereby agrees to indemnify and hold harmless Grantor, its officers, agents and employees, against and from any and all loss, cost, damage, expense or liability resulting or arising from injury to or death of persons whomsoever caused by or in any manner resulting from any operations conducted by Grantee, its employees, agents, lessees, licensees or assigns, on the above described real property pursuant to this easement.
3. Grantee shall, in all its operations or activities upon said Land, observe and obey all applicable state, local and federal laws, rules and regulations, including but not limited to environmental requirements concerning surface reclamation through topsoil handling and reserving.

SCCC-ROW-WTL-22-108



4. Grantor reserves the right to use the above described property for any purpose not inconsistent with said easement.

5. This right-of-way and easement and all of the permission herein granted shall terminate when no longer used for railroad and power line purposes. A period of non-use for 90 days shall constitute abandonment. In case of termination or abandonment, Grantee shall remove all improvements from said right-of-way and easement within six (6) months wholly at its own expense.

This Restated and Reconfirmed Easement is granted by Grantor for the expressed purpose of (i) restating and reconfirming the grant of easement and right-of-way as set forth in that Easement from Grantor to Grantee dated August 23, 1979, and recorded January 7, 1980, in Book 24 M/F, Pages 678-688, under Document 264759, records of Big Horn County, Montana, (ii) extending to and covering within the grant of easement and right-of-way that undivided real property interest acquired by Grantor from Faye Anderson, widow of Ogden C. Anderson, pursuant to that Quitclaim Deed dated October 5, 1999, and recorded October 5, 1999, in Book 51, Page 602 under Document #321074, records of Big Horn County, Montana.

Dated this 27<sup>th</sup> day of January, 2000.

WESTERN MINERALS, INC.

By: [Signature]  
Vice President

ATTEST: [Signature]  
Assistant Secretary

KCP  
KPC, INC.

By: [Signature]

ATTEST: [Signature]  
Assistant Secretary

STATE OF WYOMING )  
 ) ss  
 COUNTY OF CAMPBELL )

January 27, 2000

The foregoing instrument was acknowledged before me on this 27<sup>th</sup> day of January, 2000, by K.W. Sootes, Vice President of Western Minerals, Inc., an Oregon corporation, on behalf of the corporation.



Jackie L. Adair  
 Notary Public  
 My Commission Expires: 4-11-2000

STATE OF Colo )  
 ) ss  
 COUNTY OF Boulder )

March 16, 2000

The foregoing instrument was acknowledged before me on this 16 day of March, 2000, by Thomas C. Steitz, V.P. of KCP, Inc., a Delaware corporation, on behalf of the corporation.

**Cheryl R. Gardner, Notary Public**  
**State of Colorado**  
**My Commission Expires 9/28/2003**

Cheryl R. Gardner  
 Notary Public  
 My Commission Expires: 9/28/03

Parcel 1: A tract of land in the SW $\frac{1}{4}$  of Section 15, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

N 87°38'31" E along the north line of the SW $\frac{1}{4}$  of Section 15, a distance of 711.52 feet from the NW corner of the SW $\frac{1}{4}$  of Section 15 to the point of beginning;

thence N 87°38'31" E along the north line of the SW $\frac{1}{4}$  of Section 15 a distance of 89.83 feet;

thence S 16°39'43" W a distance of 100.22 feet;

thence N 78°27'14" W a distance of 81.98 feet;

thence N 16°32'46" E a distance of 471.12 feet to the point of beginning, containing 0.94 acres more or less.

Parcel 2: A tract of land in the NW $\frac{1}{4}$  of Section 15, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

S 87°36'20" W along the north line of the NW $\frac{1}{4}$  of Section 15, a distance of 64.43 feet from the NE corner of the NW $\frac{1}{4}$  of Section 15 to the point of beginning;

thence S 87°36'20" W along the north line of the NW $\frac{1}{4}$  of Section 15 a distance 92.90 feet;

thence S 16°32'46" W a distance of 351.97 feet;

thence N 87°36'53" E a distance of 92.09 feet;

thence N 16°39'43" E a distance of 352.25 feet to the point of beginning, containing 0.71 acres more or less.

Parcel 3: A tract of land in the E $\frac{1}{4}$  of Section 10, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the south line of the E $\frac{1}{4}$  of Section 10; said point of beginning bears S 87°36'20" W, a distance of 1362.96 feet from the SE corner of Section 10;

thence S 87°36'20" W along the south line of Section 10 a distance of 92.90 feet;

thence N 16°32'46" E a distance of 122.74 feet;

thence N 28°26' E a distance of 1855.81 feet;

thence N 4°02'45" E a distance of 2133.83 feet to the point of a spiral curve to the left;

thence along said spiral curve a distance of 240.85 feet, through a 3°45' spiral angle, to the point of a 3°4'14" circular curve to the left;

thence along said circular curve to the left, radius of 1770.08 feet, a distance of 866.57 feet, through a 28°03'10" central angle, to a point on the north line of Section 10;

thence N 87°23'07" E, along the north line of Section 10 a distance of 218.52 feet to a point on a 2°54'31" circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 306.30 feet, through a 8°54'33" central angle, to a point on the east line of Section 10;

thence S 1°39'05" E along the east line of Section 10 a distance of 1231.92 feet;

thence S 4°02'45" W a distance of 1371.95 feet to the point of a spiral curve to the right;

thence along said spiral curve a distance of 253.27 feet, through a 3°07'30" spiral angle, to the point of a 2°25'10" circular curve to the right;

thence along said circular curve to the right, radius of 2352.01 feet, a distance of 896.60 feet, through a 21°50'32" central angle, to a point on said circular curve;

thence S 87°41'26" W a distance of 178.08 feet;

thence S 2°05'40" E a distance of 256.25 feet to a point on a spiral curve to the right;

thence along said spiral curve a distance of 183.10 feet to the point of tangent;

thence S 38°02'45" W a distance of 310.07 feet to the point of a spiral curve to the left;

thence along said spiral curve, a distance of 246.08 feet, through a 3°45' spiral angle to the point of a 3°05'50" circular curve to the left;

thence along said circular curve to the left, radius of 1850.08 feet, a distance of 449.85 feet, through a 13°55'58" central angle to the end of said circular curve to the left;

thence S 8°47'02" W a distance of 111.42 feet to the point of beginning containing 24.72 acres, more or less.

Parcel 4: A tract of land in the S~~4~~SE~~4~~SE~~4~~ of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the south line of Section 3, said point bears S 87°23'07" W a distance of 99.55 feet from the SE corner of Section 3;

thence S 87°23'07" W along the south line of Section 3 a distance of 218.52 feet to a point on a 3°14'14" circular curve to the left;

thence along said circular curve to the left, radius of 1770.08 feet, a distance of 384.56 feet, through a 12°26'17" central angle;

thence N 87°20'29" E a distance of 245.10 feet to a point on a 2°54'31" circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 371.39 feet, through a 10°48'18" central angle, to the point of beginning, containing 1.73 acres more or less.

Parcel 5: A tract of land in the W~~4~~SE~~4~~SE~~4~~ of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point that bears S 57°54'43" E, a distance of 572.74 feet from the NW corner of the SE~~4~~SE~~4~~ of Section 3;

thence S 46°17'46" E a distance of 215.28 feet;

thence S 2°18'38" E a distance of 281.11 feet;

thence N 45°48'51" W a distance of 91.56 feet;

thence S 43°42'14" W a distance of 51.00 feet;

thence N 46°17'46" W a distance of 618.42 feet;

thence N 87°15'19" E a distance of 344.94 feet to the point of beginning, containing 2.87 acres, more or less.

Parcel 6: A tract of land in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the North East corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  Section 3;  
 thence S 2°15'34" E along the east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, a distance of 193.74 feet;  
 thence N 46°17'46" W a distance of 267.11 feet to a point on the north line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3;  
 thence N 87°12'45" E a distance of 185.68' to the point of beginning, containing 0.41 acres more or less.

