

**EXHIBIT NO. ____ (RJR-6)
DOCKETS UE-17 ____ /UG-17 ____
2017 PSE GENERAL RATE CASE
WITNESS: RONALD J. ROBERTS**

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

Docket UE-17 ____

Docket UG-17 ____

**FIFTH EXHIBIT (NONCONFIDENTIAL) TO THE
PREFILED DIRECT TESTIMONY OF**

RONALD J. ROBERTS

ON BEHALF OF PUGET SOUND ENERGY

JANUARY 13, 2017

Coal Purchase and Sale Agreement

By and Among

**PPL Montana, LLC and
Puget Sound Energy, Inc.,
as Buyers**

and

**Western Energy Company,
as Seller**

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LIST OF EXHIBITS

- Exhibit 1 Legal Description of Dedicated Reserves
 See Definitions 1.12, 1.15 and 1.17
- Exhibit 2 General Mining Plan and Sequence
 See Definition 1.52
- Exhibit 3 Commodity Recalculation – Sample Calculations
 Subsection 7.11(g)
- Exhibit 4 Annual Incentive Fee – Sample Calculations
 Subsection 7.11(j)
- Exhibit 5 Adjustment Mechanism for Seller’s Profit
 Management Fee and Annual Incentive Fee – Sample Calculations
 Subsection 7.13(d)
- Exhibit 6 Transition from Coal Supply Agreement dated July 30, 1971 to CPSA –
 Sample Calculations
 Subsection 7.18(c)
- Exhibit 7 Escrow Agreement
 Subsection 8.7(c)
- Exhibit 8 Coal Quality – Sample Calculations
 Subsections 10.3(k) and (s)
- Exhibit 9 Truck Dump Site
 Legal Description
 Subsection 22.5(a)
- Exhibit 10 Truck Dump Site
 Corporate Deed
 Subsection 22.5(c)

This Coal Purchase and Sale Agreement ("CPSA") is entered into as of March 21, 2007 ("Effective Date"), by and among PPL MONTANA, LLC, a Delaware Limited Liability Company, and PUGET SOUND ENERGY, INC., a Washington corporation, on the one hand ("Buyers"), and WESTERN ENERGY COMPANY, a Montana corporation ("Seller"), on the other hand.

RECITALS

WHEREAS, Buyers jointly own and operate a coal-fired generation facility known as Colstrip Steam Electric Station Units 1 & 2 located in Colstrip, Montana ("the Plant"); and

WHEREAS, the Plant was designed, built, and sited in Rosebud County, Montana, because of an adjacent source of available and suitable coal reserves which reserves are now owned or controlled by Seller;

WHEREAS, Seller's reserves in Rosebud County, Montana, are adequate to supply Buyers' coal requirements for the Plant through the Term provided for in this CPSA; and

WHEREAS, Buyers wish to purchase such coal from Seller for use at the Plant and Seller wishes to sell such coal to Buyers;

NOW THEREFORE, Buyers and Seller agree as follows:

AGREEMENT

ARTICLE 1 DEFINITIONS

1.1 "A&G" shall mean Administrative and General expenses as provided under *subsection 7.4(f)*.

1.2 "Accounting Expert" shall mean an independent Certified Public Accountant familiar with coal and/or coal mining.

1.3 "Actual Incentive Fee" shall have the meaning ascribed to it in *subsection 7.11*.

1.4 "Adjustment Mechanism" shall have the meaning ascribed to it in *subsection 7.13*.

1.5 "Administrative Committee" shall have the meaning ascribed to it in *subsection 4.2*.

1.6 "Allowable Purchases of Outside Fuel" shall have the meaning ascribed to it in *subsection 2.7*.

1.7 "American Arbitration Association" or "AAA" shall mean the American Arbitration Association.

1.8 “Annual Incentive Fee” shall have the meaning ascribed to it in *subsection 7.11*.

1.9 “Annual Operating Plan” or “AOP” shall have the meaning ascribed to it in *Article 5*.

1.10 “Approved Annual Operating Plan(s)” or “Approved AOP(s)” shall have the meaning ascribed to it in *subsection 4.1*.

1.11 “Area” shall mean either Area A, Area B, or Area D, as the context indicates.

1.12 “Area A” shall mean Area A, as described and identified in the legal description attached hereto as *Exhibit I*, of the Rosebud seam at the Mine.

1.13 “Area A-Area B Coal Quality” shall have the meaning ascribed to it in *subsection 10.3(m)*.

1.14 “Area AB Specifications” shall have the meaning ascribed to it in *subsection 10.3(l)*.

1.15 “Area B” shall mean Area B, as described and identified in the legal description attached hereto as *Exhibit I*, of the Rosebud seam at the Mine.

1.16 “Area C” shall mean Area C, west of Area A and Area B.

1.17 “Area D” shall mean Area D, as described and identified in the legal description attached hereto as *Exhibit I*, of the Rosebud seam at the Mine.

1.18 “As Received” shall have the meaning ascribed to it by ASTM and shall hereafter in this CPSA be abbreviated as “a.r.”

1.19 “ASTM” shall mean ASTM International, currently headquartered at West Conshohocken, Pennsylvania.

1.20 “Associated Facilities” shall mean those facilities outside of Area A, Area B or Area D that are used to facilitate the operations in Area A, Area B, or Area D, including but not limited to haulage roads, sediment ponds, fresh water containments, electrical substations, facilities for warehousing, maintenance, or repair, and other common facilities that are properly allocated to and support mining of coal in Area A, Area B, or Area D, respectively.

1.21 “Base Reclamation” (sometimes known as “current reclamation”) shall have the meaning ascribed to it in *subsection 8.3*.

1.22 “Base Reclamation Plan” shall have the meaning ascribed to it in *subsection 5.4(f)*.

1.23 “Board of Experts” shall have the meaning ascribed to it in *subsection 13.2*.

1.24 “Btu/lb.” shall mean British Thermal Unit per pound on an a.r. basis.

- 1.25 "Buyers" shall mean PPL Montana, LLC and Puget Sound Energy, Inc.
- 1.26 "Buyers' Operating Representative" shall have the meaning ascribed to it in *subsection 4.6.*
- 1.27 "Buyers' Representatives" shall have the meaning ascribed to it in *subsection 4.2.*
- 1.28 "Buyers' Right of First Refusal" shall have the meaning ascribed to it in *subsection 3.6(a).*
- 1.29 "Capital Plan and Schedule" shall have the meaning ascribed to it in *subsection 5.4(c).*
- 1.30 "Capital Equipment" shall mean equipment and facilities, the cost of which is taken into account in the determination of depreciation.
- 1.31 "Challenge" shall have the meaning ascribed to it in *subsection 10.2(d).*
- 1.32 "CPI-U" shall mean the Consumer Price Index - All Urban Consumers - Not Seasonally Adjusted - U.S. City Average, as first published by the U.S. Department of Labor, Bureau of Labor Statistics (base period of 1982-84=100).
- 1.33 "CPSA" shall mean this Coal Purchase and Sale Agreement.
- 1.34 "Daily" means a calendar day during which Seller delivers any coal under this CPSA.
- 1.35 "Day" shall mean, when this CPSA calls for a period of (ten) 10 days or less, a business day, and for a period of eleven (11) days or more, a calendar day; provided, however, that if a period of days called for under this CPSA ends on a Saturday, Sunday, federal holiday or Montana State holiday, the final day of the period shall be the next following business day.
- 1.36 "Dedicated Reserves" shall mean all of the coal remaining in Area A, Area B and Area D, as permitted to and controlled by Seller as of the Effective Date.
- 1.37 "Delivery Day" means a calendar day during which Seller delivers any coal under this CPSA.
- 1.38 "Distribution Notice" shall have the meaning ascribed to it in *subsection 7.16.*
- 1.39 "Environmental Change" shall have the meaning ascribed to it in *subsection 12.2.*
- 1.40 "Effective Date" shall have the meaning ascribed to it in the unnumbered paragraph immediately preceding the Recitals.
- 1.41 "Emergency" shall have the meaning ascribed to it in *Article 6.*

- 1.42 “Expedited Dispute” shall have the meaning ascribed to it in *subsection 13.3*.
- 1.43 “Final Highwall” shall mean any mining highwall that will not be advanced to expose coal under this CPSA.
- 1.44 “Final Reclamation” shall have the meaning ascribed to it in *subsection 8.2*.
- 1.45 “Final Reclamation Accrual” shall have the meaning ascribed to it in *subsection 8.5*.
- 1.46 “Final Reclamation Study” shall have the meaning ascribed to it in *subsection 8.6*.
- 1.47 “Fixed Costs” shall have the meaning ascribed to it in *subsection 7.4*.
- 1.48 “F.O.B.” shall mean “free on board.”
- 1.49 “Force Majeure” shall have the meaning ascribed to it in *Article 11*.
- 1.50 “GAAP” shall mean Generally Accepted Accounting Principles in the United States as defined by the Financial Accounting Standards Board.
- 1.51 “GDP-IPD” shall mean the Gross Domestic Product Implicit Price Deflator, as first published as the advance number by the U.S. Department of Commerce, Bureau of Economic Analysis (base period of 2000=100).
- 1.52 “General Mining Plan and Sequence” is described in *Exhibit 2* attached hereto and made a part hereof.
- 1.53 “Increased Costs” shall have the meaning ascribed to it in *subsection 12.2(b)(iii)*.
- 1.54 “Independent Contractor” shall have the meaning ascribed to it in *subsection 14.4(g)(i)*.
- 1.55 “Independent Expert” shall have the meaning ascribed to it in *subsection 13.3(c)*.
- 1.56 “Interest” shall mean the U.S. Treasury ten Year annual rate (as published in the Wall Street Journal) plus 2% with such rate pegged on the first business Day of each Quarter for calculations for that Quarter, such interest to be compounded daily.
- 1.57 “Legal Expert” shall mean an attorney, licensed to practice law in any jurisdiction in the United States, with expertise in coal mining in the Western United States, including environmental and reclamation issues.
- 1.58 “Make Up Coal” shall mean coal included in “Permitted Third Party Sales” that Seller had been contractually or legally obligated to deliver during a Year but was unable to deliver during that Year.

- 1.59 "Management Fee" shall have the meaning ascribed to it in *subsection 7.10*.
- 1.60 "Material Change in Circumstances" shall have the meaning ascribed to it in *subsection 5.10*.
- 1.61 "Mine" shall mean the Seller's Rosebud Mine, located at Colstrip, Montana, consisting of coal reserves and production of coal in Area A, Area B, Area C, Area D and other areas, as well as depleted areas in final reclamation.
- 1.62 "Mine Inventory" shall mean the coal mined from the Dedicated Reserves and stored and managed at the Mine.
- 1.63 "Mine Plan" shall have the meaning ascribed to it in *subsection 5.4(a)*.
- 1.64 "Mining Expert" shall mean an individual with a substantial background and expertise in coal mining and/or coal surface mining in the Western United States.
- 1.65 "Month" or "Monthly" shall mean a calendar month; e.g., the thirty (30) Days of June, from June 1 to June 30.
- 1.66 "New Specifications" shall have the meaning ascribed to it in *subsection 12.2(b)*.
- 1.67 "Officer" shall mean a duly authorized executive officer for either of the Buyers or the Seller and/or their respective parents, ultimate entities, or affiliates of any of the foregoing.
- 1.68 "Operating Budget" shall have the meaning ascribed to it in *subsection 5.4(b)*.
- 1.69 "Outside Fuel" shall have the meaning ascribed to it in *subsection 2.7*.
- 1.70 "Parties" shall mean Seller and Buyers.
- 1.71 "Party" shall mean Seller on the one hand and either or both Buyers, as the context requires, on the other.
- 1.72 "Permitted Third Party Sales" shall have the meaning ascribed to it in *subsection 2.8*.
- 1.73 "Personnel Plan" shall have the meaning ascribed to it in *subsection 5.4(d)*.
- 1.74 "Plant" shall mean Colstrip Steam Electric Station Units 1 & 2.
- 1.75 "Point of Delivery" shall mean Seller's truck dump hopper located adjacent to the Plant.
- 1.76 "Price" shall have the meaning ascribed to it in *Article 7*.
- 1.77 "Price Reduction" shall have the meaning ascribed to it in *subsection 10.3*.

1.78 "Primary Laboratory" shall have the meaning ascribed to it in *subsection 10.2(b)*.

1.79 "Prime Stripping Ratio" shall mean the ratio of bank cubic yards of in situ overburden that must be removed to uncover one Ton of coal.

1.80 "Production Taxes" shall mean all severance taxes, reclamation (SMCRA) fees, the Montana Resource Indemnity Trust Tax (RITT), black lung tax, sales taxes, and gross proceeds taxes, and/or any other future, new or modified tax, fee or other cost imposed by a local, state or federal regulatory agency, legislature or court upon the production, processing, transportation and sale of coal hereunder, and actually paid by Seller.

1.81 "Quarter" or "Quarterly" shall mean a calendar quarter; i.e., the first Quarter is January through March, the second Quarter is April through June, the third Quarter is July through September, and the fourth Quarter is October through December.

1.82 "Reclamation" shall have the meaning ascribed to it in *subsection 8.1*.

1.83 "Reclamation Fund" shall have the meaning ascribed to it in *subsection 8.5*.

1.84 "Referee Laboratory" shall have the meaning ascribed to it in *subsection 10.2(d)(ii)*.

1.85 "Reserve Dedication" shall have the meaning ascribed to it in *subsection 2.2*.

1.86 "Reserve Dedication Payment" shall have the meaning ascribed to it in *subsection 2.3*.

1.87 "Reserve Exhaustion Notice" shall have the meaning ascribed to it in *subsection 3.4*.

1.88 "Royalties" shall mean all royalties, overrides, prepayments and other payments actually paid by Seller to mineral owners and sublessors (in the case of subleases).

1.89 "Seller" shall mean Western Energy Company.

1.90 "Seller's Notice of Inability to Comply" shall have the meaning ascribed to it in *subsection 12.2(b)(ii)*.

1.91 "Seller's Representative" shall have the meaning ascribed to it in *subsection 4.2*.

1.92 "Seller's Right of First Refusal" shall have the meaning ascribed to it in *subsection 12.2(c)*.

1.93 "Shift" means a full continuous working delivery shift of up to twelve (12) hours for Seller's mining operations under this CPSA.

1.94 “Solid Fuel Requirement(s)” means the requirements of solid fuels, including but not limited to coal, petroleum coke, and all other solid fuel used for the generation of electricity, measured on a percent of total Btus.

1.95 “Submission Date” shall have the meaning ascribed to it in *subsection 5.10(c)*.

1.96 “Target Incentive Fee” shall have the meaning ascribed to it in *subsection 7.11(a)*.

1.97 “Term” shall have the meaning ascribed to it under *Article 3* herein.

1.98 “Termination Notice” shall have the meaning ascribed to it in *subsection 3.2*.

1.99 “Third Party Offer” shall have the meaning ascribed to it in *subsection 3.6(a)(i)*.

1.100 “Ton” shall mean a unit of weight equal to 2,000 pounds avoirdupois.

1.101 “Tonnage” shall mean volumes based on Tons.

1.102 “Total Estimate of Overfunded Costs” shall have the meaning ascribed to it in *subsection 8.6(b)*.

1.103 “Total Estimate of Unfunded Costs” shall have the meaning ascribed to it in *subsection 8.6(b)*.

1.104 “Total Remaining Mineable Tons” shall mean all remaining Tons of coal in the Dedicated Reserves at a given time that are saleable either to (i) Buyers or pursuant to Permitted Third Party Sales under this CPSA, or (ii) to others pursuant to sales agreements executed and existing as of the expiration of the Term.

1.105 “Truck Dump Facility” shall have the meaning ascribed to it in *subsection 22.5(a)*.

1.106 “Truck Dump Site” shall have the meaning ascribed to it in *subsection 22.5(a)*.

1.107 “Variable Costs” shall have the meaning ascribed to it in *subsection 7.6*.

1.108 “Waste Coal” shall mean a coal material that would normally be used along with overburden as a landfill material in the reclamation of the Dedicated Reserves. By way of example and not limitation, as of the Effective Date Seller is selling Waste Coal to Colstrip Energy Limited Partnership’s Rosebud Plant.

1.109 “Year” shall mean a calendar year commencing January 1 and ending December 31.

1.110 “Years Four through Ten” shall have the meaning ascribed to it in *subsection 5.4(a)(iii)*.

1.111 “Years One and Two” shall have the meaning ascribed to it in *subsection 5.4(a)(i)*.

1.112 “Year Three” shall have the meaning ascribed in *subsection 5.4(a)(ii)*.

ARTICLE 2 PURCHASE AND SALE OF COAL

2.1 Agreement to Purchase and Sell. From the Dedicated Reserves, and upon the terms and conditions set forth in this CPSA, Seller agrees to sell and deliver coal to Buyers, and Buyers agree to buy and receive coal from Seller.

2.2 Reserve Dedication. Subject to the Permitted Third Party Sales set forth in *subsection 2.8*, Seller dedicates the Dedicated Reserves to Buyers, through the Term (“the Reserve Dedication”).

2.3 Reserve Dedication Payment. In exchange for the Reserve Dedication by Seller in *subsection 2.2*, and no later than ten (10) Days after the Effective Date, each Buyer will make a reserve dedication payment to Seller of \$5 million, for a total of \$10 million (“the Reserve Dedication Payment”).

2.4 Nature of the Reserve Dedication Payment.

(a) The Reserve Dedication Payment compensates Seller for forgoing its right to sell coal from the Dedicated Reserves to other buyers (except as allowed under *subsection 2.8* of this CPSA).

(b) The Reserve Dedication Payment does not compensate Seller for production and sale of coal to Buyers under this CPSA.

(c) *Subsection 7.14* shall not apply to the Reserve Dedication Payment.

(d) The Reserve Dedication Payment is non-recoupable and cannot otherwise be credited against the purchase of coal produced and sold under this CPSA.

(e) If this CPSA is terminated for any reason whatsoever before the Dedicated Reserves are exhausted, then Seller shall not be required to repay any portion of the Reserve Dedication Payment.

2.5 Quantities to be Taken.

(a) Buyers shall take Seller’s coal as (i) one hundred percent (100%) of the annual Solid Fuel Requirements of the Plant from January 1, 2010, through December 31, 2014; (ii) at least eighty-five percent (85%) of the annual Solid Fuel Requirements of the Plant from January 1, 2015, through December 31, 2019, although, upon timely notification of Seller hereunder in accordance with *subsection 2.6*, Buyers may elect to take Seller’s coal as up to one hundred percent (100%) of the annual Solid Fuel Requirements of the Plant during this period; and (iii) at least fifty percent (50%)

of the annual Solid Fuel Requirements of the Plant through the balance of the Term, although, upon timely notification of Seller hereunder in accordance with **subsection 2.6**, Buyers may elect to take Seller's coal as up to one hundred percent (100%) of the annual Solid Fuel Requirements of the Plant during this period.

(b) During each of the periods set forth in **subsection 2.5(a)**, Seller agrees to provide and Buyers agree to take and pay for coal in approximately equal Monthly shipments, subject to:

- (i) normal Plant variations including unplanned or planned outages;
- (ii) Tonnage reductions during Buyers' test burns of Outside Fuel, which test burns shall not be limited in occurrences, duration or Tonnage except as set forth in **subsection 2.5(c)**, and
- (iii) events of Force Majeure pursuant to **Article 11**.

(c) For the purpose of conducting test burns, Buyers may, no more than three (3) times a year, reduce their deliveries of Seller's coal to 0 (zero) percent of Plant Solid Fuel Requirements for a period of more than thirty (30) continuous Days, but not to exceed forty-five (45) continuous Days; provided however, that each test burn to be conducted by Buyers which may materially affect Seller's production and delivery schedules must be provided for in an Approved AOP, and Buyers shall give Seller six (6) weeks' notice of Buyers' scheduled commencement of such test burn. Outside Fuel utilized for test burn purposes shall not be in addition to the amounts of Outside Fuel provided under **subsection 2.7** herein.

(d) Notwithstanding any provision of **subsection 2.5(a)**, if Buyers take from Seller fewer than one (1) million Tons of coal per Year, pro rated in partial Years, for a period of eighteen (18) consecutive months or longer, then Seller may terminate this CPSA upon ninety (90) Days' notice to Buyers; provided, however, that Buyers may prevent such termination by (i) within forty-five (45) Days of the date of Seller's notice, demonstrating to Seller's reasonable satisfaction that future coal deliveries will meet or exceed one (1) million Tons per Year on a consistent basis, or (ii) paying to Seller the product of (A) the difference between the actual Tons purchased by Buyers in each Year and partial Year going forward and one (1) million Tons, pro rated in partial Years, multiplied by (B) the sum of the then current Management Fee and earned Annual Incentive Fee (it being assumed that Buyers shall be also making all other payments required under this CPSA). Any payment made by Buyers under this **subsection 2.5(d)** to Seller (i) compensates Seller for Buyers' failure to take the minimum annual required Tonnage of coal, (ii) does not compensate Seller for production and sale of coal to Buyers under this CPSA, (iii) is non-recoupable and cannot otherwise be credited against the purchase of coal produced and sold under this CPSA, and (iv) is not subject to **subsection 7.14** of this CPSA.

2.6 **Notifications.** Buyers will notify Seller in writing no later than May 1 of each Year of their election to adjust the amount of Seller's coal taken for the immediately

following Year, provided that Buyers must take the volumes required by **subsection 2.5** above. Buyers will not change (increase or decrease) the amount of Seller's scheduled deliveries by more than fifteen (15) percentage points from the percentage requested from Seller for the then current Year's estimated total consumption; provided, however, that if Buyers provide at least eighteen (18) months' prior written notice, Buyers may adjust the percentage of requirements taken from Seller downward by more than fifteen (15) percentage points from the percentage of the prior Year's scheduled deliveries.

2.7 Buyers' Allowable Purchases of Outside Fuel. As contemplated by **subsection 2.5(a)**, Buyers may, but are not obligated to, purchase certain of the Plant's Solid Fuel Requirements from sources other than Seller ("Outside Fuel") for certain periods ("Allowable Purchases of Outside Fuel"), as follows:

(a) For the period from January 1, 2015, through December 31, 2019, Buyers' Allowable Purchases of Outside Fuel is up to fifteen percent (15%) of the Plant's Solid Fuel Requirements for each Year.

(b) For the period after December 31, 2019, through the balance of the Term, Buyers' Allowable Purchases of Outside Fuel is up to fifty percent (50%) of the Plant's Solid Fuel Requirements for each Year.

(c) If Buyers exceed their percentage of Allowable Purchases of Outside Fuel in a given Year, the percentage of Outside Fuel Buyers may purchase in the first following Year for which notice has not already been provided under **subsection 2.6** shall be reduced by the amount of Outside Fuel that Buyers over-purchased in the given Year.

(d) In the event that any such over-purchase of Outside Fuel by Buyers exceeds the entire amount of Outside Fuel that Buyers would otherwise be allowed to purchase in the first following Year for which notice has not already been provided under **subsection 2.6**, then Buyers shall pay Seller the Management Fee plus the applicable Annual Incentive Fee for the amount of the Plant's Solid Fuel Requirements not covered by a reduction in Allowable Purchases of Outside Fuel for the subsequent Year. Any payment made by Buyers under this **subsection 2.7(d)** to Seller (i) compensates Seller for Buyers' failure to take the minimum annual required Tonnage of coal, (ii) does not compensate Seller for production and sale of coal to Buyers under this CPSA, (iii) is non-recoupable and cannot otherwise be credited against the purchase of coal produced and sold under this CPSA, and (iv) is not subject to **subsection 7.14** of this CPSA.

2.8 Seller's Permitted Third Party Sales.

(a) Sales permitted under this **subsection 2.8** are the "Permitted Third Party Sales."

(b) From January 1, 2007, through December 31, 2010, without Buyers' prior approval, and in Seller's sole discretion and under any terms and conditions that Seller so chooses, Seller may sell up to 2,800,000 Tons of coal per Year from the

Dedicated Reserves to third parties. To the extent Seller does not sell to third parties the allowed Tons of coal in a Year from the Dedicated Reserves, such shortfall shall not carry forward to any subsequent Year.

(c) If during the period set forth in **subsection 2.8(b)** Seller actually sells to third parties more than 2,800,000 Tons of coal in a Year from the Dedicated Reserves, excluding Make-Up Coal, the Permitted Third Party Sales shall be reduced in the subsequent Year by the amount of coal sold in excess of 2,800,000 Tons of coal. If during the period set forth in **subsection 2.8(b)** Seller sells more than 100,000 Tons of coal in excess of the Permitted Third Party Sales in any Year, the provisions of **Article 14** shall apply, provided that any damages claimed shall be limited to the amount in excess of 100,000 Tons.

(d) At the end of 2010, the Seller and Buyers will confirm the total number of Tons of coal sold by Seller to all third parties from the Dedicated Reserves during the period from January 1, 2007, to the end of 2010. To the extent those sales, measured in Tons, exceed the difference arrived at by subtracting any shortfalls imposed by **subsection 2.8(b)** from 11,200,000 Tons, then:

(i) Seller's Permitted Third Party Sales in 2011 pursuant to **subsection 2.8(e)** shall be reduced by the amount of such excess,

(ii) For each Ton of such excess, Seller shall reduce the Price of coal for an equal number of Tons sold in 2011 (beginning with Tons sold in January 2011) under this CPSA by four dollars (\$4.00) per Ton, and

(iii) Buyers shall further be entitled to invoke **Article 14**.

(e) From January 1, 2011, through the Term, without Buyers' prior approval and in Seller's sole discretion and under any terms and conditions that Seller so chooses, Seller may sell to third parties up to 300,000 Tons of coal per Year from the Dedicated Reserves (unless, for 2011, an adjustment has been imposed pursuant to **subsection 2.8(d)(i)** which reduces this quantity). To the extent Seller does not sell to third parties the allowed Tons of coal in a Year from the Dedicated Reserves, such shortfall shall not carry forward to any subsequent Year.

(f) If, during the period set forth in **subsection 2.8(e)**, Seller sells to third parties in excess of 300,000 Tons of coal in a Year from the Dedicated Reserves, less any reductions called for by **subsection 2.8(d)(i)** (as to 2011 only) and this **subsection 2.8(f)**, and excluding Make-Up Coal, the Permitted Third Party Sales shall be reduced in the subsequent Year by the amount of such excess Tons sold.