Parcel 7: A tract of land in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  and the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

S 87°02'46" W along the south line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, a distance of 623.39 feet from the SE corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3 to the point of beginning;  
 thence S 87°02'46" W along the south line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3 a distance of 254.95 feet;  
 thence N 14°48'25" W a distance of 145.26 feet;  
 thence N 75°11'28" E a distance of 51.0 feet;  
 thence N 14°48'25" W a distance of 135.46 feet;  
 thence S 49°02'00" E a distance of 274.06 feet;  
 thence S 27°45'00" E a distance of 202.56 feet;  
 thence S 14°48'25" E a distance of 129.06 feet to the point of beginning, containing 6.47 acres more or less.

Parcel 8: A tract of land in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point of the north line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, said point bears N 87°27'14" E a distance of 21.73 feet from the north & corner of Section 3;  
 thence S 27°14'54" E a distance of 74.14 feet to the point of a spiral curve to the right;  
 thence along said spiral curve a distance of 253.92 feet through a 3°45' spiral angle to the point of a 2°54'30" circular curve to the right, radius of 1970.08 feet; a distance of 169.90 feet through a 4°56'29" central angle to the point of a spiral curve to the right;  
 thence along said spiral curve a distance of 253.92 feet through a 3°45' spiral angle;  
 thence S 14°48'25" W a distance of 445.74 feet;  
 thence N 65°06'00" W a distance of 249.98 feet;  
 thence N 14°48'25" W a distance of 249.65 feet to the point of a spiral to the left;  
 thence along said spiral curve a distance of 240.85 feet, through a 3°45' spiral angle, to the point of a 3°14'4" circular curve to the left;  
 thence along said circular curve to the left radius of 1770.08 a distance of 152.67 feet, through a 4°56'29" central angle to the point of a spiral curve to the left;  
 thence along said spiral curve a distance of 240.85 feet, through a 3°45' spiral angle;  
 thence S 62°45'06" W a distance of 41.00 feet;

thence N  $27^{\circ}14'54''$  W a distance of 135.07 feet to a point on the north line of NE $\frac{1}{4}$  of Section 3;

thence N  $87^{\circ}34'07''$  E a distance of 242.67 feet to the north  $\frac{1}{4}$  corner of Section 3, T.9S., R.40E.;

thence N  $87^{\circ}27'14''$  E a distance of 21.73 feet to the point of beginning, containing 5.48 acres more or less.

Parcel 9: A tract of land in the NE $\frac{1}{4}$  of Section 34, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning on a point on the south line of the NE $\frac{1}{4}$  of Section 34, said point bears S  $87^{\circ}32'19''$  W a distance of 429.96 feet from the SE corner of the NE $\frac{1}{4}$  of Section 34;

thence S  $87^{\circ}32'19''$  W a distance of 240.18 feet to a point on a  $2^{\circ}44'30''$  circular curve to the right;

thence along said circular curve to the right, radius of 2090.08 feet, a distance of 1073.12 feet, through a  $29^{\circ}25'17''$  central angle to the point of a spiral curve to the right;

thence along said spiral curve a distance of 261.78 feet, through a  $3^{\circ}45'$  spiral angle to a point of tangent;

thence N  $28^{\circ}40'40''$  E a distance of 179.02 feet;

thence S  $52^{\circ}44'00''$  E a distance of 78.63 feet;

thence S  $7^{\circ}49'00''$  E a distance of 272.90 feet to a point on a spiral curve to the left;

thence along said spiral curve a distance of 194.03 feet, through a  $2^{\circ}22'12''$  spiral angle to the point of a  $3^{\circ}05'50''$  circular curve to the left;

thence along said circular curve, radius of 1850.08 feet, a distance of 958.39 feet, through a  $29^{\circ}41'00''$  central angle to the point of beginning, containing 7.35 acres more or less.

Parcel 10: A tract of land in the N $\frac{1}{2}$  of Section 34, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the eastline of the SE $\frac{1}{4}$  of Section 34, said point bears N  $2^{\circ}44'59''$  W a distance of 179.28 feet from the SE corner of the SE $\frac{1}{4}$  of Section 34;

thence N  $71^{\circ}41'$  W a distance of 129.86 feet;

thence N  $28^{\circ}40'40''$  E a distance of 1074.61 feet to the point of a spiral curve to the left;

thence along said spiral curve to the left a distance of 238.22 feet, through a  $3^{\circ}45'$  spiral angle, to the end of said spiral curve;

thence S  $65^{\circ}04'20''$  E a distance of 40.00 feet to the point of a  $3^{\circ}14'13''$  circular curve to the left;

thence along said circular curve to the left, radius of 1770.08 feet, a distance of 1366.63 feet, through a  $44^{\circ}14'13''$  central angle, to a point on the north line of Section 34;

thence N  $87^{\circ}27'59''$  E along the north line of Section 34, a distance of 207.94 feet to a point on a  $2^{\circ}54'31''$  circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 1461.05 feet through a  $42^{\circ}29'32''$  central angle, to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 253.92 feet, through a  $3^{\circ}45'$  spiral angle, to the point of tangent;

thence S  $28^{\circ}40'40''$  W a distance 856.99 feet; Reference - MR262

thence N 88°34' W a distance of 262.93 feet;

thence S 11°34' W a distance of 449.13 feet;

thence N 71°41' W a distance of 10.79 feet to the point of beginning, containing 11.49 acres more or less.

Parcel 11: A tract of land in the NW¼ of Section 27, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the north line of the NW¼ of Section 27, said point being on a 3°12'04" circular curve and bears N 87°34'25" E a distance of 73.26 feet from the west ¼ corner of Section 27;

thence N 87°34'25" E along the north line of the NW¼ of Section 27 a distance of 358.74 feet;

thence S 57°18'11" E a distance of 150.39 feet;

thence S 56°52'30" E a distance of 944.50 feet to a point on the east line of the NW¼ of Section 27;

thence S 2°01'31" E along the east line of the NW¼ of Section 27 a distance of 220.15 feet;

thence N 56°52'30" W a distance of 1671.26 feet to the point of a spiral curve to the left;

thence along said spiral curve to the left, a distance of 242.14 feet, through a 3°45' spiral angle to the point of a 3°12'04" circular curve to the left;

thence along said circular curve to the left, radius of 1790.08 feet, a distance of 201.82 feet, through a 6°27'36" central angle to the point of beginning, containing 5.38 acres more or less.

Parcel 12: A tract of land in Section 28, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the east line of Section 28, said point bears N 2°27'15" W a distance of 32.67 feet from the east ¼ corner of Section 28 and is on a 3°12'04" circular curve to the left tangent of said 3°12'04" circular curve forms a 71°50'01" angle with the east line of Section 28;

thence along said 3°12'04" circular curve, radius of 1790.08 feet a distance of 1108.94 feet, through a 35°29'54" central angle;

thence N 15°09'04" W a distance of 21.00 feet to a point on a 3°09'57" circular curve to the left;

thence along said circular curve to the left, radius of 1810.08 feet, a distance of 876.58 feet, through a 27°45'14" central angle;

thence S 42°54'04" E a distance of 44.00 feet to a point on a 3°14'14" circular curve to the left;

thence along said circular curve to the left radius of 1770.08 feet, a distance of 323.96 feet, through a 10°29'14" central angle to the point of a spiral curve to the left;

thence along said spiral curve, a distance of 240.84 feet, through a 3°45'00" spiral angle to the point of tangent;

thence S 57°08'18" E a distance of 20.00 feet;

thence S 32°51'42" W a distance of 443.44 feet to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 260.47 feet, through a 3°45'00" spiral angle, to the point of a 2°46'05" circular curve to the right;

thence along said circular curve to the right, radius of 2070.08 feet, a distance of 1524.88 feet, through a 42°12'34" central angle;

thence  $\odot 1^{\circ}10'47''$  E a distance of 20.00 feet to a point on a  $2^{\circ}44'30''$  circular curve to the right;

thence along said circular curve to the right, radius of 2090.08 feet, a distance of 437.69 feet, through a  $12^{\circ}00'00''$  central angle;

thence N  $0^{\circ}49'13''$  E a distance of 20.00 feet to a point on a  $2^{\circ}46'05''$  circular curve to the right;

thence along said circular curve to the right, radius of 2070.08 feet, a distance of 298.04 feet, through a  $8^{\circ}15'00''$  central angle;

thence N  $9^{\circ}04'13''$  E a distance of 20.00 feet to a point on a  $2^{\circ}47'42''$  circular curve to the right;

thence along said circular curve to the right, radius of 2050.08 feet, a distance of 265.53 feet, through a  $7^{\circ}25'18''$  central angle to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 259.16 feet, through a  $3^{\circ}45'00''$  spiral angle to the point of tangent;

thence N  $20^{\circ}14'31''$  E a distance of 40.00 feet;

thence N  $69^{\circ}45'29''$  W a distance of 177.95 feet to a point on the west line of Section 28;

thence N  $2^{\circ}22'58''$  W along the west line of Section 28, a distance of 216.66 feet;

thence S  $69^{\circ}45'29''$  E a distance of 261.29 feet to the point of a spiral curve to the left;

thence along said spiral curve to the left, a distance of 243.47 feet, through a  $3^{\circ}45'00''$  spiral angle;

thence N  $16^{\circ}29'31''$  E a distance of 20.00 feet to the point of a  $3^{\circ}12'04''$  circular curve to the left;

thence along said circular curve to the left, radius of 1790.08 feet, a distance of 138.13 feet, through a  $4^{\circ}25'18''$  central angle;

thence N  $12^{\circ}04'13''$  E a distance of 40.00 feet to a point on a  $3^{\circ}16'27''$  circular curve to the left;

thence along said circular curve to the left, radius of 1750.08 feet, a distance of 183.25 feet, through a  $6^{\circ}00'00''$  central angle;

thence N  $6^{\circ}04'13''$  E a distance of 20.00 feet to a point on a  $3^{\circ}18'44''$  circular curve to the left;

thence along said circular curve to the left, radius of 1730.08 feet a distance of 362.29 feet, through a  $12^{\circ}00'00''$  central angle;

thence S  $5^{\circ}55'47''$  E a distance of 20.00 feet to a point on a  $3^{\circ}16'27''$  circular curve to the left;

thence along said circular curve to the left, radius 1750.08 feet, a distance of 549.76 feet, through a  $18^{\circ}00'00''$  central angle;

thence N  $23^{\circ}55'47''$  W a distance of 60.00 feet to a point on a  $3^{\circ}23'26''$  circular curve to the left;

thence along said circular curve radius of 1690.08 feet, a distance of 530.89 feet through a  $18^{\circ}00'00''$  central angle;

thence S  $41^{\circ}55'47''$  E a distance of 60.00 feet to a point on a  $3^{\circ}16'27''$  circular curve to the left;

thence along said circular curve, radius of 1750.08 feet, a distance of 350.00 feet, through a  $11^{\circ}27'34''$  central angle, to the point of a spiral curve to the left;

thence along said spiral curve a distance of 239.54 feet, through a  $3^{\circ}45'00''$  spiral angle, to the point of tangent;

thence N  $32^{\circ}51'42''$  E a distance of 413.44 feet to the point of a spiral





BOOK

54 816



322705

thence along said spiral curve to the right, a distance of 260.48 feet, through a  $3^{\circ}45'00''$  spiral angle, to the point of a  $2^{\circ}46'05''$  circular curve to the right;

thence along said circular curve to the right, radius of 2070.08 feet, a distance of 595.63 feet, through a  $16^{\circ}29'14''$  central angle;

thence  $S 36^{\circ}54'04'' E$  a distance of 40.00 feet to a point on a  $2^{\circ}49'21''$  circular curve to the right;

thence along said circular curve, radius of 2030.08 feet, a distance of 691.62 feet, through a  $19^{\circ}31'16''$  central angle;

thence  $N 86^{\circ}36'12'' E$  a distance of 516.15 feet to a point on a  $2^{\circ}54'31''$  circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 715.70 feet, through a  $20^{\circ}49'00''$  central angle to a point on the east line of Section 28;

thence  $S 2^{\circ}27'15'' E$  along the east line of Section 28, a distance of 193.47 feet to the point of beginning, containing 38.14 acres more or less.

Parcel 13: A tract of land in Section 29, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the east line of Section 29, said point bears  $N 2^{\circ}22'58'' W$  a distance of 1068.60 feet from the SE corner of Section 29;

thence  $N 69^{\circ}45'29'' W$  a distance of 1149.66 feet;

thence  $S 20^{\circ}14'31'' W$  a distance of 40.00 feet;

thence  $N 69^{\circ}45'29'' W$  a distance of 375.00 feet;

thence  $N 20^{\circ}14'31'' E$  a distance of 40.00 feet;

thence  $N 69^{\circ}45'29'' W$  a distance of 547.23 feet to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 102.61 feet, through a  $1^{\circ}30'$  spiral angle, to the point of a  $2^{\circ}51'02''$  circular curve to the right;

thence along said circular curve to the right, radius of 2010.08 feet, a distance of 55.54 feet, through a  $1^{\circ}35'00''$  central angle, to a point on said  $2^{\circ}51'02''$  circular curve to the right;

thence  $S 23^{\circ}19'31'' W$  a distance of 40.00 feet to a point on a  $2^{\circ}47'42''$  circular curve to the right;

thence along said circular curve to the right, radius of 2050.08 feet, a distance of 644.01 feet, through a  $18^{\circ}00'00''$  central angle to a point on said  $2^{\circ}47'42''$  circular curve to the right;

thence  $N 41^{\circ}19'31'' E$  a distance of 20.00 feet to a point on a  $2^{\circ}49'21''$  circular curve to the right;

thence along said circular curve to the right, radius of 2030.08 feet, a distance of 1169.19 feet, through a  $33^{\circ}00'01''$  central angle to a point on said  $2^{\circ}49'21''$  circular curve to the right;

thence  $N 74^{\circ}19'30'' E$  a distance of 20.00 feet to a point on a  $2^{\circ}51'02''$  circular curve to the right;

thence along said circular curve, radius of 2010.08 feet, a distance of 126.02 feet, through a  $3^{\circ}35'32''$  central angle, to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 102.61 feet through a  $1^{\circ}30'$  spiral angle, to the point of tangent;

thence  $N 10^{\circ}34' 58'' W$  a distance of 384.15 feet to the point of a spiral curve to the left;

thence along said spiral curve a distance of 97.37 feet, through a  $1^{\circ}30'$

thence along said circular curve to the left, radius of 1810.08 feet, a distance of 2038.95 feet, through a  $64^{\circ}33'$  central angle, to the point of a spiral curve to the left;

thence along said spiral curve to the left a distance of 29.58 feet, through a  $0^{\circ}39'10''$  spiral angle, to a point on the north line of Section 29;

thence N  $89^{\circ}39'31''$  E a distance of 671.37 feet to a point on a  $2^{\circ}46'28''$  circular curve to the right;

thence along said circular curve, radius of 2065.08 feet, a distance of 120.56 feet, through a  $3^{\circ}20'42''$  central angle;

thence S  $34^{\circ}15'43''$  W a distance of 40.00 feet to a point on a  $2^{\circ}49'45''$  circular curve to the right;

thence along said circular curve to the right, radius of 2025.08 feet, a distance of 917.23 feet, through a  $25^{\circ}57'$  central angle;

thence N  $60^{\circ}12'43''$  E a distance of 40.00 feet to a point on a  $2^{\circ}46'28''$  circular curve to the right;

thence along said circular curve to the right, radius of 2065.08 feet, a distance of 638.17 feet, through a  $17^{\circ}42'10''$  central angle, to the point of a spiral curve to the right;