(g) If, for any Year during the period set forth in **subsection 2.8(e)**, Seller sells to third parties from the Dedicated Reserves more than 50,000 Tons of coal in excess of the Permitted Third Party Sales for such Year, excluding Make-Up Coal, then:

(i) For the subsequent Year, Seller's Permitted Third Party Sales under *subsection 2.8(e)* shall be reduced by the number of Tons of coal sold in excess of the Permitted Third Party Sales in the Year identified in *subsection 2.8(g)*, and

(ii) For each Ton in excess of the Permitted Third Party Sales plus 50,000 Tons, Seller shall reduce the Price of coal for an equal number of Tons sold in the subsequent Year (beginning with Tons sold in January of the subsequent Year) by four dollars (\$4.00) per Ton, and

(iii) Buyers further shall be permitted to invoke *Article 14*.

(h) In addition to the Permitted Third Party Sales, without Buyers' prior approval and in Seller's sole discretion and under any terms and conditions that Seller so chooses, Seller may sell to third parties Waste Coal. The Price of coal to Buyers under *Article 7* shall reflect a credit for those costs of cleaning and loading Waste Coal that otherwise would have been allocated to Buyers.

2.9 Recording Acknowledging the Dedicated Reserves. Contemporaneously with the execution of this CPSA, Seller and Buyers will execute a document that acknowledges the Reserve Dedication and the Permitted Third Party Sales, which document will be in a form mutually acceptable to Seller and Buyers and which will be recordable in the public records of the State of Montana and the County of Rosebud, Montana. Upon execution of this CPSA, Buyers shall have the right to record such document.

2.10 Buyers' Resale of Coal. Buyers' purchase of coal under this CPSA shall be solely for use at the Plant. Without obtaining the prior written consent of Seller, which consent shall not be unreasonably withheld, Buyers may not resell the coal to third parties or use the coal at any facility other than the Plant.

ARTICLE 3 TERM

3.1 Length of Term. Coal delivery under this CPSA shall begin on January 1, 2010, and shall continue until the earlier of the following dates ("Term"):

(a) the first December 31 that falls on or after the expiration of thirty-six (36) Months after the Day that Buyers issue the Termination Notice, as defined and limited by *subsection 3.2*, or

(b) the first December 31 that falls on or after the expiration of thirty-six (36) Months after the Day that Seller issues the Reserve Exhaustion Notice, as defined and limited by *subsection 3.4*.

3.2 Termination Notice. Buyers may issue a Termination Notice to Seller at any time after the occurrence of both (a) and (b) below:

(a) all coal to be mined in Area D as shown in the initial General Mining Plan and Sequence has been delivered to Buyers, and

(b) the Prime Stripping Ratio on average in Areas A and B for coal to be delivered for the following Year is projected to first exceed 6.5:1 as evidenced by an Approved AOP.

3.3 Seller's Right of Review of Termination Notice. Seller shall have the right to review Buyers' Termination Notice. Any challenge by Seller to the appropriateness of the Termination Notice shall be resolved as an Expedited Dispute, with the Independent Expert chosen from the panel of Mining Experts. Seller must provide to Buyers written notice of any such challenge under *subsection 13.3* within sixty (60) Days after the date of the Termination Notice, or the right to challenge the Termination Notice is waived. If it is determined that the Termination Notice was proper, then the thirty-six (36) Months identified in *subsection 3.1(a)* shall be effective as of the initial date the Termination Notice was delivered to Seller.

3.4 Reserve Exhaustion Notice. Seller may issue a Reserve Exhaustion Notice to Buyers only upon Seller's determination that the supply of coal from the Dedicated Reserves that reasonably and consistently conforms to the quality specifications set forth in *Article 10* will be exhausted in the next thirty-six (36) Months identified in *subsection 3.1(b)*, provided however:

(a) that in making its determination, Seller is entitled to apply the standard of a prudent mine operator faced with the then-present facts at the Dedicated Reserves, costs, and future capital requirements considered in light of a reasonable return on such capital, and

(b) Seller may not issue the Reserve Exhaustion Notice to be effective prior to December 31, 2019.

3.5 Buyers' Right of Review of Reserve Exhaustion Notice. Buyers shall have the right to review the accuracy of the Reserve Exhaustion Notice for reasonableness as set forth below.

(a) Together with any Reserve Exhaustion Notice provided under *subsection 3.4*, Seller shall provide documentation with such Reserve Exhaustion Notice sufficient to support its conclusions stated in the Reserve Exhaustion Notice.

(b) If Buyers dispute the conclusions stated in the Reserve Exhaustion Notice or any part thereof, representatives of Buyers, including mining and other experts retained by Buyers, may enter the Dedicated Reserves upon reasonable notice to Seller for purposes of independently determining if the Reserve Exhaustion Notice is reasonable, and shall be provided access to all of Seller's supporting documentation concerning the Reserve Exhaustion Notice.

(c) If, after such review, Buyers dispute the Reserve Exhaustion Notice, such dispute shall be resolved according to the procedures governing Expedited Disputes in *subsection 13.3*, with the Independent Expert chosen from the panel of Mining Experts. Written notice of any such challenge by Buyers must be provided to

Seller within sixty (60) Days after the date of the Reserve Exhaustion Notice or the right to challenge the Reserve Exhaustion Notice is waived. If it is determined that the Reserve Exhaustion Notice is proper, then the thirty-six (36) Months identified in **subsection 3.1(b)** shall be effective as of the initial date the Reserve Exhaustion Notice was delivered to Buyers.

3.6 Future Sales in the Event of Valid Reserve Exhaustion Notice. If Buyers do not timely challenge Seller's Reserve Exhaustion Notice or the Reserve Exhaustion Notice is upheld after Buyers' challenge, if any, Seller shall be entitled, once the period provided for in **subsection 3.4** has expired, to sell coal from the Dedicated Reserves to any third party; provided, however:

(a) for a period of five (5) Years after the date the period provided for in **subsection 3.4** has expired, Buyers shall have a right of first refusal to purchase such coal upon terms that are no less favorable to Seller than the terms offered by any such third party ("the Buyers' Right of First Refusal").

(i) Upon Seller's receipt of a bona fide offer, which Seller intends to accept, from a third party to purchase any coal from the Dedicated Reserves ("the Third Party Offer"), Seller shall provide written notice to Buyers of the Third Party Offer and the salient terms of the offer.

(ii) Within thirty (30) Days after receipt of Seller's notice, Buyers shall advise Seller in writing as to whether Buyers intend to exercise the Buyers' Right of First Refusal. If Buyers do not exercise the Buyers' Right of First Refusal within such thirty (30) Day period, then (i) Seller shall have the right to sell the coal in accordance with the Third Party Offer, and (ii) Buyers shall continue to hold the Buyers' Right of First Refusal as to subsequent offers to Seller to purchase any additional coal for the remainder of such five (5) Year period.

3.7 Future Sales in the Event of Valid Termination Notice. If Seller does not challenge a Termination Notice from Buyers, or such Termination Notice is upheld after a challenge by Seller, if any, Seller may sell coal from the Dedicated Reserves without any restrictions or further obligations to Buyers; provided, however, such future sales shall not be effective until after expiration of the Term.

ARTICLE 4 GOVERNANCE

4.1 Nature of Governance. Buyers are granted a right to review and approve mine plans and related activities for the purpose of projecting the costs, quantity and quality of coal to be delivered under this CPSA, within other requirements of this CPSA. Subject to this CPSA, the General Mining Plan and Sequence and Approved Annual Operating Plans ("Approved AOPs"), Seller, as owner and operator of the Mine, has the discretion to operate the Mine, including the Dedicated Reserves, in a manner that Seller reasonably deems necessary and appropriate, including, but not limited to, for the purpose of ensuring the safety of its workforce

and compliance with all applicable laws, regulations and leases. Buyers may monitor Seller's performance relative to Approved AOPs and shall have the right to approve or disapprove AOPs and all revisions thereto, subject to the other provisions of this CPSA. Buyers' participation in the approval of the AOPs shall not make Buyers a partner in the ownership or operation of the Mine, including the Dedicated Reserves, or create any partnership or joint venture relationship or other common enterprise. The relationship of Seller to Buyers shall be that of independent contractor, with Seller having full, complete, and exclusive control, charge and supervision of all operations in the Dedicated Reserves and employees used for such operations.

4.2 Creation of the Administrative Committee. There shall be an administrative committee ("Administrative Committee"), comprised of one representative named by each Buyer ("Buyers' Representatives") and one representative named by Seller ("Seller's Representative"). Seller and each Buyer may also name one or more alternates to the Administrative Committee, who may act when a Party's representative is unavailable, and who, while so acting, shall have the same power and authority as the absent representative. Appointment of these representatives and alternates shall be in writing with notice to all Parties. Each such appointment shall be effective until written notice of the appointment of a replacement representative and/or alternate(s) is given.

4.3 Unanimity Required. Where this CPSA calls for a decision of the Administrative Committee (rather than only advice, consultation or review), such decisions must be unanimous.

4.4 Officers. In addition to the representatives and alternates named pursuant to *subsection 4.2*, Buyers and Seller shall each name a corporate officer ("Officers") and one alternate, each of whom shall be different from the representatives and their alternates, and each of whom may be an officer of a Party's parent or affiliate, to whom disagreements or disputes shall be directed, as further provided in *subsection 13.1*.

4.5 No Power to Amend the CPSA. Neither the Administrative Committee nor the Officers shall have any power to modify or amend this CPSA, except as provided in *subsection 22.8*.

4.6 Buyers' Operating Representative. Buyers will designate a "Buyers' Operating Representative" who shall have full access, at all reasonable times and upon reasonable notice, to the Dedicated Reserves for purposes of monitoring Seller's operations. Buyers' Operating Representative may be someone other than those persons nominated by Buyers under *subsections 4.2 and 4.4*.

4.7 Responsibilities of the Administrative Committee. The Administrative Committee shall serve as the primary body to oversee the implementation of this CPSA, and the primary forum for Seller and Buyers to discuss issues arising under this CPSA, under an Approved AOP, and otherwise. Without limiting the generality of the foregoing, the Administrative Committee shall:

- (a) review and approve AOPs (including all components thereof) pursuant to *subsection 5.8*;

(b) review and approve proposed revisions to an Approved AOP pursuant to *subsection 5.10*;

(c) annually review and approve the earned Annual Incentive Fee pursuant to *subsection 7.11*;

(d) review Monthly budget variance reports and Quarterly budget projection reports as contemplated in *subsection 5.11*;

(e) review Capital Plans and Schedules as provided in *subsection 5.4(c)*, insofar as those Capital Plans and Schedules concern the implementation of an AOP. The Buyers shall not, however, have the right to approve the capital investment decisions made by the Seller so long as those decisions are consistent with the capital schedule contained in the General Mining Plan and Sequence;

(f) amend the General Mining Plan and Sequence pursuant to *subsection 5.2*;

(g) monitor Seller's operations, performance and results relative to the General Mining Plan and Sequence and the current Approved AOP and the individual components of each;

(h) review any action taken and expenditure incurred by Seller in connection with an Emergency affecting the Dedicated Reserves pursuant to *Article 6*; and

(i) meet on an as-needed basis to discuss other issues as they arise.

ARTICLE 5 ANNUAL OPERATING PLAN

5.1 General Mining Plan and Sequence. The Parties have developed and approved the General Mining Plan and Sequence attached hereto as *Exhibit 2*, taking into account cost, timing, capital, return on capital, coal quality, coal reserves and related issues upon which this CPSA is predicated. The overriding goals of the General Mining Plan and Sequence are to first deplete Area D and then to transition to Areas A and B; the coal from which will be mined and blended in generally equal, pro rata amounts to best meet the quality requirements of *Article 10* for the longest period reasonably and economically possible. Seller has identified in the General Mining Plan and Sequence the capital investments by type of equipment that Seller anticipates making in Areas A, B and D during the Term. The Operating Budgets and Capital Plans and Schedules contemplated in *subsection 5.4(c)*, and each AOP prepared hereafter, will implement the current General Mining Plan and Sequence and its components and the Parties will use the General Mining Plan and Sequence as the guiding principle for mining and operation of the Dedicated Reserves throughout the Term.

5.2 Amendment of the General Mining Plan and Sequence. Either the Seller or the Buyers acting together may request that the Administrative Committee amend the General Mining Plan and Sequence, including the anticipated capital investments, if the actual conditions

and circumstances materially vary from those conditions and circumstances upon which the original (or any subsequent) General Mining Plan and Sequence was predicated, such that a prudent mine operator would conclude that the General Mining Plan and Sequence no longer most effectively reflects the fundamental approach to mining the Dedicated Reserves described in the original General Mining Plan and Sequence; provided, that any such amendment shall continue to reflect the goals, as best as practicable, set forth in *subsection 5.1*. Disputes over whether such amendments should be made shall be resolved as an Expedited Dispute pursuant to *subsections 13.1 and 13.3*, and the Independent Expert shall be chosen from the panel of Mining Experts.

5.3 Operations Pursuant to AOP. Seller shall prepare a proposed AOP for each Year beginning in 2010, subject to and in accordance with this *Article 5*. In general:

(a) The AOP shall implement the General Mining Plan and Sequence as the same may be amended from time to time pursuant to *subsection 5.2*.

(b) The AOP shall be prepared taking into consideration inflationary impacts on Seller's costs.

(c) The AOP must be approved by the Administrative Committee or through the dispute resolution procedures in *Article 13* to become effective.

(d) Seller shall conduct all operations and incur expenses consistent with the Approved AOP, except as otherwise provided in *Article 6*.

(e) Unless otherwise mutually agreed in writing among the Parties, no Approved AOP shall obligate Seller to supply coal from sources other than the Dedicated Reserves or require the investment of capital for purposes other than as provided for in the General Mining Plan and Sequence.

(f) The AOP shall be prepared taking into consideration the productivity of planned equipment on Seller's costs.

5.4 Purpose and Components of AOP. The AOP shall implement the General Mining Plan and Sequence and provide Seller and Buyers with the means to define the scope of coal mining, Base Reclamation and other related activities, and to develop budgets to set costs at reasonable and projected levels. The AOP shall consist of the following components:

(a) A Mine Plan covering ten (10) Years, broken down as follows:

(i) Monthly sequences under the proposed AOP for the Year the AOP shall be effective and for the immediately following Year ("Years One and Two");

(ii) Quarterly sequences for mining for the following Year ("Year Three");

(iii) annual sequences for mining for the subsequent seven (7) Years (“Years Four through Ten”); and

(iv) annual coordination of mining with coal delivery requirements.

(v) The items referenced in *subsections 5.4(a)(i) – (iv)* shall include, but not be limited to, information related to the Prime Stripping Ratio and the effective stripping ratios, equipment utilization, coal quality, including the cost per Ton target to be used in the Annual Incentive Fee calculation, and geologic models.

(b) An Operating Budget which shall be integrated into the Mine Plan, and which shall include the following by Month for Years One and Two, Quarterly for Year Three, and annually for Years Four through Ten:

(i) estimated Fixed Costs by component;

(ii) estimated Variable Costs per Ton by component;

(iii) projected coal quality for the coal quality characteristics set forth in *subsections 10.3(d) and (l)*;

(iv) projected quantities of coal to be delivered to the Point of Delivery and the size and nature of coal to be maintained in inventory by Seller;

(v) the source or sources of coal within the Dedicated Reserves to be delivered to Buyers during each Year;

(vi) the projected total quantities of coal to be mined from each of Areas A, B, and/or D;

(vii) the estimated Price for delivered coal as determined under *Article 7*; and

(viii) a variance analysis, for each Operating Budget for the Year 2010 and each Year thereafter, explaining material changes from the prior Year’s AOP.

(c) A Capital Plan and Schedule, consistent with the capital schedule included in the General Mining Plan and Sequence, which shall (i) be integrated with the Mine Plan and Operating Budget; (ii) describe each proposed capital expenditure during the relevant time period (including but not limited to equipment or construction specifications and the anticipated lead time from order to delivery or start of construction); and (iii) include cash flow forecasts and cost estimates, and proposed dates for installation or replacement in reasonable detail.

(d) A Personnel Plan for the Dedicated Reserves for each of the ten (10) Years under the Mine Plan, which shall be consistent with the Personnel Plan for the Mine.

(e) The Annual Incentive Fee budgeted Fixed Costs and budgeted Variable Costs components for Year One.

(f) A Base Reclamation Plan which complies with *subsection 8.3* and which addresses contemporaneous work and coordination of work associated with Base Reclamation.

(g) A Final Reclamation Study, which shall include the Final Reclamation Accrual, as determined pursuant to *subsection 8.6*, to be charged to and paid by the Buyers on a per Ton basis and to be maintained by Seller in the Final Reclamation Account.

5.5 Capital Investment Review.

(a) Buyers and Seller shall discuss the timing of expected capital investments in connection with the development of each AOP, and the Administrative Committee must approve the Capital Plan and Schedule as part of the AOP. Buyers shall not have the right to direct Seller's decisions on capital expenditures, and may challenge such decisions only to the extent that such decisions materially differ from the anticipated capital investments identified in the General Mining Plan and Sequence, and further do not comport with the standards of a prudent miner, taking into account a reasonable return on investment and the then-current conditions at the Mine and the terms of this CPSA.

(b) Any dispute arising under *subsection 5.5(a)* shall be resolved as an Expedited Dispute pursuant to *subsection 13.3*.

(c) Seller shall have no obligation to invest additional capital following the issuance of a valid Termination Notice or Reserve Exhaustion Notice under *subsections 3.2 and 3.4*; provided, however, that Seller shall not be relieved of its obligation to deliver and sell coal pursuant to Approved AOPs for the balance of the Term.

5.6 Information to be Provided to Seller for Development of AOP. On or before May 1 of each Year beginning in 2009, Buyers' Representatives shall provide Seller's Representative with the following information to assist Seller with the preparation of the AOP for the following Year:

(a) non-binding, good faith estimates of the total coal demand at the Plant and the coal demand under this CPSA by Month for Year One and Year Two, Quarterly for Year Three, and annually for Years Four through Ten.

(b) the timing and duration of any planned outages at the Plant during Years One and Two; and

(c) such other information as Buyers' Representatives may deem relevant or that is reasonably requested by Seller's Representative or otherwise necessary in connection with the preparation of the AOP.

5.7 Seller's Submission of Proposed AOP. On or before June 1 of each Year beginning with 2009, Seller's Representative shall submit a preliminary AOP for the next Year to Buyers' Representatives, and Buyers' Representatives shall provide any comments to Seller's Representatives on or before June 15. Seller's Representative shall consider the comments of Buyers' Representatives and submit a revised preliminary AOP to Buyers' Representatives by July 15. Buyers' Representatives shall provide Seller with written notice of any specific exceptions to the revised preliminary AOP by August 15. Any issues not resolved between Buyers' Representatives and Seller's Representative by September 1 shall be resolved as an Expedited Dispute pursuant to *subsections 13.1 and 13.3*.

5.8 Approval of the AOP. An AOP shall be approved upon confirmed written unanimous decision of the Administrative Committee. In the absence of an agreement upon an AOP by September 1 of a Year for the following Year, and pending resolution of any resulting dispute under *Article 13*, the Officers may approve the AOP by unanimous agreement. In the absence of such agreement, Seller shall produce coal in accordance with the provisions of the Monthly sequence for mining in the Dedicated Reserves for Year Two of the last Approved AOP, including the cost estimates for such Year Two Monthly mine sequences described in such plan for the then current Year. In the absence of direction from the then Approved AOP and this *subsection 5.8*, Seller shall operate and maintain the Mine in accordance with reasonable operating practices consistent with this CPSA and the General Mining Plan and Sequence.

5.9 No Default. Failure of the Administrative Committee to approve an Annual Operating Plan or to resolve a dispute assigned to the Administrative Committee under this CPSA is not itself an Event of Default.

5.10 Revisions to the Approved AOP Resulting from a Material Change in Circumstances. An Approved AOP may be revised to account for a material change in circumstances ("Material Change in Circumstances"), provided, however, that a Material Change in Circumstances that rises to a level of a force majeure shall also be governed by *Article 11*, and a Material Change in Circumstances that results in Plant inoperability or commercial impracticability shall also be governed by *Article 12*.

(a) For purposes of this *subsection 5.10*, a Material Change in Circumstances is a change in circumstances from those reasonably foreseen or foreseeable when the AOP was approved and which is either:

(i) A change or changes in law or regulation that reasonably requires additional or different activities and expenses to comply with law, regulation or the requirements of a relevant regulatory or court authority; or

(ii) A change or changes (positive or negative) in the total Tons of coal to be delivered to the Plant for the Year of greater than or equal to five percent (5%) of the Tons for the Year reflected in the Approved AOP; or

(iii) Any other single circumstance or combination of not more than three (3) circumstances not reasonably foreseen or reasonably foreseeable at the time of the approval of the AOP, other than changes in those costs referred to in

subsection 7.11(g), causing the actual Price per Ton to increase or decrease by five percent (5%) or more compared to the Price per Ton for the Year reflected in the Approved AOP.

(b) If either Party believes that a Material Change in Circumstances has occurred, and wishes to seek a revision to the Approved AOP, that Party shall promptly notify the other Party's Representative in writing of the alleged Material Change in Circumstances. Such notification shall include a proposed revision to the Approved AOP; provided, however, that to the extent the Party claiming the Material Change in Circumstances requires information from the other Party in order to complete the proposed revision to the AOP, the Parties shall cooperate in the exchange of such information.

(c) The date upon which the proposed revision to the Approved AOP is submitted to the other Party's Representative shall be considered the "Submission Date." The Administrative Committee shall promptly meet to consider the proposed revision, and must decide no later than thirty (30) Days after the Submission Date whether to approve the revision. If the Administrative Committee does not approve the proposed revision, the Party seeking the revision may submit the dispute for resolution as an Expedited Dispute pursuant to *subsection 13.3* below.

(d) Revisions, as accepted or rejected pursuant to *subsection 5.10(c)*, shall not relieve Buyers of their obligations to pay all of Seller's actual costs under this CPSA. With respect to accepted revisions, the determination of the AOP budgeted amount and the Annual Incentive Fee shall be appropriately adjusted; and, with respect to revisions that are rejected, there shall be no adjustment in the determination of the AOP budgeted amount and the Annual Incentive Fee. Revisions to the AOP shall be limited to those that reasonably address the Material Change in Circumstance that gave rise to the request for amendment.

5.11 Budget and Variance Reports. In addition to other reports Seller is required to provide under this CPSA, Seller shall provide the following reports to Buyers:

(a) A narrative prepared Monthly explaining the general mining conditions encountered during the prior Month, any deviations from the Approved AOP, and any anticipated changes or cost variances from the Approved AOP during the balance of the Year;

(b) Monthly budget variance reports that show budget-to-actual expenditures for the preceding Month, for both the Capital Plan and Schedule and the Operating Budget as provided in the Approved AOP, and which shall provide a detailed explanation of any variances in excess of ten percent (10%) of the Monthly or Year-to-date amounts, as appropriate; and

(c) Quarterly budget projection reports that show projected expenditures versus budgeted amounts for the remainder of the Year and a forecast of the total cost and per Ton cost of coal for the Year for both the Capital Plan and Schedule and

Operating Budget components of the Approved AOP. Such reports shall keep Buyers notified of Seller's performance and of material anticipated departures for the Year from the Capital Plan and Schedule and Operating Budget.

(d) Reports delivered pursuant to *subsections 5.11(a) and (b)* shall be due on or before the 15th Day of the following Month. Reports delivered pursuant to *subsection 5.11(c)* shall be due on or before the 30th Day following the end of each Quarter.

ARTICLE 6 EMERGENCY

Notwithstanding any other provision of this CPSA, if a condition exists that threatens life, limb, property or the safety, integrity, or operability of the Dedicated Reserves or requires immediate action in order to comply with laws, regulatory or court orders, rules, or regulations ("Emergency"), Seller may take such action whether or not consistent with the Approved AOP as Seller, in its sole discretion, may deem prudent or necessary to end or address the Emergency. Seller shall notify Buyers' Representatives promptly, but in no event later than five (5) Days following the Emergency, of any such action taken, providing all relevant details associated therewith and identifying the costs incurred as a result of the Emergency.

ARTICLE 7 PRICE AND PAYMENT

7.1 General. Commencing January 1, 2010, and continuing throughout the Term, the Price to be paid by Buyers for coal delivered by Seller hereunder from the Dedicated Reserves shall be as provided in this *Article 7*.

7.2 Cost-Plus Basis. Pricing will be on a "cost-plus" basis, with Buyers paying all of Seller's costs of producing, processing, delivering, selling and administering sales of coal to Buyers. Profit to the Seller shall be paid in the form of a Management Fee and Annual Incentive Fee as provided in this *Article 7*.

7.3 Price Components. The Price for coal delivered hereunder shall be the sum of (i) the Fixed Costs (paid in equal monthly installments without regard to Tons delivered), (ii) the Variable Costs, (iii) the Management Fee, (iv) the Annual Incentive Fee, (v) the Royalties, (vi) the Production Taxes, and (vii) the Final Reclamation Accrual, with items (ii) through (vii) all paid and measured on a per Ton basis and as further defined and determined in this *Article 7*. No cost or credit in one component of the Price shall be duplicated in another component of the Price. Such Price is F.O.B. the Point of Delivery.

7.4 Fixed Costs Components. "Fixed Costs" shall be equal to the actual costs for the Year for:

(a) Ad valorem or other property taxes directly related to mining and delivering coal hereunder to Buyers;

(b) Depreciation on investment basis and amortization and depletion, as follows:

(i) The calculation of depreciation shall be made by Seller from time-to-time using straight-line methods over the useful economic life of the assets and shall otherwise be consistent with GAAP as applied to the surface coal mining industry and as supported by Seller's independent auditors. Fixed Costs do not include depreciation on equipment to the extent (when measured by Tons produced or time of use as appropriate) that equipment is used to mine coal for third parties or to the extent that equipment is used to mine coal in areas of the Mine other than Areas A, B and D. The Parties recognize that presently there are no intangible capital investments utilized in the production of coal by Seller pursuant to this CPSA, but if intangible capital investments are utilized in the future, then the costs of depletion for such investments shall be a Fixed Cost.

(ii) At the expiration of the Term, except as otherwise provided herein, the Buyers will not be obligated to make any further payments associated with depreciation, depletion and amortization of any capital investment assets and Buyers also will not be entitled to any salvage or book value associated with such assets.

(c) Permitting required to conduct mining operations at the Dedicated Reserves;

(d) The bonding required to conduct mining operations at the Dedicated Reserves, including costs associated with obtaining letters of credit for collateral;

(e) Insurance as required by *subsection 22.3*, provided that cost of business interruption insurance shall not be included; and

(f) Appropriate Administrative and General ("A&G") expenses, including salaries, wages and related fringe benefits for non-coal producing management, supervisory, technical and clerical employees who are located at and directly support the Dedicated Reserves.

(i) A&G expenses may reflect an appropriate apportionment to the coal delivered under this CPSA of the reasonable and necessary administrative and general expenses for the Mine (including Area C and all other Areas controlled by Seller). A&G expenses associated with the Mine as a whole will be allocated to the CPSA based upon the annual operating labor dollars associated with the CPSA divided by Mine-wide operating labor dollars.