thence along said spiral curve a distance of 104.05 feet, through a  $1^{\circ}30'$  spiral angle, to the point of tangent

thence S  $10^{\circ}34'58''$  E a distance of 213.88 feet;

thence S  $79^{\circ}25'02''$  W a distance of 15.00 feet;

thence S  $10^{\circ}34'58''$  E a distance of 100.26 feet to a point of a spiral curve to the left;

thence along said spiral curve to the left, a distance of 96.33 feet, through a  $1^{\circ}30'$  central angle, to the point of a  $3^{\circ}14'13''$  circular curve to the left;

thence along circular curve to the left, radius of 1770.08 feet, a distance of 1735.45 feet, through a  $56^{\circ}10'32''$  central angle to the point of a spiral curve to the left;

thence along said spiral curve to the left a distance of 96.33 feet, through a  $1^{\circ}30'$  spiral angle, to the point of tangent;

thence S  $69^{\circ}45'29''$  E a distance of 572.22 feet;

thence S  $20^{\circ}14'31''$  W a distance of 40.00 feet;

thence S  $69^{\circ}45'29''$  E a distance of 1416.31 feet to a point on the east-line of Section 29;

thence S  $2^{\circ}22'58''$  E along the eastline of Section 29, a distance of 216.66 feet to the point of beginning, containing 43.52 acres more or less.

Parcel 14: A tract of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the SE corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20;

thence S  $89^{\circ}39'30''$  W along the south line of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20 a distance of 581.02 feet;

thence N  $77^{\circ}53'04''$  W a distance of 67.80 feet;

thence N  $78^{\circ}07'57''$  W a distance of 704.45 feet to a point on the east line of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20;

thence N  $2^{\circ}16'13''$  W along the east line of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 20 a distance of 221.68 feet;

thence S  $78^{\circ}07'57''$  E a distance of 129.98 feet;

thence N  $11^{\circ}52'03''$  E a distance of 40.00 feet;

thence S  $78^{\circ}07'57''$  E a distance of 328.52 feet to the point of a spiral curve to the right;

thence along said spiral curve a distance of 104.05 feet, through  $1^{\circ}30'$  spiral angle, to the point of a  $2^{\circ}46'28''$  circular curve to the right;

thence along said circular curve to the right, radius of 2065.08 feet, a distance of 526.77 feet, through a  $1^{\circ}36'54''$  central angle, to a point on the west line of the SWSW $\frac{1}{4}$  of Section 20;

thence S  $2^{\circ}34'$  E along the west line of the SWSW $\frac{1}{4}$  of Section 20 a distance of 52.58 feet to the point of beginning, containing 6.34 acres, more or less.

STATE OF MONTANA ss.  
COUNTY OF BIG HORN

The within instrument was filed in my office at Hardin, Montana for

record this JUN 15 2009 A.D. at 9:45 o'clock A.M.

and book recorded in book 54 of Page 807-818

by [Signature] County Recorder

Deputy Fee: 572.00

Witnessed by Duke-R Coal Company  
1000 Kiewit Plaza  
Omaha, NE 68131

Spring Creek

Executed July 23, 1996

**SUMMARY - RIGHT OF WAY**

**Township 8 South Range 40 East, M.P.M.**

**Big Horn County, Montana**

**Section 27: Tract of land in SWNW**

**Tract of land in E2SW; S2SE**

**Grantor:** Pacific Power & Light Company, Maine corporation

**Grantee:** Spring Creek Coal Company

**Grant:** ...a perpetual nonexclusive easement and right of way for the construction, reconstruction, operation, maintenance and removal of a railroad and power line, over and across the lands of Grantor situated in Big Horn County, Montana...

**Dated:** July 19, 1985

**Term:** All such rights hereunder shall cease if and when said railroad and power line shall have been abandoned, said railroad and power line shall be deemed abandoned after a period of two year's nonuse.

**RIGHT OF WAY EASEMENT**

PACIFICORP, an Oregon corporation, doing business as PACIFIC POWER, hereinafter referred to as Grantor, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby grants to SPRING CREEK COAL COMPANY, a Montana corporation, hereinafter referred to as Grantee, its successors and assigns, a perpetual nonexclusive easement and right-of-way for the construction, reconstruction, operation, maintenance and removal of a railroad and power line, over and across the lands of Grantor situated in Big Horn County, Montana, more particularly described as follows:

Tract I

A tract of land in the Southwest Quarter of the Northwest Quarter of Section 27, Township 8 South, range 40 East of the Montana Principal Meridian, more particularly described as follows;

All that part of the Southwest Quarter of the Northwest Quarter of the said Section 27 lying southwest of the southerly boundary of that parcel of land sold to the State of Montana for State Highway 314 by Deed dated March 4, 1982 and recorded May 19, 1982 at Book 34 of MF, pages 273-274, Records of Big Horn County, Montana.

Tract II

A tract of land in the South Half of Section 27, Township 8 South, Range 40 East, of the Montana Principal Meridian, more particularly described as follows:

Beginning at a point on the west line of the East half of the Southwest Quarter of said Section 27 where the southerly boundary of that certain parcel of land sold to the State of Montana for State Highway 314 by Deed dated March 4, 1982, and recorded May 19, 1982 at Book 34 of MF, pages 273-274, Records of Big Horn County, Montana, intersects said west line;

Thence southeasterly along the southerly boundary of said highway land to the point of intersection with the south line of Section 27;

Thence South 87° 27' 59" West along the south line of said Section 27, a distance of 207.94 feet to a point on a circular curve to the left;

Thence along said circular curve to the left, the radius of which is 1770.08 feet, a distance of 1044.70 feet, through a central angle of  $33^{\circ} 48' 57''$ , to a point on a spiral curve to the left;

Thence along said spiral curve to the left a distance of 238.22 feet, through a  $3^{\circ} 45'$  spiral angle, to the end of said spiral curve;

Thence North  $56^{\circ} 52' 30''$  West, a distance of 1411.94 feet;

Thence North  $33^{\circ} 07' 30''$  East, a distance of 20.00 feet;

Thence North  $56^{\circ} 52' 30''$  West, a distance of 169.53 feet, more or less, to the west line of the East half of the Southwest Quarter of said Section 27;

Thence North  $2^{\circ} 01' 31''$  West, along said west line a distance of 220.15 feet, more or less, to the point of beginning.

SUBJECT TO AND UPON the following terms and conditions:

1. Grantor hereby grants to Grantee an easement for the right-of-way corridor for the construction, reconstruction, operation, maintenance and removal of a railroad and power line, over and across the above described lands of Grantor, together with the right of ingress and egress from said corridor for the purposes aforesaid.

2. Grantee, in connection with its use of said railroad, shall fully comply with all applicable laws and regulations thereunder of the United States, and State of Montana, or other governmental bodies having jurisdiction.

3. Grantee, in connection with its use of said power line, shall not compete with any public utility in the delivery of electrical power, but shall have the use of said power line for its own coal mine operations in said county.

4. Grantor reserves the right at any time to construct, reconstruct, operate and maintain electric transmission and distribution lines, communication lines, pipelines and other facilities upon,

over, across and under the railroad and premises above described, and the right to relocate or reconstruct said railroad, or portions thereof; provided, however, that such activities shall be conducted so as not to unreasonably interfere with the rights granted herein.

5. The rights and obligations hereunder shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. Grantee shall indemnify and hold harmless Grantor, its directors, officers and employees from and against all actions or suits, causes of action or suits, costs, claims, damages, expense, loss or liability for injury or death of any persons whomsoever, and for loss or damage to any property, included that of Grantor, arising out of or in any way connected with Grantee's exercise of the permission herein granted, except such as may result from negligence of Grantor.

7. All such rights hereunder shall cease if and when said railroad and power line shall have been abandoned; said railroad and power line shall be deemed abandoned after a period of two years nonuse.

DULY EXECUTED this 23rd day of July, 1996.

PACIFICORP, doing business as  
PACIFIC POWER

By William W. Sam  
Assistant Vice President

SPRING CREEK COAL COMPANY

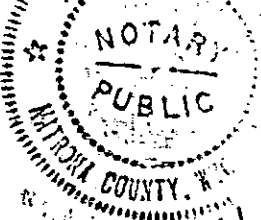
By Lydia L. Kander  
General Manager

Attest

R. B. [Signature]  
Controller

STATE OF WYOMING )  
 ) ss.  
 County of Natrona )

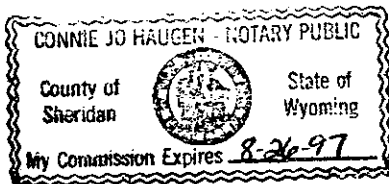
On the 23rd day of July, 1996, personally appeared William W. Savage, who being duly sworn, did say that he is an Assistant Vice President of PACIFICORP, dba Pacific Power, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be its voluntary act and deed.



Thyoma J. Garland  
 Notary Public for Wyoming  
 My commission expires: July 18, 1997

STATE OF Wyoming )  
 ) ss.  
 County of Sheridan )

On the 18th day of July, 1996, personally appeared Lytle D. Rauden, who being duly sworn, did say that he is the General Manager of SPRING CREEK COAL COMPANY, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be its voluntary act and deed.



Connie Jo Haugen  
 Notary Public for: Wyoming  
 My commission expires: 8-26-97

STATE OF MONTANA

96

COUNTY OF ~~THE BUREAU~~

The within instrument was filed in my office at  
Butte, Montana on the 24th day of  
JUL 24 1996 A.D. 19

at 3:50 o'clock P M., and is duly  
 recorded in Book 35ME II

at Page 116-119

[Signature]  
 County Recorder

By 24.00 Deputy

Fee \$ 24.00

Return to PACIFIC POWER & LIGHT  
Faye Garland  
P.O. Box 720  
CASPER, WY  
82602



EASEMENT

DECKER COAL COMPANY, a joint venture between Western Minerals Inc., an Oregon corporation and Wytana Inc., a Delaware corporation, hereinafter called "Grantor," for good and valuable consideration receipt of which is hereby acknowledged, hereby conveys to SPRING CREEK COAL COMPANY, a Montana corporation, hereinafter called "Grantee," a easement and right of way corridor for the construction, reconstruction, operation, maintenance and removal of a railroad and powerline, over and across lands of Grantor described in Exhibit "A," hereto attached and by this reference made a part hereof. Together with the right of ingress to and egress from said corridor for the purposes aforesaid.

SUBJECT TO AND UPON the following terms and conditions:

1. Grantee shall pay to Grantor reasonable compensation for any damage caused by Grantee, or its agents, to any property of Grantor, on or in the vicinity of Grantor's real property, arising out of the construction, reconstruction, operation, maintenance or existence of said corridor.
2. Grantee hereby agrees to indemnify and hold harmless Grantor, its officers, agents and employees, against and from any and all loss, cost, damage, expense or liability resulting or arising from injury to or death of persons whomsoever or loss, damage or destruction of property whatsoever caused by or in any manner resulting from any operations conducted by Grantee, its employees, agents, lessees, licensees or assigns, on the above described real property pursuant to this easement.
3. Grantee shall, in all its operations or activities upon said land, observe and obey all applicable state, local and federal laws, rules and regulations, including but not limited to environmental requirements concerning surface reclamation through topsoil handling and reserving.

4. Grantor reserves the right to use the above described property for any purpose not inconsistent with said easement.
5. This right of way and easement and all of the permission herein granted shall terminate when no longer used for railroad and powerline purposes. A period of non-use for 90 days shall constitute abandonment. In case of termination or abandonment, Grantee shall remove all improvements from said right of way and easement within six (6) months. Wholly at its own expense.

DATED this 23<sup>RD</sup> day of AUGUST, 1979

WESTERN MINERALS, INC.

By W.W. Lyons  
Vice President

ATTEST:

John F. Larson  
Asst. Secretary

WYTANA, INC.

By Donald L. Sturm  
Vice President

ATTEST:

Robert E. [Signature]  
Asst. Secretary

STATE OF OREGON )  
COUNTY OF MULTNOMAH ) ss

August 23, 1979

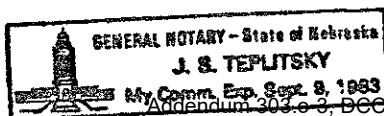
The foregoing instrument was acknowledged before me on this 23 day of August, 1979, by W.W. Lyons, Vice President of Western Minerals, Inc., an Oregon corporation, on behalf of the corporation.

Kathleen D. White  
Notary Public for Oregon  
My Commission Expires: 11/10/79

STATE OF Nebraska )  
COUNTY OF Douglas ) ss

December 14, 1979

The foregoing instrument was acknowledged before me on this 14<sup>th</sup> day of December, 1979, by Donald L. Sturm, Vice President of Wytana, Inc., an Delaware corporation, on behalf of the corporation.



J. S. Teplitsky  
Notary Public for Delaware

✓ Parcel 1: A tract of land in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

N 87°38'31" E along the north line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15, a distance of 711.52 feet from the NW corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15 to the point of beginning;

thence N 87°38'31" E along the north line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15 a distance of 89.83 feet;

thence S 16°39'43" W a distance of 500.22 feet;

thence N 78°27'14" W a distance of 83.98 feet;

thence N 16°32'46" E a distance of 471.12 feet to the point of beginning, containing 0.94 acres more or less.

✓ Parcel 2: A tract of land in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

S 87°36'20" W along the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15, a distance of 64.43 feet from the NE corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15 to the point of beginning;

thence S 87°36'20" W along the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15 a distance 92.90 feet;

thence S 16°32'46" W a distance of 351.97 feet;

thence N 87°36'53" E a distance of 92.09 feet;

thence N 16°39'43" E a distance of 352.25 feet to the point of beginning, containing 0.71 acres more or less.

✓ Parcel 3: A tract of land in the E $\frac{1}{2}$  of Section 10, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the south line of the E $\frac{1}{2}$  of Section 10; said point of beginning bears S 87°36'20" W, a distance of 1362.96 feet from the SE corner of Section 10;

thence S 87°36'20" W along the south line of Section 10 a distance of 92.90 feet;

thence N 16°32'46" E a distance of 422.74 feet;

thence N 28°26' E a distance of 1855.81 feet;

thence N 4°02'45" E a distance of 2233.83 feet to the point of a spiral curve to the left;

thence along said spiral curve a distance of 240.85 feet, through a 3°45' spiral angle, to the point of a 3°14'14" circular curve to the left;

thence along said circular curve to the left, radius of 1770.08 feet, a distance of 866.57 feet, through a 28°03'10" central angle, to a point on the north line of Section 10;

thence N 87°23'07" E, along the north line of Section 10 a distance of 218.52 feet to a point on a 2°54'31" circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 306.30 feet, through a 8°54'33" central angle, to a point on the east line of Section 10;

thence S 1°39'05" E along the east line of Section 10 a distance of 1231.92 feet;

thence S 4°02'45" W a distance of 1371.95 feet to the point of a spiral curve to the right;

thence along said spiral curve a distance of 253.27 feet, through a 3°07'30" spiral angle, to the point of a 2°26'10" circular curve to the right;

thence along said circular curve to the right, radius of 2352.01 feet, a distance of 896.60 feet, through a 21°50'32" central angle, to a point on said circular curve;

thence S 87°41'26" W a distance of 178.08 feet;

thence S 2°05'40" E a distance of 256.25 feet to a point on a spiral curve to the right;

thence along said spiral curve a distance of 183.10 feet to the point of tangent;

thence S 38°02'45" W a distance of 310.07 feet to the point of a spiral curve to the left;

thence along said spiral curve, a distance of 246.08 feet, through a 3°45' spiral angle to the point of a 3°05'50" circular curve to the left;

thence along said circular curve to the left, radius of 1850.08 feet, a distance of 449.85 feet, through a 13°55'58" central angle to the end of said circular curve to the left;

thence S 8°47'02" W a distance of 113.42 feet to the point of beginning containing 24.72 acres, more or less.