(ii) For expenses incurred by Seller's parent companies for employees, support, or resources not located at the Dedicated Reserves, but which support mining and administration at the Dedicated Reserves in order to supply coal under this CPSA, A&G shall include a \$0.25 per Ton fixed charge for the AOP budgeted Tonnage beginning January 1, 2010, which charge shall be increased to

\$0.35 per Ton beginning January 1, 2020, and shall continue at that rate through the balance of the Term.

(iii) Costs of incentive payments or bonuses to Seller's employees or agents shall be included in A&G expenses as an Approved AOP so provides.

7.5 Allocation of Fixed Costs. Fixed Costs shall be allocated over all coal sold or removed (including all Permitted Third Party Sales) from the Dedicated Reserves. The AOP for each Year shall specify the total Fixed Costs estimated for that Year. Fixed Costs shall not include the costs of (i) Final Reclamation, (ii) activities conducted outside of the Dedicated Reserves or the Associated Facilities, and (iii) activities not benefiting the Dedicated Reserves. As set forth in **subsection 7.16**, any routine annual true-ups required for actual Fixed Costs shall be performed within forty-five (45) Days after the end of each Year.

7.6 Variable Costs Components. The "Variable Costs" shall be a per Ton cost equal to the actual costs directly incurred in mining, processing, transporting and delivering each Ton of coal to the Point of Delivery.

(a) Variable Costs include:

(i) Mine labor costs, including wages, overtime, shift differentials (of miners and supervisory personnel) and related fringe benefits, but excluding costs of incentive payments or bonuses to Seller's employees or agents unless an Approved AOP so provides;

(ii) Costs of contract labor;

(iii) Costs of materials and supplies, including explosives, expended or consumed in the mining or preparation of coal;

(iv) Costs for labor, materials and supplies in connection with the maintenance and repair of equipment and facilities;

(v) Costs of electric power;

(vi) Local, state and federal taxes related to the items listed in **subsections 7.6(a)(i) - (v)** above, if measured other than based on income, coal production or as property or ad valorem taxes;

(vii) Costs of the kind identified in **subsections 7.6(a)(i)-(vi)** above incurred in connection with Base Reclamation; and

(viii) All other reasonable costs associated with mining, selling and delivering coal under this CPSA and in accordance with an Approved AOP.

(b) Except as expressly provided in this CPSA, Variable Costs do not include costs incurred, measured by Tons produced or other appropriate method, to

mine coal for third parties or to mine coal in areas of the Mine other than Area A, Area B and Area D.

7.7 Imported or Exported Equipment. In no event shall any of the following costs be included in the Variable Costs or Fixed Costs: (a) costs incurred in connection with moving any equipment out of the Dedicated Reserves for use in other mining or non-mining operations, or subsequently returning such equipment to the Dedicated Reserves; or (b) any operating costs allocable to the operation of equipment outside of the Dedicated Reserves. Notwithstanding the foregoing, recoverable costs shall include costs associated with moving equipment out of and back in to the Dedicated Reserves for purposes of rebuilding, repairing and maintaining such equipment. If Seller uses any equipment that is dedicated to a mining area other than the Dedicated Reserves to produce coal in the Dedicated Reserves for delivery to Buyers under this CPSA, Buyers shall pay as part of Variable Costs and Fixed Costs, as appropriate, the reasonable costs incurred in connection with moving such equipment into and out of the Dedicated Reserves and the operating costs and depreciation allocable to such equipment used in the Dedicated Reserves.

7.8 Allocation of Variable Costs. Variable Costs shall be invoiced and paid based on an equal allocation to all coal sold or removed (including all Permitted Third Party Sales) from the Dedicated Reserves during the prior Month. For any Month in which Tons are not delivered to Buyers, Seller may invoice Buyers an estimated amount of Variable Costs. As set forth in *subsection 7.16*, any routine annual true-ups required for actual Variable Costs shall be performed within forty-five (45) Days after the end of each Year.

7.9 Seller's Profit. Seller's profit shall consist of a Management Fee as described in *subsection 7.10* and an Annual Incentive Fee as described in *subsection 7.11*.

7.10 Management Fee. The "Management Fee" shall be a per Ton profit charge for each Ton of coal delivered by Seller to Buyers under this CPSA and shall be billed and paid Monthly. The Management Fee shall be computed as follows:

(a) Although deliveries of coal under this CPSA shall not begin until January 1, 2010, for purposes of establishing the amount of the Management Fee that shall be paid upon the commencement of delivery of coal under this CPSA and then going forward, the Management Fee shall be set at \$2.75 per Ton as of the Effective Date of this CPSA, and shall be adjusted up or down each Quarter thereafter based on the mechanism (the "Adjustment Mechanism") described in *subsection 7.13*; provided, however, that notwithstanding any further upward adjustments called for by application of the Adjustment Mechanism, the Management Fee shall be capped at \$2.85 per Ton as of the first Quarter of 2010 (with no cap on downward adjustments if required by application of the Adjustment Mechanism).

(b) Following January 1, 2010, the Adjustment Mechanism shall be applied to the Management Fee in the ordinary course to determine adjustments to the Management Fee; provided, however, that there shall be no recapture of escalations lost, if any, as a result of the application of the cap set forth in *subsection 7.10(a)*.

7.11 Annual Incentive Fee. Buyers shall pay Seller an Annual Incentive Fee, which payment the Parties intend as an economic incentive for Seller to meet each Approved AOP. The Annual Incentive Fee shall be billed Monthly as the per Ton amount of the Target Incentive Fee. Within forty-five (45) Days after the end of each Year, the Administrative Committee shall meet and review the Annual Operating Plan for the Year just ended, together with such records of Seller as may be necessary, and determine the Actual Incentive Fee. The difference, if any, between the Actual Incentive Fee and the Target Incentive Fee as billed shall be determined and such difference, if any, shall be debited or credited to the Buyers accordingly on the next invoice.

(a) Although deliveries of coal under this CPSA shall not begin until January 1, 2010, for purposes of establishing the Target Incentive Fee that will be applicable upon the commencement of delivery of coal under this CPSA and then going forward, the Target Incentive Fee shall be \$0.92 per Ton, as of the Effective Date of this CPSA, and shall be adjusted Quarterly thereafter using the Adjustment Mechanism, provided, however, that notwithstanding any further upward adjustments called for by application of the Adjustment Mechanism, the Target Incentive Fee shall be capped at \$1.00 per Ton as of the first Quarter of 2010 (with no cap on downward adjustments if required by application of the Adjustment Mechanism).

(b) Following January 1, 2010, the Adjustment Mechanism shall be applied to the Target Incentive Fee in the ordinary course to determine adjustments to the Target Incentive Fee; provided, however, that there shall be no recapture of escalations lost, if any, as a result of the application of the cap set forth in *subsection 7.11(a)*.

(c) In the event that Seller's actual Fixed Costs plus Variable Costs (adjusted for actual pit inventory and actual heat content of the coal received as measured in Btu per pound (a.r.)) on a cost per Ton basis, for each completed Year are within or equal to plus or minus two and twenty-five hundredths percent (2.25%) of the Fixed Costs plus Variable Costs as identified in the Approved AOP on a cost per Ton basis (including any approved amendments to the AOP pursuant to *subsection 5.10*) the Actual Incentive Fee due Seller shall equal the average of the four Quarterly Target Incentive Fee amounts multiplied by the total Tons delivered during the Year.

(d) In the event that Seller's actual Fixed Costs plus Variable Costs (adjusted for actual pit inventory and actual heat content of the coal received as measured in Btu per pound (a.r.)) on a per Ton basis for each completed Year are greater than one hundred two and twenty-five hundredths percent (102.25%) of the Fixed Costs plus Variable Costs as identified in the Approved AOP on a cost per Ton basis (including any approved amendments to the AOP budgeted dollar amount pursuant to *subsection 5.10*), the Actual Incentive Fee due Seller shall equal the average of the four (4) Quarterly Target Incentive Fee amounts less one-half of the dollar per Ton amount by which Seller's actual Fixed Costs plus Variable Costs (as adjusted) are greater than two and twenty-five hundredths percent (2.25%) above the Fixed Costs plus Variable Costs as identified in the Approved AOP, multiplied by the total Tons delivered during the Year; provided, however, that in no event shall the Annual Incentive Fee actually paid be less than zero.

(e) In the event that Seller's actual Fixed Costs plus Variable Costs (adjusted for actual pit inventory and actual heat content of the coal received as measured in Btu per pound (a.r.)) on a cost per Ton basis for each completed Year are less than ninety-seven and seventy-five hundredths percent (97.75%) of the Fixed Costs plus Variable Costs as identified in the Approved AOP on a cost per Ton basis (including any approved amendments to the AOP budgeted dollar amount pursuant to **subsection 5.10**), the Actual Incentive Fee due Seller shall be the average of the four (4) Quarterly Target Incentive Fee amounts plus one-half of the dollar per Ton amount by which Seller's actual Fixed Costs plus Variable Costs (as adjusted) were less than the two and a quarter percent (2.25%) below the Fixed Costs plus Variable Costs as identified in the Approved AOP on a cost per Ton basis, multiplied by the total Tons delivered during the Year.

(f) If an AOP has not been revised pursuant to **subsection 5.10(a)(i)** to reflect any changes in the cost to comply with new, modified, or reinterpreted laws, regulations, or court orders, but changes in costs to comply have been incurred by Seller, such cost changes shall be excluded from Seller's actual costs for the purposes of determining the Annual Incentive Fee in each Year.

(g) Once any change in the per unit cost of explosives, diesel fuel, and/or electric power exceed the Approved AOP assumptions by more than thirty percent (30%), either individually or cumulatively, the actual unit costs for explosives, diesel fuel and/or electric power shall be utilized to recalculate the Variable Costs as included in the AOP for the purposes of determining the Annual Incentive Fee to be paid to Seller in each Year. In computing whether a cumulative increase or decrease in unit costs has occurred for electric power, diesel, and explosives, both increases and decreases of the individual components must be considered. If no cumulative adjustment is made, individual item increases and decreases of more than thirty percent (30%) would qualify that item for relief regardless of cost shifts of the other two items. Thus, for example, if the unit cost of diesel fuel changed by plus or minus thirty-five percent (+/-35%), but the unit cost of electric power changed in the opposite direction by ten percent (10%) and that of explosives remained the same, there would be no adjustment to the Variable Costs as included in the AOP in connection with the calculation of the Annual Incentive Fee based on the cumulative change of the three (3) cost components (a total of twenty-five percent (25%)); however, the diesel fuel component (alone) would be adjusted based on the individual component increase. Sample calculations of the commodity recalculation are attached hereto as **Exhibit 3**.

(h) In cases where Seller believes that there are proper justifications for shifting costs provided for in an Approved AOP from Year One to a later Year, and Seller so notifies Buyers, the Administrative Committee will determine whether such costs should be shifted and, if so, how such a shift should be taken into account in the Year One and subsequent Year AOPs.

(i) In the event that Seller intentionally shifts costs from one Year to a subsequent Year solely in an attempt to increase the earned Annual Incentive Fee for the first Year, and in a manner inconsistent with the prudent miner standard, Buyers

may object to including the shifted costs in an AOP for any subsequent Year. If within two (2) Years after the conclusion of a Year, Buyers determine that Seller shifted costs from one Year to a subsequent Year solely in an attempt to increase the earned Annual Incentive Fee for such Year and in a manner inconsistent with the prudent miner standard, Seller shall repay, upon Buyers' request, that part of the Annual Incentive Fee paid to Seller for the Year in question which was earned by Seller only as a direct result of the improper shifting of such costs or, at the Parties' mutually-agreed upon option, Seller may deduct such costs from the next AOP to be developed. If Seller disputes Buyers' determination that such inappropriate cost shifting has occurred, the matter shall be resolved as an Expedited Dispute pursuant to *subsection 13.3*.

(j) Sample calculations of the Annual Incentive Fee are attached to this CPSA as *Exhibit 4*, which calculation methodology shall govern the interpretation and application of the Annual Incentive Fee.

7.12 Attainability of Annual Incentive Fee. The Parties shall develop the AOP each Year to allow Seller a fair opportunity to earn the Target Incentive Fee.

7.13 The Adjustment Mechanism.

(a) Subject to the cap applicable to the Management Fee under *subsection 7.10(a)* and to the Annual Incentive Fee under *subsection 7.11(a)*, the Management Fee and Annual Incentive Fee shall each be adjusted Quarterly by applying the average of the percentage change in the GDP-IPD and the percentage change in the CPI-U, with each index measured as of a base date coincident with the Effective Date of this CPSA. Furthermore,

(i) The base index for the GDP-IPD shall be that for the fourth Quarter of 2006, published during the first Quarter 2007, and the base index for the CPI-U shall be that for December 2006, published during January 2007;

(ii) Each Quarterly adjustment will utilize the first published index for the prior Quarter of each index as compared to the base index for each index; and

(iii) Pursuant to *subsections 7.10(a)* and *7.11(a)* respectively, for the first Quarter of 2007, the base amount for the Management Fee will be \$2.75 per Ton and the base amount for the Annual Incentive Fee will be \$0.92 per Ton.

(b) If the Management Fee and/or the Annual Incentive Fee reach the caps set forth in *subsections 7.10(a)* and *7.11(a)* respectively, both the GDP-IPD and the CPI-U shall be reset. The new base index for the GDP-IPD will be the index for the fourth Quarter 2009, published during the first Quarter 2010, and the new base index for the CPI-U shall be the index for December 2009, published during January 2010.

(c) If the agency or agencies responsible for publishing the GDP-IPD or the CPI-U cease(s) to publish, or modifies (excluding rebasing), either the GDP-IPD or the CPI-U, the Administrative Committee shall replace the affected index or indices by a substantially equivalent index that, after necessary adjustment, if any, provide(s) the

most reasonable substitute for the affected index. If the Administrative Committee cannot agree on a replacement index within ninety (90) Days after the date the publication of the affected index ceases, or the date that the affected index is modified, then the matter shall be submitted to the Officers for dispute resolution, and if the Officers do not resolve the dispute within thirty (30) Days thereafter, the matter shall be submitted to arbitration for resolution pursuant to **subsection 13.3** as an Expedited Dispute. If either the GDP-IPD or CPI-U is rebased, the Parties shall use the rebased index.

(d) Sample calculations using the Adjustment Mechanism are attached to this CPSA as **Exhibit 5**, which calculation methodology shall govern the interpretation and application of the Adjustment Mechanism.

7.14 Royalties and Production Taxes.

(a) Subject to **subsection 7.14(b)**, Buyers shall pay Seller for all Royalties and Production Taxes arising from or related to coal sold or delivered to Buyers under this CPSA, including all such amounts, plus any penalties and interest, arising from retroactive agency action. Seller shall, Quarterly for Royalties and Monthly for Production Taxes, invoice Buyers for such Royalties and Production Taxes. Buyers shall not be obligated to pay Seller for penalties or interest resulting from late payments or administrative errors made by Seller in filing royalty and production tax forms and returns, unless Buyers caused such late payments or administrative errors.

(b) Notwithstanding **subsection 7.14(a)** or any other provision of this CPSA, except as provided for in **subsection 7.18**, for any payment made by Buyers pursuant to this CPSA to Seller prior to the date that coal is first delivered under this CPSA, Buyers shall under no circumstances be obligated or required to pay Royalties or Production Taxes, if any, assessed on such payment.

(c) Seller shall promptly advise Buyers of claims or disputes related to Royalties and/or Production Taxes, regardless of whether such Royalties or Production Taxes have actually been paid. Seller and Buyers shall discuss and agree upon the proper course regarding any challenges to such claims or disputes. Concerning those disputes or claims which Seller and Buyers mutually agree should be challenged, Seller shall, in ongoing consultation with Buyers, use commercially reasonable efforts:

(i) To obtain credits or refunds for all Royalties and Production Taxes paid by Seller and reimbursed by Buyers that are either (A) associated with charges for coal that are later credited or refunded by Seller to Buyers; or (B) are reasonably subject to challenge if it would be prudent to pursue such credits and refunds. Buyers shall reimburse Seller for all costs and expenses incurred by Seller to obtain Royalty and Production Tax refunds. All reimbursements for pursuit of credits and refunds shall be applied on an equal, per Ton basis for all coal covered by the charges.

(ii) To dispute or contest claims for additional Royalties and/or Production Taxes paid by Seller and reimbursed by Buyers. In such event, Buyers shall reimburse Seller for all costs and expenses incurred to dispute or contest such claims, including related penalties or interest or late fees imposed upon and paid by Seller. Seller and Buyers shall mutually agree as to the manner of posting any bonds or other security, and related collateral, necessary for Seller to pursue any such dispute or contest. All reimbursements for costs and expenses to dispute or contest claims shall be applied on an equal, per Ton basis, for all coal covered by the charges.

(d) With respect to those Royalty and/or Production Tax claims or disputes that Seller believes should be challenged, but Buyers do not believe should be challenged, Seller shall have the right to either seek credits or refunds or dispute or contest claims, and the following conditions shall apply:

(i) Seller shall pay costs and expenses associated with any such challenge action, which shall be the sole responsibility of Seller and, except as set forth in *subsection 7.14(d)(iii)*, Buyers shall have no obligation to reimburse Seller for such costs;

(ii) If Seller is not successful with such challenge action, Buyers shall remain responsible for the financial effects of the Royalty or Production Tax issue in question, as though Seller had never undertaken the challenge action; and

(iii) If Seller is successful with such challenge action, Buyers shall reimburse Seller for its reasonable costs and expenses in pursuing such challenge, and the results of the challenge shall be applied to this CPSA, as if the challenge had proceeded under *subsections 7.14(c)(i) and 7.14(c)(ii)*.

7.15 Final Reclamation Accrual. The Price will include a component for the Final Reclamation Accrual as described in *subsection 8.5* of this CPSA, which will be invoiced monthly on a per Ton basis.

7.16 Invoices. By the fifth (5th) Day of each Month, Buyers' Operating Representative shall submit to Seller a Monthly "Distribution Notice" in a form to be mutually agreed upon by the Administrative Committee, setting forth the portion of actual deliveries of coal during the preceding Month to be used to determine the Variable Cost to be billed to each Buyer. Based upon such Distribution Notices, Seller shall prepare and submit separate invoices to Buyers on or before the tenth (10th) of the Month during which the Distribution Notice has been submitted. Seller shall invoice Buyers for (i) Seller's actual Variable Costs for the prior Month, (ii) one-twelfth (1/12th) of the total estimated Fixed Costs properly allocated to Buyers, (iii) the Management Fee, (iv) the Incentive Fee, (v) the Reclamation Accrual, and (vi) applicable Taxes and Royalties. Within forty-five (45) Days after the end of each Year, Seller shall provide each Buyer with any routine annual corrections or adjustments to reflect the actual costs and allocations incurred in the prior Year, and shall debit or credit each Buyer accordingly, subject to each Buyer's right of audit under *subsection 18.1*. Subsequent corrections or adjustments to reflect the actual costs and allocations incurred in any prior Year, such as those

identified in any audit, shall be promptly invoiced to each Buyer as a debit or credit, as the case may be.

7.17 Payment. Each Buyer shall pay its invoiced amount to Seller on or before the twentieth (20th) of the Month in which Buyers receive an invoice. Such payment will be made by electronic transfer of funds or other method to an address or account number as directed by Seller in writing from time-to-time.

7.18 Transition from Coal Supply Agreement dated July 30, 1971. Coal deliveries under the CPSA will begin immediately after termination of deliveries under the Coal Supply Agreement dated July 30, 1971, as amended, for Colstrip Units 1 & 2. In order to produce and deliver coal under this CPSA on January 1, 2010, Seller will make capital investments and incur expenses for developing pit inventory prior to January 1, 2010. The Parties intend to provide for a transition to the CPSA that fully compensates Seller for depreciation of investments made and expenses incurred to produce coal under the CPSA without requiring any double payments from Buyers.

(a) Buyers will pay depreciation on any additional capital investment made in accordance with the General Mining Plan and Sequence from the date of acquisition of that capital investment, first under the Coal Supply Agreement dated July 30, 1971, as amended, for Colstrip Units 1 & 2, through December 31, 2009, and then, beginning January 1, 2010, under this CPSA. Depreciation on capital investments acquired prior to January 1, 2010, will continue under this CPSA on the same basis as prior to that date without change in the basis for the book value or depreciation schedule applicable to that equipment.

(b) Variable Costs incurred by Seller to develop pit inventory during the transition period prior to January 1, 2010, will be invoiced to Buyers in equal installments, without interest, over a period of thirty-six (36) months, beginning in January 2010. The rate for these variable costs per Ton will be determined by taking the appropriate overburden costs averaged over the final three (3) months of 2009 in Area D divided by the total Tons uncovered during that period. This rate per Ton will be multiplied by the actual Tons in pit inventory as surveyed by Seller on or about December 31, 2009, to determine the total amount to be invoiced to Buyers. Buyers will receive a credit for pit inventory, if any, remaining upon termination of the CPSA computed in the same manner as set forth above, if Seller has sold or anticipates selling such pit inventory to a third party.

(c) Sample calculations demonstrating the calculations to be made under *subsection 7.18(b)* are attached hereto as *Exhibit 6*.

ARTICLE 8 RECLAMATION

8.1 Reclamation. For purposes of the CPSA, "Reclamation" means all activities that must be performed by Seller to comply with existing or hereafter adopted state and federal laws, rules and regulations that deal with land reclamation and environmental matters and apply

to surface mining coal operations. Reclamation consists of "Final Reclamation" and "Base Reclamation."

8.2 Final Reclamation. "Final Reclamation" shall mean all reclamation and remediation activities conducted by Seller in Area A, Area B, and Area D, including the Associated Facilities, to restore topography, drainage, vegetation and land use reasonably and in accordance with all applicable state and federal laws, regulations and mining permits. Final Reclamation with respect to coal sold to Buyers pursuant to this CPSA will be conducted either (a) after the expiration of the Term, or (b) after the final removal of coal from any Area of the Dedicated Reserves (except cleanup or salvage coal), except that any Final Highwall existing in the Dedicated Reserves as of January 1, 2010, will be considered to fall under the definition of Final Reclamation. The General Mining Plan and Sequence includes a further description of Final Reclamation of the Dedicated Reserves and Associated Facilities including maps showing these areas and facilities. These maps will be updated on an annual basis and made part of the AOP.

8.3 Base Reclamation. "Base Reclamation" shall mean the Reclamation not otherwise defined as Final Reclamation in *subsection 8.2*. Seller shall limit Base Reclamation to the work required in order to comply with then-existing regulations and prudent mining standards in accordance with an Approved AOP.

8.4 Base Reclamation Costs. As a cost of mining, Buyers will pay costs associated with Base Reclamation as provided in *Article 7* of this CPSA. Buyers' obligation to pay costs of Base Reclamation shall terminate at the end of the Term of this CPSA.

8.5 Final Reclamation Costs. Buyers shall pay to Seller a per Ton amount equal to the final reclamation accrual as provided in *subsection 8.6* for the estimated costs of Final Reclamation for each Area of the Dedicated Reserves including the Associated Facilities ("the Final Reclamation Accrual"). These monies will be deposited into a reclamation fund with a bank mutually acceptable to both Seller and Buyers ("the Reclamation Fund") to be used by Seller to pay for Final Reclamation activities for Areas A, B, and D as these costs are incurred. This per Ton payment will be invoiced by Seller and paid by Buyers monthly as provided in *Article 7* of this CPSA. It is generally recognized by the Parties that the scope of Final Reclamation or the scope of Base Reclamation may change, or the area outlined and charges designated as Final Reclamation may be different from prior estimates of Final Reclamation and may change from time to time to coincide with actual mining activities and prudent mining decisions. As such, the changes may result in more charges being considered Base Reclamation and fewer charges being considered Final Reclamation, or conversely, more charges being considered Final Reclamation and fewer charges being considered Base Reclamation. In some cases, changes in the work scope may occur, which may cause the Final Reclamation Accrual to result in a per Ton credit, as determined pursuant to *subsection 8.6*, to Buyers to be included in the determination of Price under *Article 7*. Buyers' responsibility to pay Final Reclamation costs shall be limited solely to this per Ton charge or credit, as the case may be. If, at the end or after the Term of this CPSA with respect to Area A and Area B, and after cessation of mining with respect to Area D, the funds collected through the respective Area A, Area B and Area D Final Reclamation Accruals are insufficient to complete Final Reclamation, Seller alone shall bear the additional costs needed to complete Final Reclamation, with no rights of any kind against

Buyers, and if the funds in the Reclamation Fund exceed the amount needed to complete Final Reclamation, then Seller is entitled to retain for itself any such excess.

8.6 Annual Calculation of Final Reclamation Accrual. Seller will complete a Final Reclamation and facilities removal study annually during the fourth quarter of each Year (“the Final Reclamation Study”). This Final Reclamation Study will be used to determine the estimated reclamation liability for each Mine Area in accordance with reclamation plans approved by the Montana Department of Environmental Quality, and as the basis to calculate the Final Reclamation Accrual. Upon approval by the Administrative Committee, the Final Reclamation Study and Final Reclamation Accrual will be made part of the AOP for the following Year. The Final Reclamation Accrual shall be paid by or credited to the Buyers as provided for in **subsection 7.15**. The per Ton amount of the Final Reclamation Accrual shall be applied to each Ton of Third Party Sales, which shall be included in the accruals charged for Final Reclamation identified in **subsection 8.6(b)**. The Final Reclamation Accrual will be calculated as follows:

(a) The Final Reclamation Study will provide an estimate of the total Final Reclamation expenses for each of Areas A, B and D. The estimate will be made considering a reasonable projection of Base Reclamation for the current Year and Base Reclamation for all future Years to be completed through the Term.

(b) Prior payments or accruals charged for Final Reclamation in each of Areas A, B and D will be calculated and subtracted from the estimate of Final Reclamation expenses for each of Areas A, B and D. This calculation will determine the “Total Estimate of Unfunded Costs” of Final Reclamation by Area, or in the case when the prior payments or accruals charged for Final Reclamation exceed the estimate of Final Reclamation expenses for an Area, the difference in costs will represent the “Total Estimate of Overfunded Costs” of Final Reclamation for the Area.