Parcel 4: A tract of land in the S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the south line of Section 3, said point bears S 87°23'07" W a distance of 99.55 feet from the SE corner of Section 3;

thence S 87°23'07" W along the south line of Section 3 a distance of 218.52 feet to a point on a 3°14'14" circular curve to the left;

thence along said circular curve to the left, radius of 1770.08 feet, a distance of 384.56 feet, through a 12°26'57" central angle;

thence N 87°20'29" E a distance of 245.10 feet to a point on a 2°54'31" circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 371.39 feet, through a 10°48'08" central angle, to the point of beginning, containing 1.73 acres more or less.

✓ Parcel 5: A tract of land in the W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point that bears S 57°54'43" E, a distance of 572.74 feet from the NW corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3;

thence S 46°17'46" E a distance of 275.28 feet;

thence S 2°18'38" E a distance of 289.11 feet;

thence N 45°48'51" W a distance of 92.56 feet;

thence S 43°42'14" W a distance of 50.00 feet;

thence N 46°17'46" W a distance of 628.42 feet;

thence N 87°15'19" E a distance of 344.94 feet to the point of beginning, containing 2.87 acres, more or less.

✓ Parcel 6: A tract of land in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the North East corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  Section 3;

thence S 2°15'34" E along the east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, a distance of 193.74 feet;

thence N 46°17'46" W a distance of 267.11 feet to a point on the north line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3;

thence N 87°12'45" E a distance of 185.68' to the point of beginning, containing 0.41 acres more or less.

Parcel 7: A tract of land in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

S 87°02'46" W along the south line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, a distance of 623.39 feet from the SE corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3 to the point of beginning;

thence S 87°02'46" W along the south line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3 a distance of 254.95 feet;

thence N 14°48'25" W a distance of 165.26 feet;

thence N 75°11'28" E a distance of 50.0 feet;

thence N 14°48'25" W a distance of 1335.46 feet;

thence S 49°02'00" E a distance of 274.06 feet;

thence S 27°45'00" E a distance of 202.56 feet;

thence S 14°48'25" E a distance of 1129.06 feet to the point of beginning, containing 6.47 acres more or less.

Parcel 8: A tract of land in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  and the NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 3, T.9S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point of the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, said point bears N 87°27'14" E a distance of 21.73 feet from the north  $\frac{1}{4}$  corner of Section 3;

thence S 27°14'54" E a distance of 74.14 feet to the point of a spiral curve to the right;

thence along said spiral curve a distance of 253.92 feet through a 3°45' spiral angle to the point of a 2°54'30" circular curve to the right, radius of 1970.08 feet; a distance of 169.90 feet through a 4°56'29" central angle to the point of a spiral curve to the right;

thence along said spiral curve a distance of 253.92 feet through a 3°45' spiral angle;

thence S 14°48'25" <sup>E</sup>W a distance of 465.74 feet;

thence N 65°06'00" W a distance of 259.98 feet;

thence N 14°48'25" W a distance of 299.65 feet to the point of a spiral to the left;

thence along said spiral curve a distance of 240.85 feet, through a 3°45' spiral angle, to the point of a 3°14'14" circular curve to the left;

thence along said circular curve to the left radius of 1770.08 a distance of 152.67 feet, through a 4°56'29" central angle to the point of a spiral curve to the left;

thence along said spiral curve a distance of 240.85 feet; through a 3°45' spiral angle;

thence N 27°14'54" W a distance of 185.07 feet to a point on the north line of NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 3;

thence N 87°34'07" E a distance of 242.67 feet to the north  $\frac{1}{4}$  corner of Section 3, T.9S., R.40E.;

thence N 87°27'14" E a distance of 21.73 feet to the point of beginning, containing 5.48 acres more or less.

Parcel 9: A tract of land in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning on a point on the south line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34, said point bears S 87°32'19" W a distance of 429.96 feet from the SE corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34;

thence S 87°32'19" W a distance of 240.18 feet to a point on a 2°44'30" circular curve to the right;

thence along said circular curve to the right, radius of 2090.08 feet, a distance of 1073.12 feet, through a 29°25'17" central angle to the point of a spiral curve to the right;

thence along said spiral curve a distance of 261.78 feet, through a 3°45' spiral angle to a point of tangent;

thence N 28°40'40" E a distance of 179.02 feet;

thence S 52°44'00" E a distance of 78.63 feet;

thence S 7°49'00" E a distance of 272.90 feet to a point on a spiral curve to the left;

thence along said spiral curve a distance of 194.03 feet, through a 2°22'12" spiral angle to the point of a 3°05'50" circular curve to the left;

thence along said circular curve, radius of 1850.08 feet, a distance of 958.39 feet, through a 29°41'00" central angle to the point of beginning, containing 7.35 acres more or less.

Parcel 10: A tract of land in the N $\frac{1}{2}$  of Section 34, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the eastline of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 34, said point bears N 2°44'59" W a distance of 179.28 feet from the SE corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 34;

thence N 71°41' W a distance of 129.86 feet;

thence N 28°40'40" E a distance of 1074.61 feet to the point of a spiral curve to the left;

thence along said spiral curve to the left a distance of 238.22 feet, through a 3°45' spiral angle, to the end of said spiral curve;

thence S 65°04'20" E a distance of 40.00 feet to the point of a 3°14'13" circular curve to the left;

thence along said circular curve to the left, radius of 1770.08 feet, a distance of 1366.63 feet, through a 44°14'13" central angle, to a point on the north line of Section 34;

thence N 87°27'59" E along the north line of Section 34, a distance of 207.94 feet to a point on a 2°54'31" circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 1461.05 feet through a 42°29'32" central angle, to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 253.92 feet, through a 3°45' spiral angle, to the point of tangent;

thence S 28°40'40" W a distance of 499.71 feet;

thence N 88°34' W a distance of 262.90 feet;

thence S 11°34' W a distance of 449.10 feet;

thence N 71°41' W a distance of 10.79 feet to the point of beginning, containing 11.49 acres more or less.

✓  
Parcel 11: A tract of land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 27, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the north line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 27, said point being on a 3°12'04" circular curve and bears N 87°34'25" E a distance of 73.26 feet from the west  $\frac{1}{4}$  corner of Section 27;

thence N 87°34'25" E along the north line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 27 a distance of 358.74 feet;

thence S 57°18'11" E a distance of 150.39 feet;

thence S 56°52'30" E a distance of 944.50 feet to a point on the east line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 27;

thence S 2°01'31" E along the east line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 27 a distance of 220.15 feet;

thence N 56°52'30" W a distance of 1071.26 feet to the point of a spiral curve to the left;

thence along said spiral curve to the left, a distance of 242.14 feet, through a 3°45' spiral angle to the point of a 3°12'04" circular curve to the left;

thence along said circular curve to the left, radius of 1790.08 feet, a distance of 201.82 feet, through a 6°27'38" central angle to the point of beginning, containing 5.38 acres more or less.