(c) The General Mining Plan and Sequence identifies the Total Remaining Mineable Tons as of the date indicated therein. The Total Remaining Mineable Tons will be adjusted in accordance with each subsequent Final Reclamation Study. The Total Estimate of Unfunded Costs of Final Reclamation or Total Estimate of Overfunded Costs of Final Reclamation by Area will be divided by the Total Remaining Mineable Tons for that Area, subject to reductions in such Tons as a result of a Termination Notice or Reserve Exhaustion Notice given pursuant to **subsections 3.2 and 3.4**, in each of Areas A, B and D to determine the Final Reclamation Accrual for each Area on a per Ton basis for the upcoming Year. In the case where expenses for Final Reclamation have been overfunded, the Final Reclamation Accrual will represent a per Ton credit to the Buyers. The Buyers shall be invoiced the Final Reclamation Accrual for each Ton of coal taken in the upcoming Year.

(d) A new Final Reclamation Accrual will be calculated in this manner for each Year of coal delivery under this CPSA. The Final Reclamation Accrual most recently calculated shall be the basis for billing in accordance with **subsection 7.15**. When the most recently calculated Final Reclamation Accrual is different from the Final Reclamation Accrual included in an Approved AOP, the Final Reclamation

Accrual included in the AOP shall be considered superseded. No true-up for Final Reclamation will be provided after the Term of this CPSA.

8.7 Reclamation Fund. Seller shall maintain all Final Reclamation Accrual payments made hereunder by Buyers in a Reclamation Fund account. The account shall be an interest bearing account at a federal reserve bank selected by Seller. Seller shall own and manage the account, subject only to the limitations imposed on withdrawal of funds discussed below, and Seller shall be responsible for fees and costs associated with the account as well as any taxes assessed on earnings of the account. Seller may withdraw net earnings from the account at any time and for any purpose. Principal in the account, however, may be withdrawn only as follows:

(a) Seller may withdraw principal to pay for Final Reclamation for Areas A, B and D, as those costs and expenses are incurred.

(b) Principal not withdrawn to pay the cost of Final Reclamation in Areas A, B and D may be withdrawn by Seller after Final Reclamation for Areas A, B and D is completed, and such surplus funds may be used by Seller for any purpose. Final Reclamation for an Area is completed when all consents and bond releases required under an approved mining permit have been issued for all lands within the Area.

(c) The Reclamation Fund will be subject to an Escrow Agreement in the form attached as *Exhibit 7*, which will require Seller to certify to the Escrow Agent upon making withdrawals that the funds are being used only for purposes permitted by this CPSA.

8.8 Bonds. Seller shall maintain all bonds now in place until modified bonds or additional bonds are required, and then Seller shall maintain all such modified or additional bonds as may be required by the Montana Department of Environmental Quality or any other authorized regulatory agency with responsibility for mine reclamation. Seller's cost of these bonds and the costs of related letters of credit or other security shall be included as part of the Fixed Costs.

8.9 Seller's Indemnity for Final Reclamation. Seller shall indemnify, defend and hold harmless each Buyer from any and all expenses, claims, attorneys' fees and other costs resulting from any claim by any person or entity that either Buyer is responsible for any expenses of Final Reclamation. Seller's obligations under this *subsection 8.9* shall survive the expiration of the Term.

8.10 Reclamation Disputes. All disputes concerning the definition of Base and/or Final Reclamation, the calculation and/or payment of Final Reclamation Accruals and/or concerning the Reclamation Fund will be resolved as an Expedited Dispute under *subsection 13.3*, with the Independent Expert chosen from the panel of Mining Experts.

ARTICLE 9
DELIVERY AND TITLE, SCHEDULING, INVENTORY

9.1 Delivery and Title. Title and risk of loss for coal delivered hereunder shall pass from Seller to Buyers at the Point of Delivery.

9.2 Scheduling. Seller and Buyers shall, to the extent reasonably feasible, cooperate in scheduling daily, weekly, and Monthly coal deliveries in order to accommodate Buyers' changing coal requirements. The Parties shall also cooperate in the same manner in providing notice in advance of scheduled outages or downtime in order to avoid unnecessary inconvenience and delay and, to the extent reasonably possible, to assure Buyers of an opportunity to increase their stockpile of coal for use during downtime at the Dedicated Reserves. Subject to these reciprocal obligations and the other terms and conditions of this CPSA, Seller shall maintain the capability of making continuous coal deliveries to Buyers within the design limitations of Buyers' coal receiving facilities.

ARTICLE 10
WEIGHTS, SAMPLING AND ANALYSIS, COAL QUALITY

10.1 Weights. Seller shall weigh all coal delivered under this CPSA, which weights shall be used for billing purposes, and shall promptly furnish statements of such weights to Buyers. Scales to be used for weighing shall be calibrated and certified regularly at such frequency and using such methods as determined by the Administrative Committee. If, upon calibration, the scales are found to be in error by one percent (1%) or more, the Administrative Committee shall review the scale data to agree upon a total weight to the extent such calculation is reasonably possible. Failing such agreement, the weight shall be determined by taking one-half of the total error applied to all Tons received since the previous calibration. Buyers may inspect Seller's weighing facilities and verify the accuracy of weights as they deem necessary, so long as such inspection and verification does not unreasonably interfere with Mine operations.

10.2 Sampling and Analysis.

(a) Seller, using its sampling equipment, shall obtain at least one (1) sample fairly representing all coal delivered hereunder for each shift of each Delivery Day. Buyers and Seller shall have the right to have a representative present at any and all times to observe the sampling. In the event that the sampling equipment was not available due to breakdown or mechanical malfunction such that no sample was taken for a shift, any Tonnage delivered during such shift shall be excluded from the Daily analysis results for the period in which no samples were collected. Seller shall correct any such breakdown or malfunction as soon as possible.

(b) Buyers shall contract with an independent third party testing laboratory selected by Buyers and Seller (the "Primary Laboratory"), which shall be Standard Laboratories, Inc., unless Buyers and Seller mutually agree otherwise. The Primary Laboratory shall assure that the integrity of the samples taken is consistent with ASTM standards, and that all samples are divided into not fewer than four (4) parts and put in suitable airtight containers, the second, third and fourth containers to be held available

by the Primary Laboratory for a period of ninety (90) Days after the end of the Month in which the sample was taken. The Primary Laboratory shall promptly perform on the first part of the sample, at a minimum, a short proximate analysis plus an analysis for sodium oxide content as a percentage of ash and promptly transmit the results to Buyers and Seller. Buyers or Seller may analyze, at their own sole expense, which in the case of Seller shall not be included in any cost used to determine the Price under this CPSA, the individual second and third parts of the sample, respectively. The fourth part of the sample (the Referee Sample) shall be used for analysis if a dispute arises regarding the Primary Laboratory's initial analysis. All sampling and analysis shall be performed in accordance with ASTM standards unless other methods are agreed upon by the Administrative Committee. Buyers shall pay the costs of the Primary Laboratory to perform these services except as specified above.

(c) If neither Party takes exception to the Primary Laboratory's analysis results within fifteen (15) Days after receipt of the analysis results, those analysis results shall be deemed conclusive and binding on the Parties.

(d) Provided that the fifteen (15) Days set forth in **subsection 10.2(c)** have not elapsed, either Buyers or Seller may challenge the Primary Laboratory's analysis results in accordance with the rules set forth below (a "Challenge"):

(i) A Challenge shall be made when one Party sends a written notice to the other. When a Challenge is made, Buyers will direct the Primary Laboratory to check its reported analysis by looking for reporting errors and/or re-running the analysis from the first part of the original sample. The Primary Laboratory will either confirm the original analysis results or issue a revised report in accordance with the Primary Laboratory's own quality control procedures and laboratory practices.

(ii) Either Buyers or Seller may challenge the results of **subsection 10.2(d)(i)**, and the Administrative Committee will then choose a second laboratory ("Referee Laboratory") for purposes of performing on the Referee Sample the same analysis required of the Primary Laboratory under **subsection 10.2(b)** for the first part of the sample. The Party challenging the analysis results reached under **subsection 10.2(d)(i)** shall bear all costs of shipping and analysis of the Referee Sample, which in the case of Seller shall not be included in any cost used to determine the Price under this CPSA. The Referee Laboratory shall promptly send its analysis results to both Buyers and Seller, which analysis results shall not be subject to further review, shall be deemed correct, and shall become the analysis results of record.

(e) As soon as practicable after the end of each Year, the weighted average heat content, in Btu per pound (a.r.), of coal delivered under this CPSA for that Year shall be computed by Buyers and Seller from the analysis results issued by the Primary Laboratory or the Referee Laboratory, as the case may be, during such Year, and the weighted average heat content, so computed, shall be deemed to be the average heat content of the coal deliveries made during that Year.

10.3 Coal Size, Quality, and Price Reductions. Seller guarantees the following, subject to the limitations set forth in this *subsection 10.3*:

(a) The coal delivered under this CPSA shall be of sub-bituminous rank, and shall further be unwashed, undried and untreated by oil or other chemical agents, unless such additional preparation is mutually agreed upon by the Parties, and shall be free of foreign matter and hazardous materials.

(b) Although coal to be sold and delivered under this CPSA has inherent qualities which cannot be changed, Seller will make all commercially reasonable efforts to produce coal in a manner that does not degrade such inherent qualities and which shall be generally free of overburden, underclay and other non-intrinsic material which can be kept out or removed by Seller exercising reasonable care during mining, processing and loading of the coal so as to produce the highest heat content coal reasonable under each Approved AOP, and that meets the specifications set forth in this *Article 10*.

(c) The coal shall be 1 1/2 x 0 inch size with a maximum 10% oversize, but no pieces shall be larger than three inches (3") in any dimension.

(d) The coal delivered from Area D shall meet the following specifications (the "Area D Specifications"):

Maximum moisture content (a.r.)	30.00%
Maximum Daily ash content (a.r.)	9.35%
Maximum Daily sulfur content (a.r.)	0.85%
Maximum sodium oxide content (as a % of ash):	
15 Delivery Day rolling weighted average	0.90%
Daily average	1.25%
Minimum heat content (Btu per pound, (a.r.))	8,300
Minimum ash fusion temperatures, °F in reducing atmosphere:	
Initial Deformation	2,010
Softening	2,060
Fluid	2,100
Minimum grindability (Hardgrove)	48
Minimum volatile matter content (a.r.)	26.50%

(e) The quality of coal from Area D for each Delivery Day will be the average (weighted by Tons) of all analytical results from all samples obtained on each shift of such Delivery Day, as described in *subsection 10.2(a)* above.

(f) In addition to other remedies provided for in this *Article 10*, should the coal received from Area D on any Delivery Day fail to conform to any of the Area D Specifications for maximum moisture content, minimum ash fusion temperature, minimum grindability, or minimum volatile matter content set forth in *subsection 10.3(d)*, and Buyers determine in good faith that the coal is causing or is likely to cause

operational problems at the Plant, then Buyers may immediately notify Seller and defer any further shipments of coal hereunder until Buyers and Seller are able to address the Plant operational or coal quality issues. Any such deferral of coal deliveries shall not affect the annual Tonnage obligation under any Approved AOP.

(g) Should the coal received from Area D fail to conform to (i) any of the maximum Area D Specifications for any single Daily average for ash content, sulfur content, or sodium oxide content as set forth in *subsection 10.3(d)* for any Delivery Day or (ii) any of the Area D Specifications for minimum heat content, maximum moisture content, minimum ash fusion temperature, minimum grindability, or minimum volatile matter content specifications set forth in *subsection 10.3(d)* when weight averaged over a thirty (30) day period, then Buyers may suspend acceptance of any further shipments of coal hereunder until they receive reasonable assurance from the Seller that future deliveries will conform to the specifications. During such suspension period, if required by Buyers to maintain the integrity of Plant operation, Seller shall supply Buyers with the quality and quantity of coal required under this CPSA from other sources, at no increased price to Buyers over the Price for coal under this CPSA during the prior Month.

(h) In addition to the actions provided for in *subsections 10.3(f) and 10.3(g)*, should the coal received from Area D fail to conform to any of the maximum Area D Specifications for any Delivery Day for ash content (9.35%), sulfur content (0.85%), or sodium oxide content (1.25%) set forth in *subsection 10.3(d)*, then the Price for each Ton of coal delivered on each such Delivery Day shall be reduced by \$0.50 per Ton for each quality parameter exceeded.

(i) Should the coal received from Area D on any Delivery Day contain an ash content that exceeds 9.20% but is 9.35% or less, then the Price for each Ton of coal delivered on each such Delivery Day shall be reduced by \$0.25 per Ton.

(j) Should the coal received from Area D on any Delivery Day contain an ash content that exceeds 9.10% but is 9.20% or less, or a sulfur content that exceeds 0.80% but is 0.85% or less, then the Price for each Ton of coal delivered on each such Delivery Day shall be reduced by \$0.10 per Ton for each quality parameter exceeded.

(k) With respect to coal received from Area D, in addition to the actions provided for in *subsection 10.3(h)*, if the rolling weighted average sodium oxide content for any period of fifteen (15) consecutive Delivery Days exceeds 0.90%, then the Price for each Ton of coal delivered on each Delivery Day during such period (excluding each Delivery Day where the weighted average sodium oxide content did not exceed 0.90%) shall be reduced by an amount per Ton, such amounts set forth not being cumulative, determined in accordance with the following table based upon the rolling weighted average sodium oxide content of coal delivered during the applicable fifteen (15) Delivery Day period. Example calculations are provided in *Exhibit 8* hereto.

Weighted Average Sodium Oxide Content	Price Reduction
Greater than 0.90% to and including 0.95%	\$0.10 per Ton
Greater than 0.95% to and including 1.00%	\$0.20 per Ton
Greater than 1.00%	\$0.30 per Ton

(l) The coal delivered from Area A and Area B shall meet the following specifications (the "Area AB Specifications"):

Maximum moisture content (a.r.)	30.00%
Maximum Daily ash content (a.r.)	10.75%
Maximum Daily sulfur content (a.r.)	0.85%
Maximum sodium oxide content (as a % of ash)	
10 Delivery Day rolling weighted average	0.85%
Daily average	1.00%
Minimum heat content (Btu per pound, (a.r.))	8,300
Minimum ash fusion temperatures, °F in reducing atmosphere:	
Initial Deformation	2,010
Softening	2,060
Fluid	2,100
Minimum grindability (Hardgrove)	48
Minimum volatile matter content (a.r.)	26.50%

(m) For each Delivery Day in which coal is only delivered from Area A, the quality of coal will be the average (weighted by Tons) of all analytical results from all samples on each shift of such Delivery Day, as described in *subsection 10.2(a)*. For each Delivery Day in which coal is only delivered from Area B, the quality of coal will be the average (weighted by Tons) of all analytical results from all samples on each shift of such Delivery Day, as described in *subsection 10.2(a)*. For each Delivery Day in which coal is delivered from Area A and Area B, the quality of coal will be the average (weighted by Tons) of all analytical results from all samples on each shift of such Delivery Day, as described in *subsection 10.2(a)*. The quality of coal as determined by this *subsection 10.3(m)* shall be referred to as the "Area A-Area B Coal Quality."

(n) In addition to other remedies provided for in this *Article 10*, should the Area A-Area B Coal Quality on any Delivery Day fail to conform to any of the Area AB Specifications for maximum moisture content, minimum ash fusion temperature, minimum grindability, or minimum volatile matter content set forth in *subsection 10.3(l)*, and Buyers determine in good faith that the coal is causing or is likely to cause operational problems at the Plant, then Buyers may immediately notify Seller and defer any further shipments of coal hereunder until Buyers and Seller are able to address the Plant, operational or coal quality issues. Any such deferral of coal deliveries shall not affect the annual Tonnage obligation under any Approved AOP.

(o) Should the Area A-Area B Coal Quality fail to conform to (i) any of the maximum Area AB Specifications for any single Daily average for ash content, for sulfur content, or for sodium oxide content as set forth in **subsection 10.3(l)** for any Delivery Day or (ii) any of the minimum heat content, maximum moisture content, minimum ash fusion temperature, minimum grindability, or minimum volatile matter content specifications as set forth in **subsection 10.3(l)** when averaged over a thirty (30) day period, then Buyers may suspend acceptance of any further shipments of coal hereunder until they receive reasonable assurance from the Seller that future deliveries will conform to the specifications. During such suspension period, if required by Buyers to maintain integrity of Plant operation, Seller shall supply Buyers with the quality and quantity of coal required under this CPSA from other sources at no increased price to Buyers over the Price for coal under this CPSA during the prior Month.

(p) In addition to the actions provided for in **subsections 10.3(n) and 10.3(o)**, should the Area A-Area B Coal Quality fail to conform to any of the maximum Area AB Specifications for any Delivery Day for ash content (10.75%), sulfur content (0.85%), or sodium oxide content (1.00%) set forth in **subsection 10.3(l)**, then the Price for each Ton of coal delivered on any such Delivery Day shall be reduced by \$0.50 per Ton for each quality parameter exceeded.

(q) Should the Area A-Area B Coal Quality on any Delivery Day contain an ash content that exceeds 10.50% but is 10.75% or less, then the Price for each Ton of coal delivered on any such Delivery Day shall be reduced by \$0.25 per Ton.

(r) Should the Area A-Area B Coal Quality on any Delivery Day contain an ash content that exceeds 10.20% but is 10.50% or less, or a sulfur content that exceeds 0.80% but is 0.85% or less, then the Price for each Ton of coal delivered on any such Delivery Day shall be reduced by \$0.10 per Ton for each parameter exceeded.

(s) With respect to Area A-Area B Coal Quality, in addition to the actions provided for in **subsection 10.3(p)**, if the rolling weighted average sodium oxide content for any period of ten (10) consecutive Delivery Days exceeds 0.85%, then the Price for each Ton of coal delivered on each Delivery Day during such period (excluding each Delivery Day where the weighted average sodium oxide content did not exceed 0.85%) shall be reduced by an amount per Ton, such amounts set forth not being cumulative, determined in accordance with the following table based upon the rolling weighted average sodium oxide content of coal delivered during the applicable ten (10) Delivery Day period. Example calculations are provided in **Exhibit 8** hereto.

Weighted Average Sodium Oxide Content	Price Reduction
Greater than 0.85% to and including 0.90%	\$0.10 per Ton
Greater than 0.90% to and including 0.95%	\$0.20 per Ton
Greater than 0.95%	\$0.30 per Ton

(t) The Price reductions set forth in *subsections 10.3(h), 10.3(i), 10.3(j), 10.3(k), 10.3(p), 10.3(q), 10.3(r), and 10.3(s)*, concerning different quality parameters, are cumulative; provided, however, the total of all such Price reductions shall not exceed one dollar and fifty cents (\$1.50) per Ton. Buyers shall invoice or otherwise give Seller written notice of any Price reduction claimed within sixty (60) Days of receipt of the analysis of record for the coal for which a Price reduction is claimed. Notwithstanding the rolling nature of the applicable delivery periods under *subsections 10.3(k) and 10.3(s)*, the price reduction under each such subsection shall be determined and applied only once for each Day. If any Day is included in more than one period of fifteen (15) or ten (10) Days (as the case may be) where the rolling average sodium oxide content exceeds the applicable threshold specified in *subsection 10.3(k) or subsection 10.3(s)*, then Buyers may elect which period to use in the calculation of the applicable price reduction for such Day by issuing an invoice or other written notice to Seller stating such election; provided that once Buyers invoice or otherwise notify Seller of any such election under *subsection 10.3(k) or subsection 10.3(s)* for any Day, Buyers may not thereafter change such election for such Day. The amount of any Price reduction paid to or otherwise credited against any payment due from Buyers to Seller shall not be included as a cost in the determination of Price under *Article 7*.

10.4 Quality Specifications for Combined Areas. As shown in the General Mining Plan and Sequence, the Parties currently contemplate that the coal delivered to the Plant during the transition from Area D to Area A and Area B, currently anticipated to occur in 2012, will be comprised of a combination of deliveries from Area D and from Area B and Area A. For this transition period, the specifications in effect for coal delivered will be a weighted average, on a Month by Month basis, according to the Tonnage of coal expected to be delivered from each Area, as determined by the Approved AOP established immediately prior to such transition period.

ARTICLE 11 FORCE MAJEURE

11.1 Force Majeure Defined. The term "force majeure" shall mean acts of God, legislation or regulations of any governmental body, court orders, acts of the public enemy, riots, strikes, labor disputes, labor or material shortages, fires, explosions, floods, breakdowns of or damage to plants, mines, transmission lines, equipment or facilities, interruptions in transportation, embargoes, or other causes of a similar nature which wholly or partially prevent delivery of the coal by Seller, the receiving or consuming of the coal by Buyers, or the operation of Buyers' Plant; provided however, that a claimed force majeure must be proximately caused by causes beyond the reasonable control of the Party claiming force majeure and without that Party's fault or negligence.

11.2 Effects of Force Majeure and Procedures. Subject to *Article 12*, if, because of force majeure, a Party shall be unable to carry out any of its obligations under this CPSA, then the obligations of such Party shall be suspended to the extent made necessary by such force majeure.

(a) The Party or Parties claiming force majeure shall give notice to the other Party or Parties as promptly as practicable, but in no case later than five (5) Days following the inception of the force majeure, of the nature and probable duration of the force majeure. Buyers must act jointly to give notice of force majeure.

(b) The Party or Parties claiming force majeure must provide daily updates (except when the Administrative Committee agrees that less frequent updates are permissible) to the other Party or Parties concerning the status of the force majeure and anticipated lifting of the force majeure.

(c) The Party or Parties claiming force majeure shall exercise due diligence to remove such force majeure with all reasonable speed and effort, while minimizing costs.

(d) Nothing in this *Article 11* shall be deemed to require any Party to settle any strike or labor dispute in which it may be involved.

11.3 Fixed Costs During Force Majeure. Subject to *subsection 11.4*, notwithstanding a force majeure that affects the number of Tons of coal that Seller is able to deliver to Buyers or Buyers are able to accept from Seller, Buyers shall continue to be responsible to pay to Seller's Fixed Costs pursuant to *subsection 7.4*.

11.4 Buyers' Right to Purchase Coal During Force Majeure. If Seller experiences a force majeure and Buyers reasonably determine, subject to Seller's right to challenge this determination as an Expedited Dispute under *subsection 13.3*, based on the information available to them, that the force majeure will be of such duration and/or severity that Plant operations would be put in jeopardy, then:

(a) Buyers shall have the right to obtain coal for the Plant from other sources of supply in such quantities and for such durations as Buyers reasonably determine necessary to maintain Plant operations in light of Seller's force majeure,

(b) upon Buyers' receipt of the first shipment of coal from such other sources, Buyers shall be relieved of any obligation to pay Seller's Fixed Costs during the period that Buyers are receiving coal from such other sources; provided, however, that if Buyers continue to receive reduced quantities of coal from Seller during such force majeure, Buyers' obligation to pay Fixed Costs shall be reduced to take into account the reduced quantities, and

(c) upon the conclusion of the force majeure event and Buyers' resumption of purchases of coal from Seller hereunder, Buyers shall resume payment of Seller's Fixed Costs; provided, however, that Buyers shall not be required to make-up any Fixed Costs that were not made pursuant to the provisions of this *subsection 11.4(c)*.

ARTICLE 12
PLANT INOPERABILITY

12.1 Plant Inoperability for Reasons Other than an Environmental Change. If Buyers collectively determine that the Plant has been rendered inoperable as the result of physical damage, and have notified Seller in writing of their reasonable decision not to restore or rebuild the Plant or otherwise make it operable, or if Buyers reasonably determine that, for reasons excluding those set forth in *subsection 12.2*, further operation of the Plant has been rendered commercially impracticable or unlawful because of legislation or regulation of any governmental body, court order or other causes of a similar nature, and Buyers so inform Seller in writing, then Seller's obligations to deliver and Buyers' obligation to take and pay for coal shall terminate as of the date provided in the notice, but in no event sooner than one Year prior to the date that the Plant becomes inoperable, or that its operations become commercially impracticable or unlawful; provided, however, that the Buyers shall be liable to Seller for any loss (defined as all costs of demobilization of all or that portion of the Dedicated Reserves, management, and operations committed to performance under this CPSA, but excluding loss of any Management Fees or Annual Incentive Fees otherwise payable under this CPSA) sustained by Seller as a result of such termination of deliveries, provided that Seller shall use all reasonable efforts to minimize and mitigate such losses. Buyers further will pay the Seller the undepreciated balance of Seller's capital investment associated with the CPSA, less salvage value of equipment and less any value of equipment that continues beyond the Term to be utilized by Seller to produce coal for sale to third parties.

12.2 Commercial Impracticability Because of Environmental Change. If the enactment of environmental rules or regulations during the Term, including modification(s), amendment(s) or reinterpretation(s) of existing rules or regulations (an "Environmental Change"), adversely affect the use at the Plant of coal delivered under this CPSA, the following provisions shall apply:

(a) Buyers shall use commercially practicable and technically reasonable efforts to minimize and mitigate the effects of such Environmental Change, provided however, that if Buyers determine that the Environmental Change has rendered further operation of the Plant commercially impracticable or unlawful, and Buyers so inform Seller in writing, then Seller's obligations to deliver and Buyers' obligation to take and pay for coal shall terminate as of the date provided in the notice, but in no event sooner than one Year prior to the effective date of the Environmental Change; provided, however, that the Buyers shall be liable to Seller for any loss (defined as all costs of demobilization of all or that portion of the Dedicated Reserves, management, and operations committed to performance under this CPSA, but excluding loss of any Management Fees or Annual Incentive Fees otherwise payable under this CPSA) sustained by Seller as a result of such termination of deliveries, provided that Seller shall use all reasonable efforts to minimize and mitigate such losses. Buyers further will pay the Seller the undepreciated balance of Seller's capital investment associated with the CPSA, less salvage value of equipment and less any value of equipment that continues beyond the Term to be utilized by Seller to produce coal for sale to third parties.

(b) If Buyers determine that the Environmental Change has made or could make the continued, long-term use at the Plant of coal as delivered under this CPSA commercially impracticable, but that the Plant otherwise remains operable both as a matter of law and commercial practicability, Buyers shall promptly notify Seller in writing of the coal quality specifications under *Article 10* or otherwise that are affected by the Environmental Change, and of the minimum change(s), including any addition(s), to such specifications ("New Specifications"), as determined in Buyers' sole, good faith discretion, that are necessary to comply with the Environmental Change. Thereafter:

(i) Upon Buyers' tender to the Seller of the New Specifications, Seller shall consider and evaluate what steps, if any, can be taken in the mining and preparation of coal prior to shipment to meet such New Specifications.

(ii) If Seller determines that it is unable to make commercially practicable and technically reasonable changes in its mining or preparation of coal needed to meet the New Specifications, Seller shall, within sixty (60) Days of the date of Buyers' tender of the New Specifications, so notify Buyers ("Seller's Notice of Inability to Comply"). Subject to Buyers' right, pursuant to *subsection 12.3*, to challenge Seller's Notice of Inability to Comply, this CPSA shall terminate at such time as Buyers determine, but in no event sooner than one Year prior to the effective date of the Environmental Change. In the event of such termination, Buyers will pay to Seller the undepreciated balance of Seller's capital investment associated with the CPSA, less salvage value of equipment and less any value of equipment that continues beyond the Term to be utilized by Seller to produce coal for sale to third parties.

(iii) If Seller determines that it is able to make commercially practicable and technically reasonable changes in its mining or preparation of coal to meet the New Specifications, Seller shall calculate the costs ("Increased Costs"), if any, anticipated by the Seller as a result of meeting the New Specifications, and shall present the Increased Costs, including underlying calculations, to Buyers within sixty (60) Days after Buyers' tender of the New Specifications.

(iv) After review of the Increased Costs, Buyers shall, at their sole option, elect whether to pay such Increased Costs as part of the Price, and shall notify Seller of their decision within thirty (30) Days after receipt of the Increased Costs.

(v) If Buyers elect to pay the Increased Costs, then *Article 10* shall immediately be amended to reflect the New Specifications, and *Article 7* shall immediately be amended to reflect the new Price. The New Specifications will become effective no sooner than six (6) Months prior to the effective date of the Environmental Change.

(vi) If Buyers elect not to pay the Increased Costs, Seller may, in its sole discretion, elect to meet the New Specifications without Buyers' payment of the Increased Costs, and shall inform Buyers of such election within thirty (30) Days of the notice given under *subsection 12.2(b)(iv)*. If Seller does not so elect, or remains silent, then this CPSA shall terminate at such time as Buyers determine, but in no event sooner than one Year prior to the effective date of the Environmental Change. In the event of such termination, Buyers will pay to Seller the undepreciated balance of Seller's capital investment associated with the CPSA, less salvage value of equipment and less any value of equipment that continues beyond the Term to be utilized by Seller to produce coal for sale to third parties.

(vii) If Buyers agree to pay the Increased Costs, and the Environmental Change is later repealed, the coal quality specifications and the Price shall revert to the original terms of this CPSA as they existed prior to the Environmental Change.

(viii) If Buyers agree to pay the Increased Costs, and the Environmental Change is later amended or followed by new such changes such that Seller's coal can be burned at the Plant with fewer restrictions, the Administrative Committee shall meet and decide on a new Price and corresponding coal quality specifications, if applicable.

(ix) If Buyers agree to pay the Increased Costs, and the initial Environmental Change is later amended or followed by a new change that further restricts the use of Seller's coal, the Parties shall treat the amendment or change as a new Environmental Change, and this *subsection 12.2* shall apply.

(c) If the CPSA terminates as a result of actions under either *subsection 12.2(b)(ii)* or *subsection 12.2(b)(vi)*, then Buyers shall have the right to enter into a new coal supply agreement(s) with third party suppliers, provided that such new coal supply agreement(s) must be consistent with the New Specifications, and Seller shall have the right of first refusal ("Seller's Right of First Refusal") for a period of five (5) years after the termination of the CPSA, upon the following terms and conditions:

(i) Buyers shall provide written notice to Seller of Buyers' intention to enter into a coal supply agreement that replaces all or part of the coal that would have been purchased from Seller under the CPSA for the Plant, but for the termination of the CPSA, which notice shall include the salient terms of any new coal purchase agreement;

(ii) Within thirty (30) days after Seller's receipt of the notice identified in *subsection 12.2(c)(i)*, Seller shall have the right to elect to sell to Buyers coal of the quality and quantity set forth in the notice, upon terms no less favorable than those set forth in the notice;

(iii) If Seller elects to sell coal to Buyers under *subsection 12.2(c)(ii)*, then Seller and Buyers shall in good faith negotiate and execute a new coal purchase agreement upon terms no less favorable than those set forth in the notice, taking into account termination payments already made pursuant to *subsections 12.1 and 12.2(a)*.

(iv) If Seller elects not to sell coal to Buyers under *subsection 12.2(c)(ii)*, then Seller's rights under the Seller's Right of First Refusal shall continue in full force and effect as to subsequent coal purchases by Buyers for the balance of the five (5) year period identified in *subsection 12.2(c)*.

12.3 Dispute Resolution. Resolution of any dispute under *Article 12* shall not be resolved as an Expedited Dispute, but shall be left to the other dispute resolution procedures of this CPSA.

ARTICLE 13 RESOLUTION OF DISPUTES

13.1 General. Except where circumstances make it impracticable to do so, or a Party reasonably believes that it would be futile to do so, the Parties shall first resort to the Administrative Committee for a resolution of any dispute that arises under this CPSA. If a Party reasonably believes that the Administrative Committee has not resolved or cannot resolve the dispute, the Party's Representative may provide a written notice of dispute to the Administrative Committee. Within ten (10) Days of the receipt of the written notice of the dispute, the dispute shall be referred to the Officers for resolution. If the Officers do not resolve the dispute within an additional ten (10) Days from the date the dispute was referred to them, the matter shall be resolved in accordance with the Expedited Dispute procedures of *subsection 13.3*, or in accordance with the litigation and arbitration procedures of *subsection 13.4*, as is appropriate.

13.2 Board of Independent Experts. Prior to April 1, 2009, the Administrative Committee shall develop and maintain a list of the names of nine (9) natural persons, grouped equally (three (3) of each), into Mining Experts, Accounting Experts, and Legal Experts, for inclusion on a board of independent experts ("Board of Experts"). These Independent Experts shall be neutrals and shall not then be employed by or have any current business or professional relationship with any of the Parties.

13.3 Expedited Disputes.

(a) An "Expedited Dispute" shall mean a dispute involving an amount of one million dollars (\$1,000,000) or less, excluding all applicable interest, taxes and royalties and related costs, and shall further mean those disputes identified as Expedited Disputes elsewhere in this CPSA. All Expedited Disputes shall be resolved by "Baseball Arbitration," meaning that Buyers (acting jointly) and Seller shall submit their respective positions to the Independent Expert(s), whereupon the Independent Expert(s) will resolve the dispute by selecting either the Buyers' position or Seller's.

(b) In the event that the Officers do not resolve a dispute within the ten (10) Days allotted under *subsection 13.1* above, and the dispute qualifies as an Expedited

Dispute, Seller's Representative or Buyers' Representatives may initiate proceedings to resolve the Expedited Dispute by submission to an independent expert by providing written notice to the other Parties' Representatives.

(c) Within twenty (20) Days of such notice, the Administrative Committee shall select a member from the Board of Experts ("Independent Expert") to resolve the Expedited Dispute, as follows:

(i) If the dispute involves mine planning, operations, labor, mine equipment requirements or civil projects, the Independent Expert shall be chosen from the three (3) Mining Experts.

(ii) If the dispute involves only accounting issues, the Independent Expert shall be chosen from the three (3) Accounting Experts.

(iii) If the dispute involves only legal issues, the Independent Expert shall be chosen from the three (3) Legal Experts.

(iv) If the dispute involves a combination of the foregoing issues, the Independent Expert shall be chosen from the three Mining Experts, who may seek advice from accountants and/or lawyers of his or her choosing, at the expense of the Parties, and rely upon such advice in rendering a decision.

(d) If the Administrative Committee fails to agree on the selection of the Independent Expert within the allotted time, the Parties, beginning with Seller's Representative, shall each strike one name from the three available for the appropriate field of expertise, and the remaining name shall be the Independent Expert.

(e) Within ten (10) Days of the Independent Expert's selection under *subsection 13.3(c) or (d)*, each Party shall submit such written documentation to the Independent Expert as that Party deems fit to support its side of the dispute, with copies to the other Party.

(f) Either Buyers' Representatives or Seller's Representative may request a hearing to present oral argument to the Independent Expert, which request the Independent Expert may grant or deny. If the request is granted, the following rules shall apply:

(i) The hearing must be scheduled on a date acceptable to the Parties, but no later than twenty (20) Days from the date the Independent Expert is selected;

(ii) The hearing shall take place at a place mutually agreeable to the Parties and Independent Expert; and

(iii) Seller shall have one-half of the total hearing time (as determined by the Independent Expert) to make its presentations, and Buyers shall share the other half.

(g) The Independent Expert shall render a written decision no later than ten (10) Days after the conclusion of a hearing, if one is held, or the Independent Expert's receipt of the information required under **subsection 13.3(e)**.

(h) Seller or Buyers may take a dispute directly to arbitration or litigation under **subsection 13.4** notwithstanding that the amount then in dispute is less than \$1,000,000 as computed under **subsection 13.3(a)**, if the dispute is not otherwise identified in this CPSA as an Expedited Dispute, and:

(i) the other Party consents, or

(ii) the Party seeking arbitration or litigation believes in good faith that (A) the dispute is likely to recur and the cumulative effect of multiple occurrences is likely to be greater than \$1,000,000; (B) the dispute involves an alleged material breach of an obligation under this CPSA and such breach, if not cured, is likely eventually to have financial consequences greater than \$1,000,000; or (C) the dispute involves an action or omission that could pose a violation of law or regulation, or could result in harm to an individual or the environment, or might cause irreparable damage of a type that is hard to quantify or estimate.

(i) If arbitration or litigation is brought pursuant to **subsection 13.3(h)(ii)**, the arbitration panel or court shall have the authority to determine if the dispute meets the requirements of such subsection, and, if such determination is unfavorable to the Party or Parties that initiated the arbitration or litigation, the dispute shall be resolved as an Expedited Dispute.

13.4 **Litigation and Arbitration.** Disputes that are not resolved pursuant to **subsection 13.1** or **subsection 13.3**, shall be resolved either by arbitration or by litigation, and if by arbitration, pursuant to the provisions of **subsection 13.6**. If any Party objects to arbitration, resolution must proceed through litigation; provided however, that nothing in this **subsection 13.4** shall be read to limit the power of a court to appoint a mediator or settlement judge or other official in connection with such litigation.

13.5 **Jurisdiction and Venue.** Provided that federal subject-matter jurisdiction exists (either federal question or diversity), all litigation arising under this CPSA shall be brought solely in the United States District Court for the District of Montana, sitting in Billings, Montana, and the Parties consent to the personal jurisdiction and venue of that court for such purposes. If such federal subject-matter jurisdiction does not exist, then litigation shall be brought only in the Thirteenth Judicial District Court for the State of Montana, Yellowstone County, sitting in Billings, Montana, and the Parties consent to the personal jurisdiction and venue of that court for such purposes.

13.6 **Procedures for Arbitration.** Except where this CPSA is inconsistent with such rules, arbitration under this CPSA shall be administered under the *Commercial Arbitration Rules and Mediation Procedures (Including Procedures for Large, Complex Commercial Disputes)* published by the American Arbitration Association, as the same may be amended from time to time.

(a) The Party desiring arbitration shall provide a written notice to the other Parties describing the dispute and stating the Party's request for relief, whereupon any other Party may, no later than ten (10) Days after receipt of the notice, object to arbitration, in which case the dispute shall be resolved by litigation.

(b) Any arbitration proceedings shall be conducted before a panel of three (3) arbitrators who will sit in Billings, Montana, to be selected as follows: if no Party timely objects to arbitration, Seller shall, within ten (10) Days after the expiration of the period to object to arbitration, nominate a partisan (non-neutral) arbitrator, and Buyers shall jointly nominate a partisan (non-neutral) arbitrator by this same deadline. These partisan arbitrators shall, within twenty (20) Days of the date that both have been named, select a third, neutral arbitrator. If the partisan arbitrators chosen by the Parties are unable to agree upon the nomination of the neutral arbitrator, the Parties shall apply to the Chief Judge of the United States District Court for the District of Montana to appoint the neutral.

(c) The award of the arbitrators shall be final and binding upon the Parties, and shall only be subject to review as set forth in *subsection 13.7*.

(d) Nothing in this CPSA shall be read to prohibit the Parties from attempting to mediate a dispute through any means agreeable to all Parties, including under the Commercial Mediation Procedures referenced in this *subsection 13.6*.

13.7 Review of Arbitration Awards and Decisions of the Independent Expert.
Review of arbitration awards under this CPSA and decisions of the Independent Expert (in the case of Expedited Disputes) shall be governed by the Federal Arbitration Act.

13.8 Enforcement of Arbitration Awards and Decisions of the Independent Expert.
Arbitration awards and decisions of the Independent Expert under this CPSA may be recognized and enforced in any court of competent jurisdiction. The Parties submit to the non-exclusive personal jurisdiction and venue of the United States District Court for the District of Montana, sitting in Billings, Montana, and the Thirteenth Judicial District Court for the State of Montana, Yellowstone County, sitting in Billings, Montana, for the purpose of proceedings to enforce an arbitration award or decision of the Independent Expert (including, where appropriate, proceedings seeking injunctive relief in connection with arbitration proceedings or proceedings before the Independent Expert).

13.9 No Power to Amend the CPSA. Neither the Independent Expert nor arbitrators shall have any power to modify the terms of this CPSA.

13.10 Costs (Excluding Attorneys' Fees) of Expedited Disputes, Arbitration, and Litigation.

(a) The Parties shall share equally all costs, including incidentals, of engaging the Independent Expert under *subsection 13.3(c)*.

(b) In the case of arbitration under *subsection 13.6*, Seller shall bear all costs of the arbitrator appointed by Seller, Buyers shall bear all costs of the arbitrator

appointed by Buyers, and the Parties shall share equally all costs, including incidentals, of the neutral arbitrator.

(c) Subject to *subsection 13.11*, all other costs, such as for deposition transcripts, witness travel, expert fees, and the like, incurred in connection with an Expedited Dispute or arbitration shall be borne by the Party that incurred them.

(d) Costs incurred in litigation shall be taxed according to the applicable rules of civil procedure.

(e) Seller's costs incurred in Expedited Disputes, arbitration and litigation shall not be a reimbursable cost under any Provision of this CPSA, but may be ordered reimbursed pursuant to *subsection 13.11*.

13.11 Attorneys' Fees. Each Party shall bear its own attorneys' fees incurred in any Expedited Dispute, arbitration or litigation, provided, however, that the Independent Expert, arbitration panel or court may, if it finds that the losing Party's or Parties' position was substantially unjustified by either the facts or the terms of the CPSA, require as part of its decision, award or judgment that the losing Party or Parties pay the attorneys' fees and/or costs, excluding costs shared under *subsections 13.10(a) and 13.10(b)*, reasonably incurred by the prevailing Party or Parties in connection with the Expedited Dispute, arbitration, or litigation.

13.12 Parties' Obligations While Dispute is Pending. The following rules shall govern the Parties' obligations while a dispute is pending under *Article 13*.

(a) If the dispute is over whether an AOP should be approved, the Parties' obligations during the dispute shall be governed by *subsection 5.8*.

(b) If the dispute concerns amounts owed to Seller under an Approved AOP, including disputes over costs charged by Seller under *subsection(s) 7.4 and 7.6* or proposed adjustments to fees under *subsection 7.13*, each Buyer shall elect either to pay Seller's invoices under *subsection 7.17* as if the disputed amount had been agreed upon, or withhold payment, until resolution of the dispute, of any invoice to the extent based upon the disputed portion of the invoice.

(i) If either Buyer pays a disputed amount and it is later determined that such amount was not due and payable, Seller shall immediately refund (or, at the affected Buyer's option, credit against future deliveries) the amount that was overpaid, together with Interest thereon from the date paid by such Buyer(s) until the date refunded or credited by Seller.

(ii) If either Buyer withholds any disputed amount and it is later determined that such amount was in fact properly due and payable, then such Buyer(s) shall immediately pay such amount to Seller, together with Interest thereon from the date such amount was due until the date paid.

(c) In the case of all other disputes, pending such dispute, Buyers shall make payments, and Seller shall make deliveries, in accordance with that Year's

Approved AOP, and Seller shall continue to operate and maintain the Dedicated Reserves in accordance with the existing Approved AOP, except to the extent required otherwise by law or regulatory authority or to address an Emergency pursuant to *Article 6*.

ARTICLE 14 WAIVERS AND REMEDIES

14.1 Non-Waiver. The failure of any Party to insist in any one or more instances upon strict performance of any of the provisions of this CPSA or to take advantage of its rights hereunder shall not be construed as a waiver of any such provisions or their relinquishment of any such right, but the same shall continue and remain in full force and effect.

14.2 Events of Default. In the event of the occurrence of one or more of the following events ("Events of Default") as respects one or more of the Parties, the other Parties shall have the rights set forth in *subsections 14.4 and 14.5* which rights shall be in addition to all other rights or remedies provided at law or in equity:

(a) A Party defaults in the performance of any of its obligations under this CPSA, which default adversely affects, or will adversely affect, either the delivery of coal by Seller to Buyers or the acceptance of coal by Buyers from Seller;

(b) A Party becomes insolvent, or becomes the subject of a petition in bankruptcy, either voluntarily or involuntarily, or of any other proceeding in the federal bankruptcy laws; or is named in, or Seller's Mine, buildings, equipment or other facilities, or Buyers' Plant, building, equipment or other facilities are subject to, a suit for an appointment of a receiver;

(c) A Party becomes delinquent in the performance of any material financial obligation (including, but not limited to, failure by a Buyer to pay for coal within twenty (20) Days after being notified by Seller that such payment is late), except to the extent any payment is in dispute pursuant to *Article 13* under this CPSA; or

(d) A Party commits an anticipatory breach of any of its obligations under this CPSA or any document, such as an AOP, entered into in connection with or under this CPSA.

14.3 Notification. Each Party who claims that an Event of Default has occurred shall promptly notify the other Parties of such Event of Default.

14.4 Buyers' Remedies. In the event Seller commits or suffers an Event of Default, Buyers shall have the right, provided that Buyers must act jointly except when seeking an award of damages, to any of the following remedies in any combination:

(a) to pay any financial obligations of Seller, except those obligations that Seller has in good faith disputed, and to recover the amounts of such payments from Seller or offset them against any amounts due from either Buyer to Seller;

(b) to require that Seller furnish evidence, in a form satisfactory to Buyers, of Seller's financial capability to perform its obligations under this CPSA;

(c) to seek actual damages in the form of a monetary award;

(d) to seek specific performance of Seller's obligations under this CPSA, in connection with which remedy Seller agrees and acknowledges that, until such time as Buyers construct a rail unloading facility, Buyers' Plant is wholly dependent on coal from the Dedicated Reserves;

(e) without in any way limiting any other remedy of Buyers set forth in this *subsection 14.4*, if Seller sells coal from the Dedicated Reserves to third parties other than as permitted under *subsection 2.8*, Buyers shall be entitled to an injunction stopping such sales, in addition to any other applicable remedies or relief available under this *subsection 14.4*.

(f) If and only if Seller commits or suffers an Event of Default which causes Buyers reasonably to believe that continued long-term operation of the Plant is in jeopardy, to cancel this CPSA and seek "cover" in accordance with the Uniform Commercial Code of New York; provided, however, that Seller shall have sixty (60) Days after notification of an Event of Default, or a reasonable time, if the Event of Default is not correctable within sixty (60) Days from such notice, to cure such Event of Default;

(g) If and only if Seller commits or suffers an Event of Default which causes Buyers reasonably to believe that continued long-term operation of the Plant is in jeopardy, including if necessary to protect their interests in the Dedicated Reserves, Buyers may at their option obtain an order of specific performance permitting the Buyers to:

(i) Request bids, in which efforts Seller will fully cooperate, from qualified contractors ("Independent Contractor"), including Buyers themselves or their designee(s), to operate in the Dedicated Reserves and to perform the obligations of Seller under this CPSA for the remainder of the Term, or for such period of time during which Buyers reasonably believe that continued operation of the Plant would be in jeopardy absent the use of an Independent Contractor to perform Seller's obligations, provided however, that:

(A) Buyers shall have sole discretion in deciding which, if any, bids to accept;

(B) Buyers may not seek damages from Seller as a result of any breach by the Independent Contractor of any term of this CPSA;

(C) Seller shall continue to have the obligation to perform all Base Reclamation and Final Reclamation associated with the mining operations conducted by Seller, and Seller shall continue to have the right to use the Final Reclamation Accrual to fund the costs of performing Final

Reclamation. The Independent Contractor shall have the obligation to perform all Base Reclamation and Final Reclamation related to its mining operations;

(D) The Independent Contractor shall conduct its operations as a "contract operator" under and in compliance with Seller's applicable mining permits and licenses, and shall not interfere with Seller's ongoing reclamation activities or other coal production and sales activities, and Seller shall cooperate with Buyers, and the Independent Contractor to have the Independent Contractor named as "a contract operator" under Seller's existing mining permits for mining of the Dedicated Reserves;

(E) With respect to mining and reclamation operations conducted by the Independent Contractor, the Independent Contractor will obtain its own separate performance bonds that name Seller as the secured party, which bonds shall be in an amount and upon terms and conditions mutually agreed to by Seller and Buyers;

(F) To the extent necessary to enable the Independent Contractor to carry out operations in the Dedicated Reserves and to the extent not needed by Seller to continue its Reclamation obligations, Seller shall provide its own equipment to the Independent Contractor at a fair market value rent;

(G) Seller shall have no obligation to provide any employees to Buyers or the Independent Contractor, and Buyers and the Independent Contractor shall conduct all operations in accordance with any applicable labor collective bargaining agreement, other labor agreements and all applicable regulatory permits and laws;

(H) Seller and Buyers will jointly cooperate with Seller's lenders, lessors, including mineral lessors, regulators, and/or any other party claiming a right in Seller's assets, or the power to direct the use or disposition of Seller's assets, to ensure proper transition to the use of the Independent Contractor; and

(I) Buyers' obligation to make payments of any kind under this CPSA shall cease upon the retention of the Independent Contractor, except for any amounts properly due and owing and any claims pending as of the date of retention of the Independent Contractor.

14.5 Seller's Remedies. In the event of any occurrence of any Event of Default by one or both Buyers as set forth and defined in **subsection 14.2**, Seller shall have the right to any of the following remedies in any combination:

(a) To require that the affected Buyer(s) furnish evidence, in a form satisfactory to Seller, of its financial capability to perform its obligations under this CPSA;

(b) To seek actual damages in the form of a monetary award;

(c) In the case of a material default by either Buyer, such as a bankruptcy, affecting that Buyer's ability to continue to perform its obligations under this CPSA, to seek the cancellation of this CPSA as to the defaulting Buyer and the right to all of Seller's remedies in accordance with the Uniform Commercial Code of New York, as modified by this CPSA, provided, however, that the defaulting Buyer shall have sixty (60) Days after a notice of default, or a reasonable time, if the default is not correctable within sixty (60) Days from the notice of default, to cure such default; and

(d) In the event that a Buyer fails to make payment to Seller on a proper invoice, Seller shall have the right, in addition to any and all other rights provided herein, to suspend all or any portion of subsequent scheduled shipments to the Plant for that Buyer until all outstanding invoices have been paid by that Buyer and until that Buyer has established an escrow account containing the equivalent of one Month's payment for coal for the benefit of Seller to at least partially cover any future event of non-payment, and the non-defaulting Buyer shall cooperate in providing notice to Seller of the amount of coal applicable to the defaulting Buyer; and

(e) Uncured default in payment(s) shall be taken into account in the determination of Seller's performance under this CPSA, including determination of the Annual Incentive Fee, Seller's ability to meet its financial obligations, and/or development of any subsequent AOP (i.e., the effects that cash deprivation could have on Seller's capital investment decisions and/or operations).

14.6 No Consequential or Punitive Damages. Regardless of anything in this CPSA which might be read to the contrary, under no circumstances shall consequential, indirect, exemplary or punitive damages be recoverable against any Party hereto arising from a breach of this CPSA.

14.7 Limitation on Claims. All claims for breach of the CPSA shall be brought pursuant to *Article 13* within three (3) Years of when such claim is first discovered or reasonably should have been discovered or such claim is waived.

14.8 Payment Bond. As of the Effective Date, Seller and Buyers have discussed the issue of Seller posting a bond that would ensure Buyers are paid damages, if any, caused by Seller's breach, if any, under this CPSA. While they have agreed that such a bond cannot currently be posted on conditions that would satisfy Buyers, Seller and Buyers agree further to discuss this issue after the Effective Date, provided however, that this *subsection 14.8* shall not be deemed to impose a binding obligation on either Seller or Buyers, other than that of conducting such discussions.

ARTICLE 15 SUCCESSORS AND ASSIGNS

15.1 Assignment. No Party may assign this CPSA or any rights or obligations hereunder in whole or in part without the prior written consent of the other Parties, which

consent shall not be unreasonably withheld or delayed; provided, however, that no such consent shall be required where assignment is:

- (a) To a successor-in-interest of either Buyer's interests in the Plant or individual units of the Plant;
- (b) To a successor-in-interest of a substantial part or all of the assets of such Party by way of merger, consolidation, sale of substantially all of its assets, divestiture pursuant to an order or decree of a court, or similar corporate reorganization;
- (c) To an affiliated corporate entity of similar or better financial standing; or
- (d) To a purchaser of the Plant in its entirety or the Dedicated Reserves in their entirety or an undivided interest in either of the Buyers.
- (e) No assignment of this CPSA, including those identified in *subsections 15.1(a) – (d)*, shall be effective unless and until the assignee has assumed in writing the obligations of the assignor under this CPSA and under any related agreements.

15.2 No Cost Increase for Seller Assignment. Any transfer or assignment to a third party transferee shall not directly result in an increase in any of the costs set forth in *Article 7* herein.

(a) Without limiting the generality of the foregoing, if as a direct result of any transfer or assignment, the third party transferee's costs for any of the items in *Article 7* are higher than Seller's costs for the same items, then the third party transferee shall absorb the difference in costs, and any adjustment thereafter in the Price, pursuant to *Article 7*, shall be based upon any subsequent changes in the third party transferee's costs;

(b) The assignee or transferee shall maintain the same depreciation basis and rates with respect to any transferred equipment as that maintained by Seller pursuant to *subsection 7.4(b)*, and shall absorb any increase in ad valorem or other taxes resulting from or based upon the assignment. Thereafter, any adjustments in the Price with respect to ad valorem or other taxes shall be based solely upon subsequent changes in such taxes.

ARTICLE 16 LAW GOVERNING CONSTRUCTION OF CPSA

In order to create greater certainty with respect to their legal rights and obligations under this CPSA, the Parties desire to adopt as the substantive law of this CPSA the law of a state which has highly developed commercial law and precedent and which is not the domicile of any of the Parties. The Parties therefore agree that this CPSA shall be subject to and governed by the substantive laws of the State of New York as though this CPSA were to be performed in full in the State of New York, but without giving effect to New York principles of conflicts of laws.

ARTICLE 17
NOTICES AND REPORTS

Any notice or other communication required or permitted under this CPSA shall be in writing and effective upon receipt if hand-delivered or sent by certified mail, postage pre-paid, return receipt requested, by commercial overnight delivery service, or by facsimile transmission (provided that a conforming copy is mailed the same Day, and any facsimile copy sent after 5:00 PM Mountain Time on a business Day, or on a day that is not a business day, shall not be effective until the next business Day).