Parcel 12: A tract of land in Section 28, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the east line of Section 28, said point bears N 2°27'15" W a distance of 32.67 feet from the east  $\frac{1}{4}$  corner of Section 28 and is on a 3°12'04" circular curve to the left tangent of said 3°12'04" circular curve forms a 71°50'01" angle with the east line of Section 28;

thence along said 3°12'04" circular curve, radius of 1790.08 feet a distance of 1108.94 feet, through a 35°29'54" central angle;

thence N 15°09'04" W a distance of 20.00 feet to a point on a 3°09'57" circular curve to the left;

thence along said circular curve to the left, radius of 1810.08 feet, a distance of 876.58 feet, through a 27°45'04" central angle;

thence S 42°54'04" E a distance of 40.00 feet to a point on a 3°14'14" circular curve to the left;

thence along said circular curve to the left radius of 1770.08 feet, a distance of 323.96 feet, through a 10°29'14" central angle to the point of a spiral curve to the left;

thence along said spiral curve, a distance of 240.84 feet, through a 3°45'00" spiral angle to the point of tangent;

thence S 57°08'18" E a distance of 20.00 feet;

thence S 32°51'42" W a distance of 443.44 feet to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 260.47 feet, through a 3°45'00" spiral angle, to the point of a 2°46'05" circular curve to the right;

thence along said circular curve to the right, radius of 2070.08 feet, a distance of 1524.88 feet, through a 42°12'34" central angle;

thence  $1^{\circ}10'47''$  E a distance of 20.00 feet to a point on a  $2^{\circ}44'30''$  circular curve to the right;

thence along said circular curve to the right, radius of 2090.08 feet, a distance of 437.69 feet, through a  $12^{\circ}00'00''$  central angle;

thence  $N 0^{\circ}49'13''$  E a distance of 20.00 feet to a point on a  $2^{\circ}46'05''$  circular curve to the right;

thence along said circular curve to the right, radius of 2070.08 feet, a distance of 298.04 feet, through a  $8^{\circ}15'00''$  central angle;

thence  $N 9^{\circ}04'13''$  E a distance of 20.00 feet to a point on a  $2^{\circ}47'42''$  circular curve to the right;

thence along said circular curve to the right, radius of 2050.08 feet, a distance of 265.53 feet, through a  $7^{\circ}25'18''$  central angle to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 259.16 feet, through a  $3^{\circ}45'00''$  spiral angle to the point of tangent;

thence  $N 20^{\circ}14'31''$  E a distance of 40.00 feet;

thence  $N 69^{\circ}45'29''$  W a distance of 177.95 feet to a point on the west line of Section 28;

thence  $N 2^{\circ}22'58''$  W along the west line of Section 28, a distance of 216.66 feet;

thence  $S 69^{\circ}45'29''$  E a distance of 261.29 feet to the point of a spiral curve to the left;

thence along said spiral curve to the left, a distance of 243.47 feet, through a  $3^{\circ}45'00''$  spiral angle;

thence  $N 16^{\circ}29'31''$  E a distance of 20.00 feet to the point of a  $3^{\circ}12'04''$  circular curve to the left;

thence along said circular curve to the left, radius of 1790.08 feet, a distance of 138.13 feet, through a  $4^{\circ}25'18''$  central angle;

thence  $N 12^{\circ}04'13''$  E a distance of 40.00 feet to a point on a  $3^{\circ}16'27''$  circular curve to the left;

thence along said circular curve to the left, radius of 1750.08 feet, a distance of 183.25 feet, through a  $6^{\circ}00'00''$  central angle;

thence  $N 6^{\circ}04'13''$  E a distance of 20.00 feet to a point on a  $3^{\circ}18'44''$  circular curve to the left;

thence along said circular curve to the left, radius of 1730.08 feet a distance of 362.29 feet, through a  $12^{\circ}00'00''$  central angle;

thence  $S 5^{\circ}55'47''$  E a distance of 20.00 feet to a point on a  $3^{\circ}16'27''$  circular curve to the left;

thence along said circular curve to the left, radius 1750.08 feet, a distance of 549.76 feet, through a  $18^{\circ}00'00''$  central angle;

thence  $N 23^{\circ}55'47''$  W a distance of 60.00 feet to a point on a  $3^{\circ}23'26''$  circular curve to the left;

thence along said circular curve radius of 1690.08 feet, a distance of 530.89 feet through a  $18^{\circ}00'00''$  central angle;

thence  $S 41^{\circ}55'47''$  E a distance of 60.00 feet to a point on a  $3^{\circ}16'27''$  circular curve to the left;

thence along said circular curve, radius of 1750.08 feet, a distance of 350.00 feet, through a  $11^{\circ}27'34''$  central angle, to the point of a spiral curve to the left;

thence along said spiral curve a distance of 239.54 feet, through a  $3^{\circ}45'00''$  spiral angle, to the point of tangent;

thence  $N 32^{\circ}51'42''$  E a distance of 443.44 feet to the point of a spiral curve to the right;



thence along said spiral curve to the right, a distance of 260.48 feet, through a  $3^{\circ}45'00''$  spiral angle, to the point of a  $2^{\circ}46'05''$  circular curve to the right;

thence along said circular curve to the right, radius of 2070.08 feet, a distance of 595.63 feet, through a  $16^{\circ}29'14''$  central angle;

thence S  $36^{\circ}54'04''$  E a distance of 40.00 feet to a point on a  $2^{\circ}49'21''$  circular curve to the right;

thence along said circular curve, radius of 2030.08 feet, a distance of 691.62 feet, through a  $19^{\circ}31'16''$  central angle;

thence N  $86^{\circ}36'12''$  E a distance of 516.15 feet to a point on a  $2^{\circ}54'31''$  circular curve to the right;

thence along said circular curve to the right, radius of 1970.08 feet, a distance of 715.70 feet, through a  $20^{\circ}49'00''$  central angle to a point on the east line of Section 28;

thence S  $2^{\circ}27'15''$  E along the east line of Section 28, a distance of 193.47 feet to the point of beginning, containing 38.14 acres more or less.

Parcel 13: A tract of land in Section 29, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at a point on the east line of Section 29, said point bears N  $2^{\circ}22'58''$  W a distance of 1068.60 feet from the SE corner of Section 29;

thence N  $69^{\circ}45'29''$  W a distance of 1149.66 feet;

thence S  $20^{\circ}14'31''$  W a distance of 40.00 feet;

thence N  $69^{\circ}45'29''$  W a distance of 375.00 feet;

thence N  $20^{\circ}14'31''$  E a distance of 40.00 feet;

thence N  $69^{\circ}45'29''$  W a distance of 547.23 feet to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 102.61 feet, through a  $1^{\circ}30'$  spiral angle, to the point of a  $2^{\circ}51'02''$  circular curve to the right;

thence along said circular curve to the right, radius of 2010.08 feet, a distance of 55.54 feet, through a  $1^{\circ}35'00''$  central angle, to a point on said  $2^{\circ}51'02''$  circular curve to the right;

thence S  $23^{\circ}19'31''$  W a distance of 40.00 feet to a point on a  $2^{\circ}47'42''$  circular curve to the right;

thence along said circular curve to the right, radius of 2050.08 feet, a distance of 644.01 feet, through a  $18^{\circ}00'00''$  central angle to a point on said  $2^{\circ}47'42''$  circular curve to the right;

thence N  $41^{\circ}19'31''$  E a distance of 20.00 feet to a point on a  $2^{\circ}49'21''$  circular curve to the right;

thence along said circular curve to the right, radius of 2030.08 feet, a distance of 1169.19 feet, through a  $33^{\circ}00'01''$  central angle to a point on said  $2^{\circ}49'21''$  circular curve to the right;

thence N  $74^{\circ}19'30''$  E a distance of 20.00 feet to a point on a  $2^{\circ}51'02''$  circular curve to the right;

thence along said circular curve, radius of 2010.08 feet, a distance of 126.02 feet, through a  $3^{\circ}35'32''$  central angle, to the point of a spiral curve to the right;

thence along said spiral curve to the right, a distance of 102.61 feet through a  $1^{\circ}30'$  spiral angle, to the point of tangent;

thence N  $10^{\circ}34'58''$  W a distance of 384.15 feet to the point of a spiral curve to the left;

thence along said spiral curve a distance of 97.37 feet, through a  $1^{\circ}30'$  spiral angle, to the point of a  $3^{\circ}32'57''$  circular curve to the left;

thence along said circular curve to the left, radius of 1810.08 feet, a distance of 2038.95 feet, through a  $64^{\circ}33'$  central angle, to the point of a spiral curve to the left;