If directed to Buyers, notices and other communications shall be sent to the following:

PPL EnergyPlus, LLC
Director-Coal Supply & Transportation
Two North Ninth Street (GENPL7)
Allentown, PA 18101-1179
Fax: (610) 774-5141

With a copy to

Office of General Counsel
Two North Ninth Street (GENTW3)
Allentown, PA 18101-1179
Fax: (610) 774-6726

and

Vice President, Project Development and Contract Management
Puget Sound Energy, Inc.
P.O. Box 97034
Bellevue, WA 98009-9734
Fax: (425) 462-3300

With a copy to

General Counsel
Puget Sound Energy, Inc.
P.O. Box 97034
Bellevue, WA 98009-9734
Fax: (425) 462-3300

If directed to Seller, notices and other communications shall be sent to the General Manager of Seller at:

General Manager – Rosebud Mine
Western Energy Company
P.O. Box 99
Colstrip, Montana 59323
Telefax #: (406) 748-5181

With a copy to:

Vice President – Sales & Marketing
Western Energy Company
2 North Cascade Ave., 14th Floor
Colorado Springs, CO 80903
Telefax #: (719) 448-5824

The Parties shall further designate to each other, in writing at the earliest time practicable after the Effective Date, the names and contact information for emergency representatives in the event of non-availability of the representatives named above. Either Party may change its contact information by giving written notice of such change to the other Party as above.

ARTICLE 18 RECORDS TO BE KEPT AND RIGHT TO AUDIT

18.1 Accurate and Satisfactory Records. Seller shall keep accurate and satisfactory records and books of account showing all costs, payments, price revisions, adjustments, credits, debits and all other data required for the purposes of this CPSA. Buyers shall have the right at all reasonable times, but in no event more than two (2) times per Year, to examine and audit, by Buyers' designated representatives, the records kept by Seller concerning this CPSA including all accounting and budgetary records related to the Term. Each of these records must be maintained through at least the first January 1st that falls five (5) Years after the date of the record's creation.

18.2 Policies. Buyers shall have the right to review any accounting and budgetary policies, procedures, and systems for implementation and administration of this CPSA, on no more than an annual basis. If Buyers believe that Seller's accounting policies and procedures are not consistent with GAAP and have an adverse effect upon the Buyers' ability to track and monitor the Variable Costs or the Fixed Costs, Buyers shall have the right to notify Seller of their findings. If Seller and Buyers do not thereafter agree on whether Seller's policies and procedures are consistent with GAAP, then either Seller or Buyers may submit such dispute to the Expedited Dispute process under *subsection 13.3*.

18.3 Financial Statements. Throughout the Term, Seller shall provide to Buyers the annual unaudited financial statements of Seller prepared in accordance with GAAP and Quarterly unaudited consolidated financial statements prepared in accordance with GAAP (subject to normal year-end adjustments and the omission of footnotes) within one hundred and twenty (120) Days after the end of each fiscal year and sixty (60) Days after the end of each fiscal Quarter, as applicable, and in each case fairly presenting the financial condition of the

Seller (which Seller hereby represents and warrants as such on the date provided) and certified by the chief financial officer of Seller. In addition, at Buyers' option, Seller shall additionally:

(a) Provide to Buyers the annual audited financial statements of Seller prepared in accordance with GAAP and Quarterly audited consolidated financial statements prepared in accordance with GAAP (subject to normal year-end adjustments and the omission of footnotes) within one hundred and twenty (120) Days after the end of each fiscal year and sixty (60) Days after the end of each fiscal Quarter, as applicable, and in each case fairly presenting the financial condition of the Seller (which Seller hereby represents and warrants as such on the date provided) and certified by the chief financial officer of Seller; provided, however, Buyers shall reimburse Seller for all costs and expenses associated in the preparation of such audited financial statements, if such audited financial statements are prepared specifically for Buyers; and/or

(b) Subject to a confidentiality agreement mutually acceptable to Seller and Buyers, which agreement shall identify the information such third party is permitted to provide to Buyers, Seller shall provide to an independent third party of Buyers' selection the annual audited financial statements of Seller's parent entity prepared in accordance with GAAP and Quarterly audited consolidated financial statements prepared in accordance with GAAP (subject to normal year-end adjustments and the omission of footnotes) within one hundred and twenty (120) Days after the end of each fiscal year and sixty (60) Days after the end of each fiscal Quarter, as applicable, and in each case fairly presenting the financial condition of the Seller (which Seller hereby represents and warrants as such on the date provided) and certified by the chief financial officer of Seller's parent.

18.4 Reasonable Efforts. Notwithstanding the time periods set forth in *subsection 18.3*, in the event that either Buyer is required by a regulatory authority or outside financial auditor to include the financial results of Seller in that Buyer's or its affiliate's consolidated financial statements, and the Buyer so notifies Seller in writing, Seller shall use reasonable efforts to provide to the Buyer, no later than five (5) Days after the end of each Quarter, draft income statements, cash flow statements, and such other information as is reasonably required by the regulator or outside auditor; provided, however, that Seller may submit, for the last month of the Quarter at issue, budgeted (as opposed to actual) information. Thus, if the regulator or outside auditor called for information for the fourth Quarter of 2010, Seller would supply, by January 5, 2011, a December statement based on actual results for November, but only the budget for December. Seller shall not be deemed to have made any representation or warranty as to such information and Seller shall not be held liable in the event that the draft quarterly or annual financial information diverges from the final unaudited or audited financial statements. Seller shall also use reasonable efforts to provide any financial information required by that Buyer to determine whether consolidation is required.

18.5 Survive Expiration. The rights granted Buyers in *subsection 18.1* shall survive the expiration of the Term.

**ARTICLE 19
COMPLIANCE**

Seller and Buyers shall substantially comply with all applicable laws and regulations in their respective performance of this CPSA. Seller shall operate the Dedicated Reserves as required by applicable laws.

**ARTICLE 20
SELLER'S WARRANTY OF LEASE AND PERMITS**

Seller warrants and represents that (i) it owns or controls the entirety of the Dedicated Reserves and has in place, and will use its best efforts to maintain in place through the Term, all required permits and authorities to mine and sell coal from the Dedicated Reserves through the Term, and (ii) it will deliver to Buyers pursuant to this CPSA only coal that it has the right to mine, sell and deliver.

**ARTICLE 21
WARRANTY DISCLAIMER**

SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE FITNESS OF THE COAL SUPPLIED HEREUNDER FOR A PARTICULAR PURPOSE AND DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS CPSA.

**ARTICLE 22
MISCELLANEOUS PROVISIONS**

22.1 Seller's Indemnity of Buyers. Subject to *subsection 14.6*, notwithstanding anything in this CPSA which might be read to the contrary,

(a) Seller shall defend, indemnify, and hold Buyers, their officers, employees and agents harmless from all liability and expense on account of any and all claims, damages or actions arising from Seller's actions under or related to this CPSA.

(b) Without limiting the generality of the foregoing, Seller's obligations under *subsection 22.1(a)* shall extend to all claims, damages or actions alleging that Buyers are liable as owners, operators, potentially responsible parties, or responsible parties, of the Dedicated Reserves or of any of Seller's facilities.

(c) The provisions of this *subsection 22.1* shall survive the expiration of the Term.

22.2 Buyers' Indemnity of Seller. Subject to *subsections 14.6 and 2.4(c)*, notwithstanding anything in this CPSA which might be read to the contrary,

(a) Buyers shall defend, indemnify, and hold Seller, its officers, employees and agents harmless from all liability and expense on account of any and all claims, damages or actions arising from Buyers' actions under or related to this CPSA.

(b) Without limiting the generality of the foregoing, Buyers' obligations under *subsection 22.2(a)* shall extend to all claims, damages or actions alleging that Seller is liable as owner, operator, potentially responsible party, or responsible party, of the Plant or of either Buyer.

(c) The provisions of this *subsection 22.2* shall survive the expiration of the Term.

22.3 Insurance. For each Year that an AOP is in effect, Seller shall provide to Buyers proof of commercial general liability insurance with coverage of \$2 million in the aggregate and \$1 million per occurrence, workers' compensation insurance as required by the State of Montana, and proof of such other insurance as requested and paid for by Buyers.

22.4 Several Liability. Liability of Buyers hereunder for payment of the Price and the performance of Buyers' other obligations is several, not joint. If there is a breach or default hereunder by either Buyer, the other Buyer shall have a right but not an obligation to perform for the breaching or defaulting Buyer, and Seller shall have no claim against the Buyer who is not in breach or default, and shall have no power to exercise remedies that adversely affect the Buyer that is not in breach or default.

22.5 Seller's Truck Dump Facility.

(a) Seller currently owns and operates a truck dump facility that is located adjacent to the Plant and which is utilized by Seller in the delivery of coal to the Plant (the "Truck Dump Facility"). Within one hundred and twenty (120) Days after the earlier of either (i) the termination of this CPSA, or (ii) Seller's cessation of use of the Truck Dump Facility for a continuous period of twelve (12) Months, Seller will convey to Buyers the Truck Dump Facility together with certain lands around and adjacent to the Truck Dump Facility, as further identified in *Exhibit 9* (such land and the Truck Dump Facility hereinafter referred to as the "Truck Dump Site"), for no further consideration to be paid by Buyers to Seller. Seller shall assign and convey to Buyers any and all ancillary rights that Seller holds with respect to the Truck Dump Facility and the Truck Dump Site, such as any easement agreement or encroachment agreements regarding the railroad facility that transects the Truck Dump Site.

(b) Prior to Seller's conveyance of the Truck Dump Site, Buyers will cooperate with Seller to obtain all necessary authorizations from state and federal regulatory agencies to amend Seller's Final Reclamation plan to designate the Truck Dump Site as "industrial use." Seller shall retain the right of reasonable access to the Truck Dump Site and the Truck Dump Facility, including any access required to perform any Final Reclamation on the Truck Dump Site, notwithstanding conveyance of title to Buyers, until such time as Seller obtains final bond release with respect to the facility and site.

(c) Seller's conveyance of the Truck Dump Site and Truck Dump Facility shall be without any expressed or implied warranties as to the title or physical condition of the Truck Dump Site and Truck Dump Facility. Buyers agree to accept the Truck

Dump Site and Truck Dump Facility with all improvements and structures in place, and Seller shall have no obligation, whatsoever, to remove or reclaim any such improvements or structures, except as required by Seller's mining permit and bonds. Seller's conveyance of the Truck Dump Site and Truck Dump Facility shall be pursuant to a Corporate Deed in substantially the form attached hereto as *Exhibit 10*.

(d) Buyers shall have the right to conduct all reasonable and prudent environmental studies and assessments of the Truck Dump Site, and shall have the right of reasonable access to the Truck Dump Site for conducting such studies and assessments. Buyers shall not be required to accept a conveyance of the Truck Dump Site if such environmental studies and assessments reveal that the site contains any hazardous or toxic environmental conditions that would require remediation by Buyers.

22.6 Entire Agreement. Except as expressly provided herein, this CPSA constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof. The Parties may agree, from time-to-time, to establish or modify Policies and Procedures to govern the implementation of this CPSA.

22.7 Further Assurances. The Parties shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this CPSA.

22.8 Amendments or Modifications. No amendment, modification, or change of this CPSA shall be binding upon the Parties unless and until such amendment, modification, or change is in writing and executed by the Parties hereto.

22.9 Severability. If any provision of this CPSA is determined, pursuant to the dispute resolution procedures set forth in *Article 13*, to be invalid, illegal, or unenforceable, such provision shall be considered severed from the rest of this CPSA, and the remaining provisions shall continue in full force and effect as if the invalid provision had not been included.

22.10 Construction. No understandings or agreements not expressly stated in this CPSA shall be binding on the Parties in the construction or fulfillment hereof unless such understandings or agreements are reduced to writing and signed by the Parties. Because the Parties and their respective counsel have jointly participated in the negotiation and drafting of this CPSA, any rules requiring ambiguities to be construed against the drafter shall not apply to this CPSA.

22.11 No Third-Party Beneficiaries. This CPSA is not intended to, and shall not, create rights, remedies, or any benefits of any character whatsoever, in favor of any person, corporations or other entities other than the Parties hereto, and the obligations herein assumed are for the use and benefit of the Parties, their successors in interest, and permitted assigns.

22.12 Remedies Cumulative. Except as expressly provided herein, each remedy provided for under this CPSA is cumulative and in addition to every other remedy provided for herein or available at law or equity.

22.13 Confidentiality. Except to the extent that such disclosure is required by law or court order or decision, the provisions of this CPSA and all proprietary information and data

provided hereunder by any Party, including but not limited to information concerning scheduled or unscheduled Plant outages affecting either Buyer, shall not be disclosed to or discussed with any persons other than the Parties hereto without the prior written consent of all Parties. Consent is hereby given for each Party to disclose such information and data to an affiliate of such Party, creditors, auditors, counsel, lending institutions, or government agencies, as may be required; and for Seller's ultimate parent company to make such public disclosure and filings as are required by the Securities Exchange Act of 1934, as amended, and regulations thereunder. This *subsection 22.13* shall survive the expiration of the Term.

22.14 Captions. The captions to the sections of this CPSA are for convenience of reference only, and shall not be taken or construed to define or limit any of the terms or provisions of this CPSA.

22.15 Relationship of the Parties. Nothing herein is intended to nor shall ever be construed to create a joint venture, partnership or any other type of association among the Parties, nor shall a Party have the right to act in behalf of or bind any other Party for any liability, cost, expense or undertaking except as set forth in this CPSA.

22.16 Recitals and Exhibits. The recitals set forth herein and exhibits attached hereto are fully incorporated into this CPSA.

22.17 Counterparts. This CPSA may be signed in counterparts, which, when taken together, shall constitute a single, binding document.

[The remainder of this page is left intentionally blank.]

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, have executed this CPSA as of the Effective Date.

WESTERN ENERGY COMPANY

By: Todd A. [Signature]
Its: Vice President - Marketing and Sales.

PPL MONTANA, LLC

By and through its agent: PPL EnergyPlus, LLC

By: _____

Its: _____

PUGET SOUND ENERGY, INC.

By: _____

Its: _____

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, have executed this CPSA as of the Effective Date.

WESTERN ENERGY COMPANY

By: _____

Its: _____

OFFICE OF
GENERAL COUNSEL
BY: [Signature]
DATE: 3/20/07

PPL MONTANA, LLC

By and through its agent: PPL EnergyPlus, LLC

By: [Signature]

Its: President

CREDIT
DEPARTMENT
BY: [Signature]
DATE: 3-20-07

PUGET SOUND ENERGY, INC.

By: _____

Its: _____

IN WITNESS WHEREOF, the Parties, through their duly authorized representatives, have executed this CPSA as of the Effective Date.

WESTERN ENERGY COMPANY

By: _____

Its: _____

PPL MONTANA, LLC

By and through its agent: PPL EnergyPlus, LLC

By: _____

Its: _____

PUGET SOUND ENERGY, INC.

By: _____

Its: _____

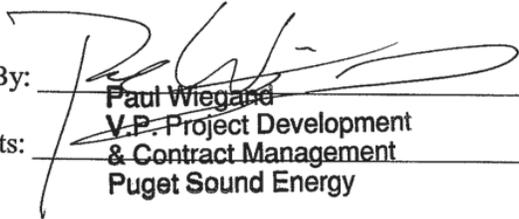

Paul Wiegand
V.P. Project Development
& Contract Management
Puget Sound Energy

EXHIBIT 1
Dedicated Reserves
Legal Descriptions

Area A

T1N, R40E
Section 1

T2N, R40E
Section 36

T1N, R41E
Sections 3, 4, 5, 6, 7, 8

T2N, R41E
Sections 28, 29, 30, 31, 32, 33, 34

County of Rosebud

Area B

T1N, R41E
Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 17, and 18

County of Rosebud

Area D

T2N, R41E, M.P.M.
Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36

T2N, R42E, M.P.M.
Sections 19, 29, and 30

County of Rosebud

Exhibit 2
Coal Purchase and Sale Agreement
GENERAL MINING PLAN AND SEQUENCE

This General Mining Plan and Sequence (“Plan”) has been developed and approved as described in **subsection 5.1** of the CPSA. The overriding goals of this Plan are “to first deplete Area D and then to transition to Areas A and B; the coal from which will be mined and blended in generally equal, pro rata amounts to best meet the quality requirements of **Article 10** for the longest period reasonably and economically possible.”

While this Plan is specific with regard to qualities and quantities of coal available, annual quantities of coal to be mined and sold, the mining sequence by and in each Area and the equipment and staffing resources to be employed, the Parties recognize this information is based on projections and that details herein may be subject to adjustment in an AOP but the operations would not vary materially from the “overriding goals” set forth above and in **subsection 5.1**.

The Plan may be amended by the Administrative Committee, as described in **subsection 5.2** of the CPSA “... if the actual conditions and circumstances materially vary from those conditions and circumstances upon which the original (or any subsequent) General Mining Plan and Sequence was predicated, such that a prudent mine operator would conclude that the General Mining Plan and Sequence no longer most effectively reflects the fundamental approach to mining the Dedicated Reserves...”

Information provided in this **Exhibit 2** to describe the Plan includes the following:

1. A Narrative describing mining objectives, sequences, and major assumptions used to develop the Plan.
2. Map of Area A & Area B “General Mining Plan & Sequence” (Map 1 of 4) and a map of Area D “General Mining Plan & Sequence Mine Plan” (Map 2 of 4) showing mining sequences by year of the Dedicated Reserves, permit boundaries, other relevant mining limits as of January 1, 2007, and Final Reclamation area projected for January 1, 2010 and at depletion of the Dedicated Reserves.
3. Map of Area A & Area D “General Mining Plan Lease & Ownership” (Map 3 of 4) and a map of Area D “General Mining Plan Lease & Ownership” (Map 4 of 4) showing mining limits, property control, and permit boundaries of the Dedicated Reserves.

4. General Mine Plan Summary Schedule (Table 1) showing projected tonnage, overburden yardage, prime ratio, and short proximate analysis of coal quality for each year of mining by Area, and estimated Variable Cost and Fixed Cost per Ton.
5. Capital Schedule (Table 2) showing the anticipated schedule for major equipment additions, replacement, re-builds, and other capitalized projects. The schedule includes projected equipment life.
6. Lease Control Through 2019 (Table 3) showing a summary of the lease control of the Dedicated Reserves.

All projections presented herein are based on the information known or foreseeable when the Plan was developed, and are not representations and warranties. Estimates included in future AOPs may differ from the projections included in the Plan. Nothing in this Exhibit 2 shall be deemed an amendment to the CPSA.

1. General Mining Plan and Sequence Narrative

The General Mining Plan and Sequence (Plan) for the CPSA was developed to provide the coal requirements of Colstrip Units 1 & 2 first from Area D until all of the reserves in Area D are projected to be mined out in 2012. Upon completion of mining in Area D, coal will be supplied from Areas A and B through the end of the contract. Mining sequences, as depicted in Maps 1 and 2 of *Exhibit 2*, were developed with the multiple goals of providing a consistent quality within the parameters set forth in *Article 10* while maintaining a logical mining progression. Although generally mining from low to high ratio, due to the variable terrain and timing requirements, strip ratios at any time during the Year may vary from yearly averages set forth in the Plan. Table 1 identifies estimated coal quality and quantities within the Plan.

GEOLOGY

Additional core drilling was performed in 2000 in Area D. Data obtained from the 2000 drilling program was interpreted by Pronghorn Geological Services. Computer grid models of the geology were prepared by Charles Rose and were used by Seller in preparing the Plan.

Additional core drilling was performed in 2001 in Area B. Data obtained from the 2001 drilling program was interpreted by Pronghorn Geological Services. Computer grid models of the geology were prepared by Seller's technical services personnel, and were used by Seller in preparing the Plan.

The original core drilling in Area A was supplemented by additional drilling in 2005 to provide more detailed coal quantity and quality information. Data obtained from the 2005 drilling program was interpreted by Pronghorn Geological Services. Computer grid models of the geology were prepared by Seller's technical services personnel in 2006 and were used in preparing the Plan.

MINING SEQUENCES

Methods and sequences of mining operations in Area D are a continuation of the current mining methods and sequences. Due to the limited reserves remaining in Area D, significant modifications to the current life of the Area D mine plan are not feasible.

Mining in Area B is initially focused on the eastern pits in Section 10 to provide a void for water storage. After completion of mining in Section 10, the short lower ratio pits in Section 9 are mined in conjunction with the remaining pits to the west. Water and related stability issues dictate the timing of mining in Section 9 as adjacent pits must first

be dewatered to alleviate these issues. The higher ratio pits in the central portion of Section 9 are scheduled later in the mine plan.

Mining in Area A alternates between the eastern and southwestern pits until an access road can be developed to the northern pits at the approximate location of the existing eastern pit. Upon completion of the access the northern pits will be added to the sequence. Mining then progresses to the higher ratio center of the Area.

In all Areas, topsoil removal is generally accomplished using scrapers hauling to stockpiles. Equipment such as excavators and articulated trucks may be used for topsoil removal and replacement in the future if cost effective. In the normal sequence, the acreage of topsoil removed is typically equal to the acreage of coal mined. Replacement of topsoil will fluctuate with the acreage available that meets the approved post mining topography. Fluctuations in the annual topsoil volumes will occur due to timing of mining and reclamation grading.

Overburden above the 180 foot depth is typically removed using end dump trucks loaded by a wheel loader or excavator. This operation may occur several months in advance of other overburden activities. Scrapers may occasionally be used to remove overburden above the 180 foot depth. Overburden between the 180 foot depth and the dragline bench, which is typically 70 to 90 feet above the coal, is scheduled to be moved with dozers or cast blasting. Other methods may be used depending upon terrain and equipment timing constraints. Draglines are scheduled to remove all overburden below the dragline bench with a dozer used to cut the highwall key.

The top of the coal seam is cleaned by removing the high sulfur/ash zone prior to mining using a grinder or loader. Wheel loaders and/or excavators are used to mine the coal seam. Coal from all Areas is scheduled to be hauled to the existing Area D Tipple for delivery to Colstrip Units 1 & 2. Coal to other customer(s) will be loaded at the Area D Tipple or A/B Tipple facility.

EQUIPMENT

Mobile equipment is assumed to be replaced or rebuilt at regular intervals throughout the life of the contract. Typical replacement life guidelines are listed on the Capital Schedule (Table 2). Equipment replacement will vary depending upon operating conditions and timing of repairs. Dozers are currently scheduled for one complete rebuild after 36,000 to 40,000 hours followed by replacement at 50,000 to 60,000 hours. Throughout the life of the CPSA, evaluation of the equipment replacement/rebuild schedules and equipment types best suited for the task will be ongoing, using a prudent miner standard.

Major equipment productivity used in developing the Plan areas follows:

Equipment	Productivity	Availability
8050 Dragline	2300 CY/Op Hr	85%
D-11R Dozer	650 BCY/Op Hr	80%
992G Loader & 100T Truck	800 BCY/Op Hr	80%
657E Scraper	250 BCY/Op Hr	75%
992G Loader & 120T Truck	1200 Tons/Op Hr	80%
D75KS Drill	200 Ft/Op Hr	80%

ESTIMATED COSTS

The cost estimates for the Plan are based on Seller's current Unit Cost Model ("the Model"). Variable Costs are estimated in the Model by applying projected costs per Ton or yard to the estimated quantities in the Plan. Current costs are modified to account for future conditions or to remove current anomalies. Variable Costs are defined in *subsection 7.6* of the CPSA. Fixed Costs, as defined in *subsection 7.4* of the CPSA, are estimated based on current projections of each component. Depreciation is estimated based on projected capital expenditures during the Term of the CPSA. Table 1 presents the current projection of the Variable Costs and Fixed Costs from 2010 through 2019. Variable Costs and Fixed Costs as provided in Table 1 do not include Final Reclamation Accruals, Management Fees, Incentive Fees or Production Taxes and Royalties. The Model ties cost projections to the change in volume of Key Units (as such term is defined in the Model). The volume of Key Units will vary with projected work effort. Staffing will vary with work effort and is reflected through the Model.

The staffing base case for the Model is as follows:

STAFFING PLAN Western Energy Co. SUMMARY

	2007 Base Staffing
Administration	5
Safety	3
Business	14
Human Resources	13
Environmental & Engineering	16
Maintenance	17
Production	17
Salaried Sub-Total	85

Rosebud Mine	347
Crusher/Conveyor	16
Hourly Sub-Total	363
Part-Time/Temporary Sub-Total	12
Total All Employees	460

PERMITS

Regulatory authorization is required to mine coal. Seller maintains the following permits to mine coal from the Dedicated Reserves:

Mining Permits

The primary authorization to operate in Montana is a permit issued by the Industrial and Energy Minerals Bureau (IEMB), Department of Environmental Quality (DEQ), under the Montana Strip and Underground Mine Reclamation Act (MSUMRA). Montana has an approved program, the federal Surface Mining Control and Reclamation Act of 1977 (SMCRA) administered by the Office of Surface Mining (OSM). Mining and reclamation permits must be renewed every five years. Current valid state mining permits (SMPs) in Montana are:

SELLER: 86003A Area A
 84003B Area B
 86003D Area D
 81003E Area E

Water Discharge Permits

Effluent discharges to the waters of Montana from sediment ponds are subject to regulation under the Montana Pollutant Discharge Elimination System (MPDES); this state program administered by DEQ Water Protection Bureau implements the federal Clean Water Act.

SELLER: MT-0023965 Periodic renewal as regulation requires

Air Quality Permits

SELLER: 1483-07, 2975-00 No renewal required

Hazardous Waste Management

SELLER: MTD 093301836 No renewal required

In order to implement the Plan, certain modifications to the existing permits will be required. The general changes required are as follows:

Area A

Area A will require a minor revision to the permit to include a revised mine plan showing additional mining passes and haul road locations; revised post-mining topography, revegetation and hydrologic control plans. A bond adequacy evaluation will be required.

Area B

Area B will require a permit amendment to include sufficient highwall reduction area for the additional tons. A new mine plan showing additional mining passes and haul road locations; revised post-mining topography, revegetation and hydrologic control plans. A bond adequacy evaluation will be required.

Area E

Area E will require a minor revision to upgrade an existing road for coal haulage from Areas A and B. A permit revision to the Area E permit and the Area D permit will be required to move the haul road from Area E to Area D. A bond adequacy review will be required.

Area D

Area D will require a revision to move the haul road through Area E into the Area D permit. The access road from the Highway 39 overpass to the last transfer house on the Area C conveyor may need to be added to the Area D permit if it is to be used as a haul road.

CONTROL OF REAL PROPERTY AND COAL RIGHTS

In order to obtain a mining permit the mine operator is required to demonstrate control of the real and coal estates within the permit boundaries. As part of this Exhibit, Seller has included two (2) maps identified as Maps 3 & 4 indicating the real and coal estate control in each Area. In addition, Seller has provided Buyers with a lease summary in Table 3 for each Area and has made Seller's real estate files available for Buyers to review.

RECLAMATION

Final Reclamation volume and cost estimates are based on engineering studies performed in October of each Year. The following table includes, for each Mine Area, the (1) final reclamation liability estimate as of the date shown, (2) total final reclamation costs accrued as of the date shown, (3) remaining tons to be mined as of the date of the liability estimate and (4) the final reclamation accrual rate per ton calculated on the information included for each Mine Area.

	Area D	Area A	Area B
Final Reclamation Estimate - Dated September 2006 - Dated September 2005 *	\$22,415,000	\$18,282,000	\$45,367,000
Total Final Reclamation Charges Accrued to Date			
Based on September 2005 Final Reclamation Estimate (Tons thru September 2006)	\$16,840,618		
Based on September 2006 Final Reclamation Estimate (Tons thru December 2006)		\$17,595,078	\$21,115,985
Total Tons (Per Latest Final Reclamation Estimate) **	17,743,268	26,262,998	30,632,422
Final Reclamation Accrual Rate as of September 2006			
Based on September 2005 Final Reclamation Estimate	\$0.314		
Based on September 2006 Final Reclamation Estimate		\$0.026	\$0.792

* Area D September 2006 Final Reclamation Estimate will not be used to develop a new accrual rate until March 2007 because of then current contract commitments.

** Total Tons does not represent Total Remaining Mineable Tons as defined in this CPSA. See *Exhibit 2* Table 1 for Total Remaining Mineable Tons.

The 2006 final reclamation estimate for Area D reflects the mining progression of the Plan. The 2006 final reclamation estimate for Area B largely reflects the mining progression of the Plan but does not consider additional mining cuts included in the Plan. The 2006 final reclamation estimate for Area A does not reflect the Plan. The Plan shows mining significantly more Tons than was anticipated in the 2006 final reclamation estimate for Area A. The overland conveyor used to deliver coal to Colstrip Units 3 & 4 passes through Area A and Area B. The cost of decommissioning this conveyor, although included in the 2006 final reclamation estimate for Area A and Area B will not be part of any final reclamation estimate for Area A or Area B and will not be included in future Final Reclamation Studies. The decommissioning of this overland conveyor is part of the Area C reclamation and is not associated with this CPSA. The Associated Facilities included in the final reclamation estimates are identified in Map 1 of *Exhibit 2*.

The methodology of determining the final reclamation estimates and accrual rates as provided in the above table is not the same methodology that will be used in the development of the Final Reclamation Study and the calculation of the Final Reclamation Accrual as used in this CPSA. A Final Reclamation Study for each Mine Area will be completed in the fourth quarter of 2007 (and annually thereafter) to reflect the Plan and the definition of Final Reclamation and Base Reclamation used in this CPSA. Current projected final reclamation zones for the final pit at the end of the CPSA and final highwalls in place in 2010 are presented on *Exhibit 2*, Maps 1 and 2. Future final pit reclamation cost estimates will be prepared annually to quantify the reclamation efforts required for the projected last pit or pits from which coal is extracted.

Exhibit 2 - Table 2 - Coal Purchase and Supply Agreement

Capital Schedule 2007 - 2019 (Uninflated)

EQUIPMENT TYPE	Equip No	Area	REPL.C. LIFE	UNIT COST (\$000s)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019		
					1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Drilllines DL3124 #124 Drilling Tub Rebuild 60 cu. yd. Bucket No. 7 60 cu. yd. Bucket No. 11 Gear Case Rebuild Rebuild Drag Bit Gear Rebuild Heat Bit Gear Boom Point Sheave Rebuild	DL3124	D	Variable	\$5,077.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$500.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				\$500.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				Variable	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				5 Year	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4	\$494.4
				5 Year	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0
				5 Year	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0
				5 Year	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Drilllines DL3125 #125 Drilling Tub Rebuild 60 cu. yd. Bucket No. 5 60 cu. yd. Bucket No. 12 Gear Case Rebuild Rebuild Drag Bit Gear Rebuild Heat Bit Gear Boom Point Sheave Rebuild	DL3125	B	Variable	\$5,077.0	\$0.0	\$0.0	\$5,077.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$500.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				\$500.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				Variable	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				5 Year	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0	\$500.0
				5 Year	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0	\$275.0
				5 Year	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0	\$311.0
				5 Year	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0	\$225.0
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Loaders Loader, Cat 1999 992C Loader, Cat 2000 995G Loader, Cat 1997 #620 High Lift	LD3170 LD3170 LD3989 LD3989	D D D ABD	36,000 36,000 36,000 36,000	\$1,750.0	\$0.0	\$1,750.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$1,750.0	\$0.0	\$1,750.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				Variable	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Aux. Loaders Loader, Kom. 1993 WA600-1 Rep W 9804 Loader, 1992 CAT1728 Replaces w 950G Loader, 1998 CB 970F	LD3173 LD3170 LD3716 ALL	D ALL ALL ALL	36,000 36,000 36,000 36,000	\$400.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$160.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$270.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				Variable	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Trucks Haul Trucks HAULER, 1974 EUCLID CH120 HAULER, 1975 EUCLID CH120 HAULER, 1975 EUCLID CH120 HAULER, 1975 EUCLID CH120 HAULER, 1975 EUCLID CH120 HAULER, 1975 EUCLID CH120 HAULER, 1975 EUCLID CH120 HAULER, AREA BD 180 ton Replaces Euclid HAULER, AREA BD 180 ton Replaces Euclid HAULER, AREA BD 180 ton Replaces Euclid HAULER, AREA BD 180 ton Replaces Euclid HAULER, AREA BD 180 ton Replaces Euclid	HL3142 HL3143 HL3144 HL3145 HL3146 HL3146 HL3146 HL3146 ADD ADD ADD ADD	D D D D D D D D D D D	50,000 50,000 50,000 50,000 50,000 50,000 50,000 50,000 50,000 50,000 50,000	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
End Dumpers END DUMP, TEREX TR100 END DUMP, TEREX TR100 END DUMP, TEREX TR100 CAT 1988 777 End Dump	ED3985 ED3985 ED3985 WT3982	ABD ABD ABD D	50,000 50,000 50,000 50,000	\$1,100.0	\$0.0	\$1,100.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$1,100.0	\$0.0	\$1,100.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				Variable	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Drills DRILL, J.P. 1988 DMASE DIESEL OVR. DRILL, GARD, DEN, 1977 RCH16, COAL DRILL, J.P. 2001 DM20, COAL DRILL, DRILLTECH 2004 DT8KS DRILL, DRILLTECH D80, OVR.	DR3132 DR3134 DR3986 ADD ADD	D D D ABD ABD	70,000 70,000 70,000 70,000 70,000	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Mobile Equipment Dozers DOZER, CAT D9N AB Stockpile DOZER, CAT 1986 D11R DOZER, KOMATSU 1987 D375A-3 DOZER, CAT 2000 D11R DOZER, CAT 2001 D11R DOZER, CAT D11R Added for 2008 DOZER, CAT D11R Added for 2010	Add D23701 D23948 ADD ADD	B D D ABD D D	40,000 40,000 40,000 40,000 40,000 40,000	\$900.0	\$0.0	\$900.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$1,700.0	\$0.0	\$1,700.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				\$1,150.0	\$0.0	\$1,150.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
				\$1,100.0	\$0.0	\$1,100.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Excavator Komatsu 1988 PC750 Excavator John Deere Back Hoe, 1982 310A	BH3837 BH3510	All All	40,000 10 Years	\$1,200.0	\$0.0	\$1,200.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$1,000.0	\$0.0	\$1,000.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0			
				Variable	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
Motor Graders MOTOR GRADER, CAT 1985 159G. MOTOR GRADER, CAT 1985 16H MOTOR GRADER, CAT 16H (End Dump)	M33506 M33516 ABD	D D ABD	50,000 50,000 50,000	\$700.0	\$0.0	\$700.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				\$700.0	\$0.0	\$700.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0			
				Variable	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		
				5 Year	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0		

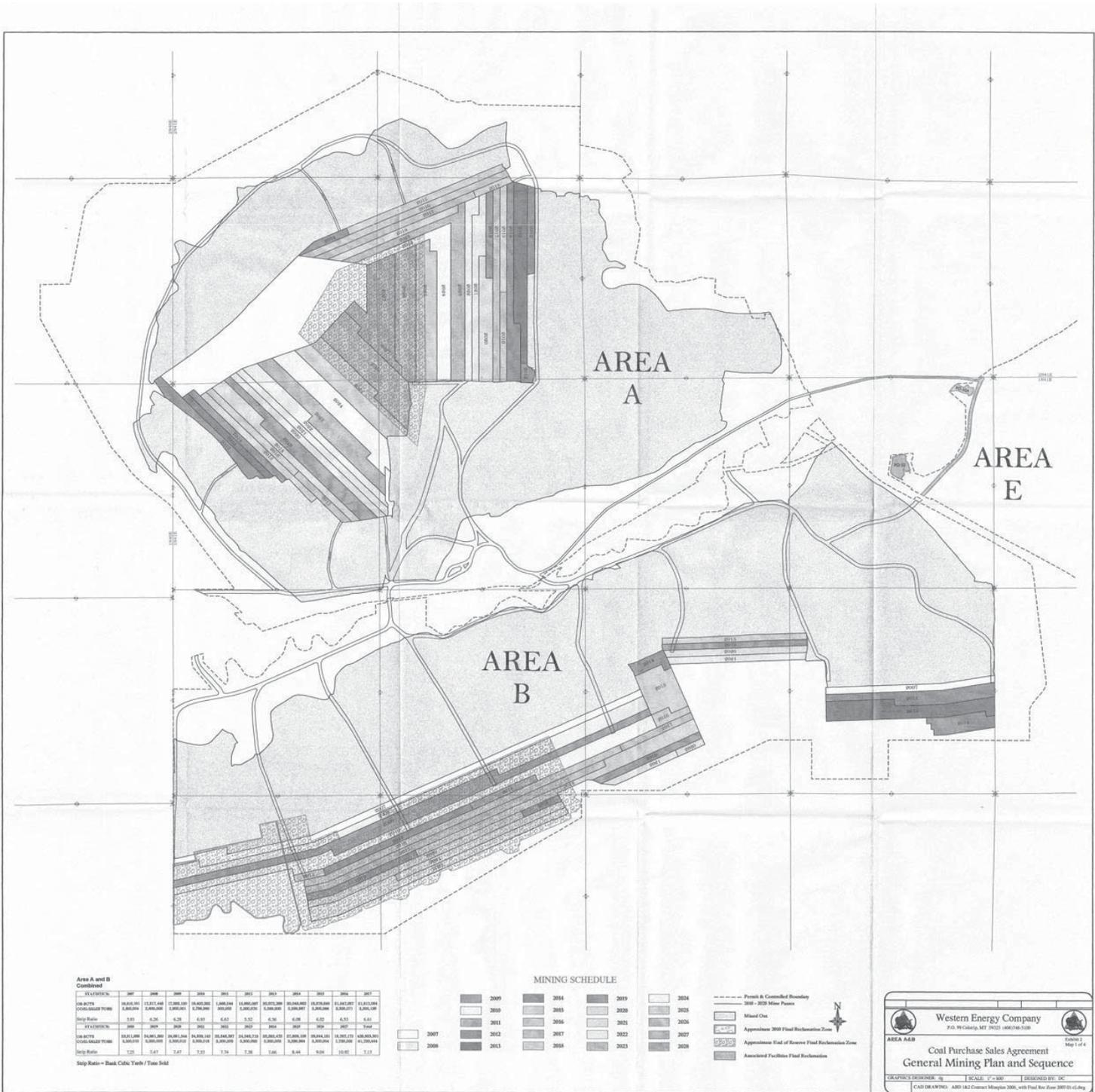
EXHIBIT 2 Table 3

Units 1&2

Contract Extension

Lease Control Through 2019

Property Area Description	Section	Lessor	Lease Number	Control Provisions	
D T2N R41E	35 SW1/4; W1/2SE1/4	GNP	G001(MT001)	Extended June 1, 1989 for 30 years to May 31, 2019	
	13; 23; 25	GNP	G002(MT002)	Extended June 1, 1989 for 30 years to May 31, 2019	
	27 S 1/2; S1/2N1/2; NW1/4NW1/4; NE1/4NE1/4				
	35 NE1/4; E1/2NW1/4				
	14; 24; 26 W 1/2	USA	M54713	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
	22 E 1/2; 26 E 1/2	USA	M88757	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
	19; 29	GNP	G002(MT002)	Extended June 1, 1989 for 30 years to May 31, 2019	
	30	USA	M54713	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
	A & B T1N R42E	2 W1/2	USA	M35735	Extended to August 1, 2009 "and so long thereafter as coal is produced in commercial quantities."
		4 N1/2N1/2	USA	M020989 - M38770	Extended to May 5, 2013 "and so long thereafter as coal is produced in commercial quantities."
5 S1/2N1/2 and S1/2		USA	M88754	Extended to May 5, 2013 "and so long thereafter as coal is produced in commercial quantities."	
6 N1/2N1/2; N1/2SE1/4NW1/4; S1/2NE1/4		USA	M54711	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
6 SW1/4NW1/4 and S1/2SE1/4NW1/4		USA	M42381	Extended to June 1, 2010 "and so long thereafter as coal is produced in commercial quantities."	
6 S1/2		USA	M73109	Extended to September 1, 2016 "and so long thereafter as coal is produced in commercial quantities."	
8 NW1/4		USA	M88755	Extended to September 1, 2016 "and so long thereafter as coal is produced in commercial quantities."	
8 NE1/4 and SW1/4		USA	M73109	Extended to September 1, 2016 "and so long thereafter as coal is produced in commercial quantities."	
8 SE1/4		USA	M54711	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
18 N1/2N1/2 and S1/2NE1/4		USA	M73109	Extended to September 1, 2016 "and so long thereafter as coal is produced in commercial quantities."	
18 S1/2NW1/4 and N1/2S1/2		USA	M54711	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
3; 5; 7; 9; 11 W1/2; 17 N1/2/2 and N1/2SW1/4		GNP	G001(MT001)	Extended June 1, 1989 for 30 years to May 31, 2019	
10		GNP	G0395	Extended to September 30, 2019	
T1N R40E		13	GNP	G001(MT001)	Extended June 1, 1989 for 30 years to May 31, 2019
	1	GNP	G002(MT002)	Extended June 1, 1989 for 30 years to May 31, 2019	
T2N R40E	12 NE1/4SE1/4	USA	M88756	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
	12 S1/2S1/2	USA	M88758	Extended to September 1, 2016 "and so long thereafter as coal is produced in commercial quantities."	
	36	State	C - 1063 - 80	"...so long thereafter as coal in commercial quantities shall be produced from the land..."	
D T2N R42E	29; 31	GNP	G002(MT002)	Extended June 1, 1989 for 30 years to May 31, 2019	
	33 S1/2; S1/2NW1/4; NW1/4NW1/4; SW1/4NE1/4	GNP	G002(MT002)	Extended June 1, 1989 for 30 years to May 31, 2019	
	30	USA	M82187	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	
	32	USA	M54711	Extended to August 1, 2012 "and so long thereafter as coal is produced in commercial quantities."	



Area A and B Combined

STRENGTH	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024		
OR-BITS	16,000,000	13,875,000	12,000,000	10,400,000	9,000,000	7,800,000	6,800,000	6,000,000	5,300,000	4,700,000	4,200,000	3,800,000	3,500,000	3,200,000	3,000,000	2,800,000	2,600,000	2,500,000		
COAL-RESERVE TONS	8,800,000	8,400,000	8,000,000	7,700,000	7,400,000	7,100,000	6,800,000	6,500,000	6,200,000	5,900,000	5,600,000	5,300,000	5,000,000	4,700,000	4,400,000	4,100,000	3,800,000	3,500,000		
Stip Ratio	1.83	1.63	1.50	1.39	1.32	1.25	1.20	1.15	1.10	1.05	1.00	0.95	0.90	0.85	0.80	0.75	0.70	0.65	0.60	
STRENGTH	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	
OR-BITS	16,000,000	14,000,000	12,000,000	10,400,000	9,000,000	7,800,000	6,800,000	6,000,000	5,300,000	4,700,000	4,200,000	3,800,000	3,500,000	3,200,000	3,000,000	2,800,000	2,600,000	2,500,000	2,400,000	
COAL-RESERVE TONS	8,800,000	8,000,000	7,200,000	6,500,000	5,800,000	5,200,000	4,600,000	4,100,000	3,600,000	3,200,000	2,800,000	2,500,000	2,200,000	1,900,000	1,600,000	1,300,000	1,000,000	800,000	600,000	
Stip Ratio	1.75	1.67	1.67	1.53	1.34	1.26	1.20	1.14	1.08	1.02	0.96	0.90	0.84	0.78	0.72	0.66	0.60	0.54	0.48	0.42

Stip Ratio = Stack Cuts/Year / Total Stip

MINING SCHEDULE

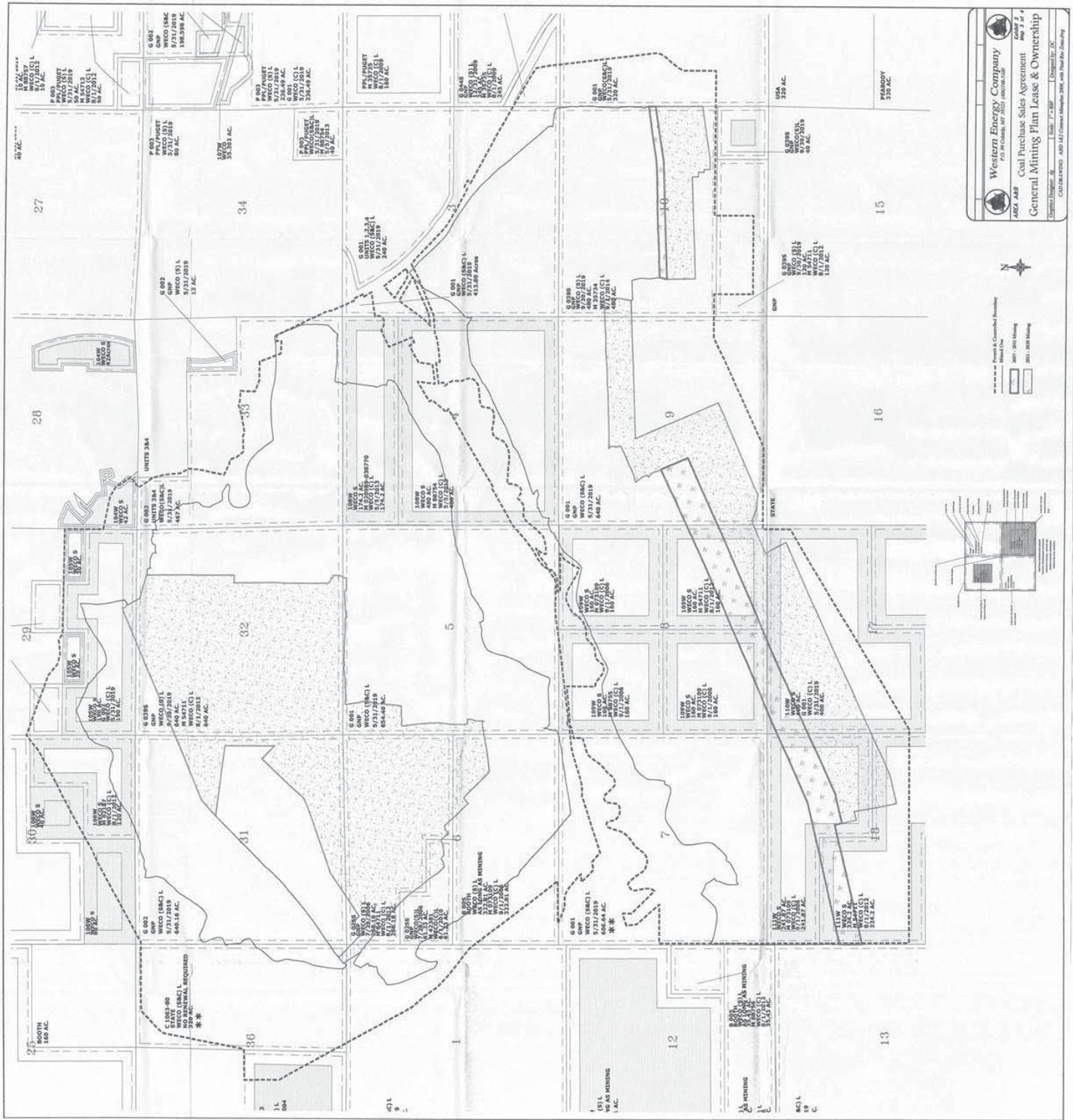
2009	2014	2019	2024
2010	2015	2020	2025
2011	2016	2021	2026
2012	2017	2022	2027
2013	2018	2023	2028

- - - Permit & Controlled Boundary
 2007-2028 Mine Plans
 Mixed Ore
 Approximate 2008 Final Reclamation Zone
 Approximate Final of Reserve Final Reclamation Zone
 Anticipated Facilities Final Reclamation

Western Energy Company
 910 N. Grand St. Ste. 2000
 Oklahoma City, OK 73102-2000

Coal Purchase Sales Agreement
 General Mining Plan and Sequence

Scale: 1" = 200'
 Date: 10/20/07
 Drawn by: JG
 Checked by: JG



Western Energy Company
 775 W. Collins, MT 59701
 Coal Purchase Sales Agreement
 General Mining Plan Lease & Ownership

Scale: 1" = 200'
 Date: 11/20/08
 CAD/DAVID: ABD/ART/CLARENCE/MURPHY/2008 with Peter Eric Probst

Exhibit 3

Commodity Recalculation - Sample Calculations

AOP Tons		3,000,000		AOP Variable Costs		AOP Cost (\$/ton)		AOP Cost (\$/unit)		Actual Cost (\$/unit)		% Change		Meets Hurdle		Recalculation Formula		Recalculated AOP Dollars		Recalculated Incentive Cost (\$/ton)	
Example #1 - One Commodity Exceeds 30% Hurdle		AOP Dollars	AOP Cost (\$/ton)	AOP Cost (\$/unit)	AOP Cost (\$/ton)	AOP Cost (\$/unit)	Actual Cost (\$/unit)	% Change	Meets Hurdle	Recalculation Formula	Recalculated AOP Dollars	Recalculated Incentive Cost (\$/ton)									
Non-Recalculated Component	Electrical	17,119,620	5.707	N/A	0.065	0.065	N/A	0.00	No	N/A	17,119,620	5.707							17,119,620	5.707	
(Unit basis is cost per KWH)		1,311,850	0.437	0.065	0.065	0.065	0.065	0.00	No	N/A	1,311,850	0.437							1,311,850	0.437	
(Unit Basis is cost per gallon)	Diesel	1,880,260	0.627	1.849	0.627	1.849	2.406	30.12	Yes	((Actual Cost/Unit)/(AOP Cost/Unit)) x AOP Dollars = Recalculated AOP Dollars	2,446,677	0.816							2,446,677	0.816	
(Unit Basis is cost per pound of explosives)	Explosives	2,512,690	0.838	0.256	0.838	0.256	0.250	-2.34	No	N/A	2,512,690	0.838							2,512,690	0.838	
Total Costs		22,824,420	7.608					27.78	No		23,390,837	7.797							23,390,837	7.797	

Example #2 - No Single Commodity Exceeds 30% Hurdle but Cumulative Does Exceed 30% Hurdle

AOP Tons		3,000,000		AOP Variable Costs		AOP Cost (\$/ton)		AOP Cost (\$/unit)		Actual Cost (\$/unit)		% Change		Meets Hurdle		Recalculation Formula		Recalculated AOP Dollars		Recalculated Incentive Cost (\$/ton)	
Example #2 - No Single Commodity Exceeds 30% Hurdle but Cumulative Does Exceed 30% Hurdle		AOP Dollars	AOP Cost (\$/ton)	AOP Cost (\$/unit)	AOP Cost (\$/ton)	AOP Cost (\$/unit)	Actual Cost (\$/unit)	% Change	Meets Hurdle	Recalculation Formula	Recalculated AOP Dollars	Recalculated Incentive Cost (\$/ton)									
Non-Recalculated Component	Electrical	17,119,620	5.707	N/A	0.065	0.065	N/A	10.77	No	((Actual Cost/Unit)/(AOP Cost/Unit)) x AOP Dollars = Recalculated AOP Dollars	1,453,126	0.484							1,453,126	0.484	
(Unit basis is cost per KWH)		1,311,850	0.437	0.065	0.437	0.065	0.072	10.77	No	((Actual Cost/Unit)/(AOP Cost/Unit)) x AOP Dollars = Recalculated AOP Dollars	1,453,126	0.484							1,453,126	0.484	
(Unit Basis is cost per gallon)	Diesel	1,880,260	0.627	1.849	0.627	1.849	2.251	21.74	No	((Actual Cost/Unit)/(AOP Cost/Unit)) x AOP Dollars = Recalculated AOP Dollars	2,289,056	0.763							2,289,056	0.763	
(Unit Basis is cost per pound of explosives)	Explosives	2,512,690	0.838	0.256	0.838	0.256	0.250	-2.34	No	N/A	2,453,799	0.818							2,453,799	0.818	
Total Costs		22,824,420	7.608					30.17	Yes - Therefore Change Each Component		23,315,601	7.772							23,315,601	7.772	

Example #3 - No Single Commodity Exceeds 30% Hurdle & Cumulative Does Not Exceed 30% Hurdle

AOP Tons		3,000,000		AOP Variable Costs		AOP Cost (\$/ton)		AOP Cost (\$/unit)		Actual Cost (\$/unit)		% Change		Meets Hurdle		Recalculation Formula		Recalculated AOP Dollars		Recalculated Incentive Cost (\$/ton)	
Example #3 - No Single Commodity Exceeds 30% Hurdle & Cumulative Does Not Exceed 30% Hurdle		AOP Dollars	AOP Cost (\$/ton)	AOP Cost (\$/unit)	AOP Cost (\$/ton)	AOP Cost (\$/unit)	Actual Cost (\$/unit)	% Change	Meets Hurdle	Recalculation Formula	Recalculated AOP Dollars	Recalculated Incentive Cost (\$/ton)									
Non-Recalculated Component	Electrical	17,119,620	5.707	N/A	0.065	0.065	N/A	9.23	No	N/A	17,119,620	5.707							17,119,620	5.707	
(Unit basis is cost per KWH)		1,311,850	0.437	0.065	0.437	0.065	0.071	9.23	No	N/A	1,311,850	0.437							1,311,850	0.437	
(Unit Basis is cost per gallon)	Diesel	1,880,260	0.627	1.849	0.627	1.849	2.232	20.71	No	N/A	1,880,260	0.627							1,880,260	0.627	
(Unit Basis is cost per pound of explosives)	Explosives	2,512,690	0.838	0.256	0.838	0.256	0.250	-2.34	No	N/A	2,512,690	0.838							2,512,690	0.838	
Total Costs		22,824,420	7.608					27.60	No		22,824,420	7.608							22,824,420	7.608	