thence along said spiral curve to the left a distance of 29.58 feet, through a  $0^{\circ}39'10''$  spiral angle, to a point on the north line of Section 29;

thence N  $89^{\circ}39'31''$  E a distance of 671.37 feet to a point on a  $2^{\circ}46'28''$  circular curve to the right;

thence along said circular curve, radius of 2065.08 feet, a distance of 120.56 feet, through a  $3^{\circ}20'42''$  central angle;

thence S  $34^{\circ}15'43''$  W a distance of 40.00 feet to a point on a  $2^{\circ}49'45''$  circular curve to the right;

thence along said circular curve to the right, radius of 2025.08 feet, a distance of 917.23 feet, through a  $25^{\circ}57'$  central angle;

thence N  $60^{\circ}12'43''$  E a distance of 40.00 feet to a point on a  $2^{\circ}46'28''$  circular curve to the right;

thence along said circular curve to the right, radius of 2065.08 feet, a distance of 638.17 feet, through a  $17^{\circ}42'20''$  central angle, to the point of a spiral curve to the right;

thence along said spiral curve a distance of 104.05 feet, through a  $1^{\circ}30'$  spiral angle, to the point of tangent;

thence S  $10^{\circ}34'58''$  E a distance of 283.88 feet;

thence S  $79^{\circ}25'02''$  W a distance of 15.00 feet;

thence S  $10^{\circ}34'58''$  E a distance of 100.26 feet to a point of a spiral curve to the left;

thence along said spiral curve to the left, a distance of 96.33 feet, through a  $1^{\circ}30'$  central angle, to the point of a  $3^{\circ}14'13''$  circular curve to the left;

thence along circular curve to the left, radius of 1770.08 feet, a distance of 1735.45 feet, through a  $56^{\circ}10'32''$  central angle to the point of a spiral curve to the left;

thence along said spiral curve to the left a distance of 96.33 feet, through a  $1^{\circ}30'$  spiral angle, to the point of tangent;

thence S  $69^{\circ}45'29''$  E a distance of 572.22 feet;

thence S  $20^{\circ}14'31''$  W a distance of 40.00 feet;

thence S  $69^{\circ}45'29''$  E a distance of 1416.31 feet to a point on the east-line of Section 29;

thence S  $2^{\circ}22'58''$  E along the eastline of Section 29, a distance of 216.66 feet to the point of beginning, containing 43.52 acres more or less.

Parcel 14: A tract of land in the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 20, T.8S., R.40E., of the Principal Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the SE corner of the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 20;

thence S  $89^{\circ}39'30''$  W along the south line of the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 20 a distance of 581.02 feet;

thence N  $77^{\circ}53'04''$  W a distance of 67.80 feet;

thence N  $78^{\circ}07'57''$  W a distance of 704.45 feet to a point on the east line of the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 20;

thence N  $2^{\circ}16'13''$  W along the east line of the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 20 a distance of 221.68 feet;

thence S  $78^{\circ}07'57''$  E a distance of 429.98 feet;

thence N  $11^{\circ}52'03''$  E a distance of 40.00 feet;

thence S  $78^{\circ}07'57''$  E a distance of 328.52 feet to the point of a spiral curve to the right;

thence along said spiral curve a distance of 104.05 feet, through  $1^{\circ}30'$  spiral angle, to the point of a  $2^{\circ}46'28''$  circular curve to the right;

thence along said circular curve to the right, radius of 2065.08 feet, a distance of 526.77 feet, through a  $14^{\circ}36'54''$  central angle, to a point on the west line of the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 20;

thence S  $2^{\circ}34'$  E along the west line of the  $SW\frac{1}{4}SW\frac{1}{4}$  of Section 20 a distance of 52.58 feet to the point of beginning, containing 6.34 acres, more or less.

GENERAL EASEMENT  
FOR  
COAL HAUL ROAD AND MINING-  
ASSOCIATED PURPOSES

For value received, DECKER COAL COMPANY ("Grantor"), a joint venture by Western Minerals, Inc., an Oregon corporation, and Wytana, Inc., a Delaware corporation, grants to SPRING CREEK COAL COMPANY ("Grantee"), a Montana corporation, its successors and assigns, a general easement for a coal haul road right-of-way and for other mining-associated purposes, including the right to construct, maintain, repair, and use said coal haul road and to establish other mining-associated facilities upon a portion of the following described real property as substantially shown on Exhibit "A" attached hereto and by this reference made a part hereof, situated in Big Horn County, State of Montana:

Township 8 South, Range 40 East, M.P.M.,  
Big Horn County, State of Montana

Section 20: W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 29: W $\frac{1}{2}$ NW $\frac{1}{4}$ ; SW $\frac{1}{4}$ ; SE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 32: N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$

SUBJECT TO the following conditions:

1. This easement specifically does not include the right by Grantee to construct, maintain, repair and use any railroad or railroad-related facilities upon the above described real property.

2. The coal haul road as well as any additional mining-associated facilities, including, but not limited to, service roads, electrical transmission and distribution lines, water impoundments and dams, stream diversions and topsoil or subsoil stockpiles, shall be located upon said real property in such a fashion as to cause minimum interference with Grantor's use of said

real property.

3. Grantee shall construct, maintain, repair and use said coal haul road and any additional mining-associated facilities at Grantee's sole cost.

4. Following the execution of this easement, Grantee shall promptly undertake to obtain all of the necessary consents, permissions and approvals from public authorities having jurisdiction over the construction, maintenance, repair, and use of said coal haul road and any additional mining-associated facilities.

5. Grantee shall construct, maintain, repair and use said coal haul road and any additional mining-associated facilities in strict compliance with the terms of all of the necessary consents, permissions, and approvals from public authorities having jurisdiction over the construction, maintenance repair and use of said coal haul road and any additional mining-associated facilities.

6. Grantee hereby agrees to indemnify and hold harmless Grantor, its officers, agents and employees, against and from any and all loss, cost, damage, expense or liability resulting or arising from injury to or death of persons whomsoever or loss, damage or destruction of property whatsoever caused by or in any manner resulting from any operations conducted by Grantee, its employees, agents, lessees, licensees or assigns, on the above-described real property pursuant to this easement.

7. All of Grantee's rights in the above-described real property shall cease if and when the coal haul road and mining-associated facilities shall have been abandoned.

DATED this 27 day of April, 1979

DECKER COAL COMPANY

ATTEST:

Asst. Secretary

By

Vice President

STATE OF NEBRASKA)

COUNTY OF DOUGLAS)

On this 27th day of April, 1979, before me, R. C. Kinnaman, a notary public in the State of Nebraska, personally appeared W. L. Krawcheck, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



R. C. Kinnaman  
Notary Public for Nebraska  
My Commission expires: January 15 1982

HAUL ROAD

EASEMENT  
BOUNDARY

T. 8S., R. 40 E., M.P.M.  
BIG HORN COUNTY  
MONTANA

SW<sup>4</sup>SW<sup>4</sup>

NW<sup>4</sup>NW<sup>4</sup>

SW<sup>4</sup>NW<sup>4</sup>

SE<sup>4</sup>NW<sup>4</sup>

NW<sup>4</sup>SW<sup>4</sup>

NE<sup>4</sup>SW<sup>4</sup>

SW<sup>4</sup>SW<sup>4</sup>

SE<sup>4</sup>SW<sup>4</sup>

NW<sup>4</sup>NW<sup>4</sup>

EXHIBIT "A"

NORTHERN ENERGY RESOURCES COMPANY

Revised 08/18/2020 Reference - MR262  
SCALE 1/2" = 100'

NAME _____	FILE NO.	PRP-8-SPR-2
LOCATION _____	ER NO.	Page 87
MAP NO. <b>PRP-0005</b> Addendum 303.00, D.C. Agreements	W.O.	
DRAWN <b>MARCH 22 19 79</b>		