Exhibit 4
Annual Incentive Fee - Sample Calculations
with Pit Inventory Adjustment

Information from Approved AOP:			
Total Fixed Costs:	\$1.900	per Ton	
Total Variable Costs:	\$8.100	per Ton	
Projected heat content of coal to be delivered (a.r.):			8600 Btu/lb
Determination of 'Incentive Fee Budget Costs'			
Incentive Fee Budget Costs = Approved AOP Fixed Costs + Approved AOP Variable Costs			
Incentive Fee Budget Costs =	\$1.900	+	\$8.100
Incentive Fee Budget Costs =	\$10.000 per Ton		

End of Year Actual Information:			
Total Fixed Costs:	\$2.000	per Ton	
Total Variable Costs:	\$8.306	per Ton	Adjusted for Pit Inventory (see below)
Total Fixed + Variable:	\$10.306	per Ton	
Actual heat content of coal delivered (a.r.):			8500 Btu/lb
Determination of 'Incentive Fee Actual Costs'			
Incentive Fee Actual Costs = (Actual Fixed Costs + Actual Variable Costs) X (AOP Btu/lb/Actual Btu/lb)			
Incentive Fee Actual Costs =	\$2.000	+	\$8.306 X 8600 / 8500
Incentive Fee Actual Costs =	\$10.427		

Calculation of Upper and Lower Deadband Limits:			
Upper Band Limit=Incentive Fee Budget Costs X 1.0225 =	\$10.000	X	1.0225 = \$10.225 per Ton
Lower Band Limit=Incentive Fee Budget Costs X 0.9775 =	\$10.000	X	0.9775 = \$9.775 per Ton

Calculation of Actual Incentive Fee: Target Incentive Fee = \$0.920 (Average of four (4) Quarters for the Year)			
(a) If Incentive Fee Actual Costs are within Upper and Lower Deadband Limits:			
Actual Incentive Fee = Target Incentive Fee			
Actual Incentive Fee = \$0.920 per Ton			
XXX (b) If Incentive Fee Actual Costs exceed Upper Deadband Limit:			
Actual Incentive Fee = Target Incentive Fee - 1/2(Incentive Fee Actual Costs - Upper Deadband Limit)			
Actual Incentive Fee = \$0.920 - 1/2 (\$10.427 - \$10.225)			
Actual Incentive Fee = \$0.819 per Ton			
(c) If Incentive Fee Actual Costs are less than Lower Deadband Limit:			
Actual Incentive Fee = Target Incentive Fee + 1/2(Lower Deadband Limit - Incentive Fee Actual Costs)			
Actual Incentive Fee = \$0.920 + 1/2 (\$9.775 - \$10.427)			
Actual Incentive Fee = \$0.594 per Ton			

Therefore, the Actual Incentive Fee applicable to all tons delivered for this example year would be **\$0.819 per Ton**

Exhibit 4

Calculation of Pit Inventory adjustment:

Purpose to adjust the actual costs to reflect variances from AOP planned pit inventory change

Calculate actual overburden costs per ton

Tons = Ending pit inventory + Tons Sold - Beginning pit inventory

Overburden Costs = Total Actual Overburden costs for the year

Actual overburden costs per ton = Overburden Costs / Tons

Calculate pit inventory adjustment:

EOY AOP = End of year AOP budgeted pit inventory

BOY AOP = Beginning of year AOP budgeted pit inventory

EOY Act = End of year actual pit inventory

BOY Act = Beginning of year actual pit inventory

Pit inventory Adjustment = ((EOY AOP - BOY AOP) - (EOY Act - BOY Act)) X Actual overburden costs per ton

Example:

AOP Variable Costs = \$8.10 per ton

Actual Variable Costs = \$8.50 per ton

Actual Overburden Costs = \$9,000,000

Actual Sales Tons = 2,900,000

Budgeted Sales Tons = 3,000,000

Actual overburden costs per ton: \$2.813 = \$9,000,000 / (500,000 + 2,900,000 - 200,000)

EOY AOP = 400,000

BOY AOP = 300,000

EOY Act = 500,000

BOY Act = 200,000

Calculation:

(\$562,600) = ((400,000 - 300,000) - (500,000 - 200,000)) X \$2.813

Actual variable costs would be decreased by \$562,600 to reflect the pit inventory adjustment

Total Variable costs \$8.50 X 2,900,000 = \$24,650,000

Pit Inventory Adjustment - 562,600

Pit Inventory adjusted AOP variable costs \$24,087,400 / 2,900,000 = \$8.306 per ton

Adjustment Mechanism for Seller's Profit Management Fee and Annual Incentive Fee - Sample Calculations

General Escalation Mechanism

- Base indices established as of the Effective Date of CPSA
- Escalated quarterly by applying the average of the percentage change in the Gross Domestic Product Implicit Price Deflator (GDPIPD, first published as "advance" number) and the Consumer Price Index-All Urban Consumers-Not Seasonally Adjusted (CPI-U, base period of 1982-84=100, as first published) for the last month of the quarter (March, June, September and December for the 1st through 4th quarters, respectively).
- The GDPIPD is first published by the U.S. Department of Commerce, Bureau of Economic Analysis, generally one month after the end of the quarter. The CPI-U is first published by the U.S. Department of Labor, Bureau of Labor Statistics, generally two weeks after the end of the month. Both of these agencies provide a schedule of release dates on their websites.
- Base fees correspond to the calendar quarter of the effective date of this CPSA
- Base index values correspond to the calendar quarter prior to the effective date of the CPSA (published in the calendar quarter of the effective date of the CPSA)
- Fee caps set through 1st Quarter 2010
- If fee cap is reached in the 1st Quarter 2010 then new base index period will be established for the term of the agreement using 4th Q 2009 GDPIPD and December 2009 for CPI-U and the base amount of the fee will be the amount of the cap.
- Escalation subject to upward and downward adjustment with no cap on downward adjustment

Formula:

$$\begin{aligned} \% \text{ Change in GDPIPD} &= ((\text{GDPIPD Quarterly Index} - \text{GDPIPD Base Index}) / \text{GDPIPD Base Index}) \times 100 \\ \% \text{ Change in CPI-U} &= ((\text{CPI-U Last Month of Quarterly Index} - \text{CPI-U Base Index}) / \text{CPI-U Base Index}) \times 100 \end{aligned}$$

$$\begin{aligned} \text{Average Quarterly} \\ \text{Percent Change} &= (\% \text{ Change in GDPIPD} + \% \text{ Change in CPI-U}) / 2 \end{aligned}$$

$$\text{Current Quarter Fee} = \text{Base Fee} + (\text{Base Fee} \times \text{Average Quarterly Percent Change})$$

Assuming the Effective Date of the CPSA is in the 1st Quarter 2007 the following base period and indices are established:

	Contract Base Period	Base Index Period	Base Index**
GDPIPD	1st Q 2007	4th Q 2006	114.034
CPI-U	1st Q 2007	December 2006	196.800

** NOTE: All indices used in the examples included within this Exhibit are not actual indices. They are used for illustration purposes only.

Management Fee

- Base amount of \$2.750/ton
- Fee cap set at \$2.850/ton through 1st Quarter 2010

Sample Calculations:

(a) 1st Quarter 2007: Base fee of \$2.750/ton. No adjustment.

(b) 2nd Quarter 2007: Calculation uses 1st Q 2007 GDPIPD and March 2007 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	114.951 (1st Q 2007)	0.804	$((114.951 - 114.034) / 114.034) \times 100$
CPI-U	198.900 (March 2007)	1.067	$((198.900 - 196.800) / 196.800) \times 100$
Average Quarterly Percent Change:		0.936	$(0.804 + 1.067) / 2$

2nd Quarter 2007 Management Fee less than cap of \$2.850/ton. Fee would be \$2.776/ton.

$$\text{Fee} = \$ 2.776 = 2.750 + (2.750 \times .00936)$$

Exhibit 5

Example With \$2.850/Ton Cap Reached

(a) 1st Quarter 2010: Calculation uses 4th Q 2009 GDPIPD and December 2009 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	118.750 (4th Q 2009)	4.136	$((118.750 - 114.034) / 114.034) \times 100$
CPI-U	206.500 (December 2009)	4.929	$((206.500 - 196.800) / 196.800) \times 100$
	Average Quarterly Percent Change:	4.532	$(4.136 + 4.929) / 2$

1st Quarter 2010 Management Fee exceeds cap of \$2.850/ton. Management fee would be set and invoiced at \$2.850/ton. \$ 2.875 $2.750 + (2.750 \times .04532)$

Because Management Fee cap was reached the base index period for GDPIPD is set to 4th Quarter 2009 and CPI-U to December 2009. Base fee reset to \$2.850/ton. New base indices would be:

	Contract Base Period	Base Index Period	Base Index
GDPIPD	1st Q 2010	4th Q 2009	118.750
CPI-U	1st Q 2010	December 2009	206.500

(b) 2nd Quarter 2010: Calculation uses 1st Q 2010 GDPIPD and March 2010 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	120.000 (1st Q 2010)	1.053	$((120.000 - 118.750) / 118.750) \times 100$
CPI-U	207.500 (March 2010)	0.484	$((207.500 - 206.500) / 206.500) \times 100$
	Average Quarterly Percent Change:	0.768	$(1.053 + 0.484) / 2$

2nd Quarter 2010 Management Fee to be invoiced: \$ 2.872 $2.850 + (2.850 \times .00768)$

(c) 3rd Quarter 2010: Calculation uses 2nd Q 2010 GDPIPD and June 2010 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	118.000 (2nd Q 2010)	-0.632	$((118.000 - 118.750) / 118.750) \times 100$
CPI-U	206.000 (June 2010)	-0.242	$((206.000 - 206.500) / 206.500) \times 100$
	Average Quarterly Percent Change:	-0.437	$(-0.632 + -0.242) / 2$

3rd Quarter 2010 Management Fee to be invoiced: \$ 2.838 $2.850 + (2.850 \times -.00437)$

Example With Cap of \$2.850/Ton Not Reached

(a) 1st Quarter 2010: Calculation uses 4th Q 2009 GDPIPD and December 2009 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	116.500 (4th Q 2009)	2.163	$((116.500 - 114.034) / 114.034) \times 100$
CPI-U	204.300 (December 2009)	3.811	$((204.300 - 196.800) / 196.800) \times 100$
	Average Quarterly Percent Change:	2.987	$(2.163 + 3.811) / 2$

1st Quarter 2010 Management Fee to be invoiced: \$ 2.832 $2.750 + (2.750 \times .02987)$

(b) 2nd Quarter 2010: Calculation uses 1st Q 2010 GDPIPD and March 2010 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	117.200 (1st Q 2010)	2.776	$((117.200 - 114.034) / 114.034) \times 100$
CPI-U	205.000 (March 2010)	4.167	$((205.000 - 196.800) / 196.800) \times 100$
	Average Quarterly Percent Change:	3.472	$(2.776 + 4.167) / 2$

2nd Quarter 2010 Management Fee to be invoiced: \$ 2.845 $2.750 + (2.750 \times .03472)$

Exhibit 5

Annual Incentive Fee

- Base fee of \$0.920/ton. No adjustment.
- Fee cap set at \$1.000/ton through 1st Quarter 2010

Sample Calculations:

(a) 1st Quarter 2007: No adjustment. Fee would be \$0.920/ton.

(b) 2nd Quarter 2007: Calculation uses 1st Q 2007 GDPIPD and March 2007 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	114.951 (1st Q 2007)	0.804	$((114.951 - 114.034) / 114.034) \times 100$
CPI-U	198.900 (March 2007)	1.067	$((198.900 - 196.800) / 196.800) \times 100$
	Average Quarterly Percent Change:	0.936	$(0.804 + 1.067) / 2$
2nd Quarter 2007 Incentive Fee less than cap of \$1.000/ton. Fee would be \$0.929/ton.			
		\$ 0.929	$0.920 + (0.920 \times .00936)$

Example With \$1.000/Ton Cap Reached

(a) 1st Quarter 2010: Calculation uses 4th Q 2009 GDPIPD and December 2009 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	128.750 (4th Q 2009)	12.905	$((128.750 - 114.034) / 114.034) \times 100$
CPI-U	210.000 (December 2009)	6.707	$((210.000 - 196.800) / 196.800) \times 100$
	Average Quarterly Percent Change:	9.806	$(12.905 + 6.707) / 2$
1st Quarter 2010 Incentive Fee exceeds cap of \$1.000/ton. Incentive fee would be set and invoiced at \$1.000/ton.			
		\$ 1.010	$0.920 + (0.920 \times .09806)$

Because Incentive Fee cap was reached the base index period for GDPIPD is reset to 4th Quarter 2009 and CPI-U to December 2009. Base fee reset to \$1.000/ton. New base indices would be:

	Contract Base Period	Base Index Period	Base Index
GDPIPD	1st Q 2010	4th Q 2009	128.750
CPI-U	1st Q 2010	December 2009	210.000

(b) 2nd Quarter 2010: Calculation uses 1st Q 2010 GDPIPD and March 2010 CPI-U

	Index	% Change	Formula
GDPIPD	121.200 (1st Q 2010)	-5.864	$((121.200 - 128.750) / 128.750) \times 100$
CPI-U	211.100 (March 2010)	0.524	$((211.100 - 210.000) / 210.000) \times 100$
	Average Quarterly Percent Change:	-2.670	$(-5.864 + 0.524) / 2$
2nd Quarter 2010 Incentive Fee to be invoiced:			
		\$ 0.973	$1.000 + (1.000 \times -.02670)$

(c) 3rd Quarter 2010: Calculation uses 2nd Q 2010 GDPIPD and June 2010 CPI-U

	Index	% Change	Formula
GDPIPD	120.100 (2nd Q 2010)	-6.718	$((120.100 - 128.750) / 128.750) \times 100$
CPI-U	209.500 (June 2010)	-0.238	$((209.500 - 210.000) / 210.000) \times 100$
	Average Quarterly Percent Change:	-3.478	$(-6.718 + -0.238) / 2$

3rd Quarter 2010 Incentive Fee to be invoiced: \$ 0.965 $1.000 + (1.000 \times -.03478)$

Exhibit 5

Example With Cap of \$1.00/Ton Not Reached

(a) **1st Quarter 2010:** Calculation uses 4th Q 2009 GDPIPD and December 2009 CPI-U

	Quarterly Index	% Change	Formula
GDPIPD	116.500 (4th Q 2009)	2.163	$((116.500 - 114.034) / 114.034) \times 100$
CPI-U	204.300 (December 2009)	3.811	$((204.300 - 196.800) / 196.800) \times 100$
Average Quarterly Percent Change:		2.987	$(2.163 + 3.811) / 2$

1st Quarter 2010 Incentive Fee to be invoiced: \$ 0.947 $0.920 + (0.920 \times .02987)$

(b) **2nd Quarter 2010:** Calculation uses 1st Q 2010 GDPIPD and March 2010 CPI-U

	Index	% Change	Formula
GDPIPD	118.200 (1st Q 2010)	3.653	$((118.200 - 114.034) / 114.034) \times 100$
CPI-U	207.100 (March 2010)	5.234	$((207.100 - 196.800) / 196.800) \times 100$
Average Quarterly Percent Change:		4.444	$(3.653 + 5.234) / 2$

2nd Quarter 2010 Incentive Fee to be invoiced: \$ 0.961 $0.920 + (0.920 \times .04444)$

(c) **3rd Quarter 2010:** Calculation uses 2nd Q 2010 GDPIPD and June 2010 CPI-U

	Index	% Change	Formula
GDPIPD	119.000 (2nd Q 2010)	4.355	$((119.000 - 114.034) / 114.034) \times 100$
CPI-U	208.000 (June 2010)	5.691	$((208.000 - 196.800) / 196.800) \times 100$
Average Quarterly Percent Change:		5.023	$(4.355 + 5.691) / 2$

3rd Quarter 2010 Incentive Fee to be invoiced: \$ 0.966 $0.920 + (0.920 \times .05023)$

(d) **4th Quarter 2010:** Calculation uses 3rd Q 2010 GDPIPD and September 2010 CPI-U

	Index	% Change	Formula
GDPIPD	119.500 (3rd Q 2010)	4.793	$((119.500 - 114.034) / 114.034) \times 100$
CPI-U	208.500 (September 2010)	5.945	$((208.500 - 196.800) / 196.800) \times 100$
Average Quarterly Percent Change:		5.369	$(4.793 + 5.945) / 2$

4th Quarter 2010 Incentive Fee to be invoiced: \$ 0.969 $0.920 + (0.920 \times .05369)$

Example of Average of Quarterly Target Incentive Fee Amounts

**Calculation to Determine Average of Quarterly Incentive Fee Payments
(using information from the above example):**

1st Q	\$ 0.947	
2nd Q	\$ 0.961	
3rd Q	\$ 0.966	
4th Q	\$ 0.969	
	\$ 0.961	$(0.947 + 0.961 + 0.966 + 0.969) / 4$

Average of four Quarterly Incentive Fee payments used in the true-up calculation of the Annual Incentive Fee would be \$0.961/ton.

Exhibit 6

Transition from Coal Supply Agreement dated July 30, 1971 to CPSA - Sample Calculations

Transition Costs	2009			3 Month Total
	October	November	December	
Area D Overburden Costs	\$ 500,000	\$ 600,000	\$ 550,000	\$ 1,650,000
Less: Overburden Electrical	\$ (45,000)	\$ (50,000)	\$ (50,000)	\$ (145,000)
Total Costs	\$ 455,000	\$ 550,000	\$ 500,000	\$ 1,505,000
Tons Uncovered	250,000	250,000	250,000	\$ 750,000
Transition Cost Per Ton	(Total Costs / Tons Uncovered)			\$ 2.01
Surveyed Pit Inventory @ 12/31/2009				500,000
Total Transition Costs	(Transition Cost / Ton * Pit Inventory)			\$ 1,003,333
Amortization of Transition Costs over 36 months				\$ 27,870

Note:

1. Overburden electrical is excluded because it is a trueup component under the current CSA.
2. The monthly amortization of the transition cost will be included with the monthly coal invoices under the CPSA with all production taxes and royalties applying.
3. Overburden costs are defined as mining costs associated with the removal of all material, excluding topsoil and subsoil, down to the top of coal. Components include overburden stripping, overburden dewatering, and overburden drilling and blasting.

Exhibit 7

ESCROW AGREEMENT

THIS ESCROW AGREEMENT is made and entered into as of the ___ day of _____, 2007 (the "Effective Date"), by and among PPL Montana, LLC, a Delaware limited liability company ("PPL"), Puget Sound Energy, Inc., a Washington corporation ("Puget") (PPL and Puget shall be referred to as the "Buyers"), Western Energy Company, a Montana corporation ("WECO" or "Seller") and First Interstate Bank, a Montana banking corporation (the "Escrow Agent").

1. This Escrow Agreement is executed pursuant to the terms of Coal Purchase and Sale Agreement dated as of this same date (the "CPSA") among the Buyers and the Seller. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the CPSA.

2. **Subsection 8.5** of the CPSA states that the Buyers shall pay to Seller a per Ton amount equal to Seller's accrual for the estimated costs of Final Reclamation for each Area of the Dedicated Reserves and Associated Facilities. The CPSA also provides that the Final Reclamation Accrual payments will be deposited in a Reclamation Fund escrow account (the "Reclamation Fund Escrow Account") with the Escrow Agent to be used by Seller to pay for Final Reclamation activities for Area A, Area B, and Area D of the Mine.

3. **Subsection 8.7** of the CPSA states that Seller shall maintain all Final Reclamation Accrual payments made under the CPSA by Buyers in a Reclamation Fund account that shall be subject to the terms of an Escrow Agreement. This Escrow Agreement shall be without force and effect until such time as the Escrow Agent begins to receive the Reclamation Accrual payments received by Seller from Buyers for deposit in the Reclamation Fund Escrow Account. Upon receipt by the Escrow Agent of Final Reclamation Accrual payments, the Escrow Agent shall hold such funds in the Reclamation Fund Escrow Account, which shall be an interest bearing account, that shall be fully invested as directed by the Seller by instruction to the Escrow Agent from time to time in the Seller's sole and absolute discretion. Buyers shall have no recourse against Seller or right to participate in any decisions made by Seller in connection with the investment of the funds in the Reclamation Fund Escrow Account.

4. Seller shall certify to the Escrow Agent upon making withdrawals from the Reclamation Fund Escrow Account that the funds are being used only for purposes permitted by **subsection 8.7** of the CPSA. The Escrow Agent shall be entitled to rely, exclusively, on any representation made by Seller in relation to the release of funds from the Reclamation Fund Escrow Account, and shall release funds from the Escrow Account from time to time as directed in writing by Seller.

5. Seller shall be the owner of the Reclamation Fund Escrow Account and shall be responsible for any obligation to pay income taxes related to earnings on such account as well as any fees incurred in connection with the account.

6. ~~The funds in the Reclamation Fund Escrow Account shall be disbursed solely pursuant to the terms of this Escrow Agreement. Such funds may be withdrawn by Seller to pay for Final Reclamation for Area A, Area B, and Area D as such costs and expenses are incurred in~~

the performance of the Final Reclamation. Final Reclamation for an Area is complete when all consents and bond releases required under an approved mining permit have been issued for all lands within such Area. To the extent funds remain in the Final Reclamation Escrow Account upon completion of Final Reclamation for all of Area A, Area B, and Area D ("Excess Funds"), such Excess Funds shall be the sole and exclusive property of Seller and may be used by Seller for any purpose.

7. The Escrow Account shall be deemed dissolved, this Escrow Agreement shall terminate and the Escrow Agent shall be released and discharged from all further obligations hereunder, upon receipt by the Escrow Agent of a written certification from an officer of Seller that all (i) Final Reclamation for Area A, Area B, and Area D has been completed as required under all applicable laws, or (ii) the CPSA has been terminated and the Escrow Account has been depleted.

8. It is understood and agreed that the duties of the Escrow Agent hereunder are purely ministerial in nature and that it shall not be liable for any error or judgment, fact or law, or any act done or omitted to be done, except for its own gross negligence or willful misconduct. The Escrow Agent's determination as to whether an event or condition has occurred, or been met or satisfied, or as to whether a provision of this Escrow Agreement has been complied with, or as to whether sufficient evidence of the event or condition or compliance with the provision has been furnished to it, shall not subject it to any claim, liability or obligation whatsoever, even if it shall be found that such determination was improper or incorrect, provided only, that the Escrow Agent shall not have been guilty of gross negligence or willful misconduct in making such determination. Under no circumstances shall the Escrow Agent be responsible for determining the parties' compliance or non-compliance with the terms of the CPSA or otherwise be subject to its terms.

9. The Escrow Agent shall not be responsible for the genuineness or validity of any document or item deposited with it which appears to be in accordance with the terms of this Escrow Agreement or any notice or instruction given to it by Seller, and it is fully protected in acting in accordance with any written instruction or instrument given to it hereunder and reasonably believed by it to have been signed by the proper parties. Each party hereto represents and warrants that this Escrow Agreement has been duly and validly authorized, executed and delivered by such party and constitutes a valid and binding obligation of such party, enforceable against such party in accordance with its terms.

10. If at any time the Escrow Agent shall receive conflicting notices, claims, demands or instructions with respect to the Deposit, the Escrow Agent may refuse to make any payment and retain the funds in its possession until the Escrow Agent shall be directed by a final decision of a Montana State Court located in Billings, Montana.

11. The Escrow Agent may resign at any time upon giving the parties hereto 30 days prior written notice to that effect; provided, however, that no such resignation shall be effective unless and until a successor escrow agent, reasonably acceptable to the parties shall have been appointed.

12. The Escrow Agent shall be paid fees and expenses in accordance with the attached Schedule 1. Payment of all fees and expenses of the Escrow Agent or otherwise related to this Escrow Agreement shall be paid by the Seller. If the Escrow Agent is made a party to litigation with respect to the Final Reclamation Escrow Account, if the parties request a substantial modification to the terms of this Agreement, or if the Escrow Agent is required to render any service not provided for in this Escrow Agreement, the Escrow Agent shall be entitled to reasonable compensation for such extraordinary services and reimbursement for all fees, costs, liability and expenses, including attorneys' fees, which shall be shared equally by Seller and Buyers.

13. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust or other legal entity, the Escrow Agent will ask for documentation to verify its formation and existence as a legal entity. The Escrow Agent may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

14. The parties hereto jointly and severally indemnify and hold harmless the Escrow Agent from loss, damage, or any claims made against the Escrow Agent arising out of or relating to this Escrow Agreement, such indemnification to include all costs and expenses incurred by the Escrow Agent, including, but not limited to, reasonable attorneys' fees; provided, that this indemnity and hold harmless shall not apply to acts of fraud, gross negligence or willful misconduct of the Escrow Agent. This indemnity shall survive the termination of this Escrow Agreement for any reason, or the resignation or removal of the Escrow Agent.

15. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when personally delivered, two days after deposit in the mail if mailed by certified mail, return receipt requested, or when received if delivered via overnight courier service or by facsimile. Such notices or other communications shall be sent to the following addresses, unless other addresses are subsequently specified in writing:

If to Seller:

General Manager – Rosebud Mine
Western Energy Company
P.O. Box 99
Colstrip, Montana 59323
Fax: (406) 748-5181

With a copy to:

Vice President – Sales & Marketing
Western Energy Company
2 North Cascade Avenue, 14th Floor
Colorado Springs, Colorado 80903
Fax: (719) 448-5824

If to Buyers:

PPL EnergyPlus, LLC
Director-Coal Supply & Transportation
Two North Ninth Street (GENPL7)
Allentown, Pennsylvania 18101-1179
Fax: (610) 774-5141

With a copy to:

Office of General Counsel
Two North Ninth Street (GENTW3)
Allentown, Pennsylvania 18101-1179
Fax: (610) 774-6726

and:

Vice President, Project Development
and Contract Management
Puget Sound Energy, Inc.
P.O. Box 97034
Bellevue, Washington 98009-9734
Fax: (425) 462-3300

With a copy to:

General Counsel
Puget Sound Energy, Inc.
P.O. Box 97034
Bellevue, Washington 98009-9734
Fax: (425) 462-3300

If to the Escrow Agent:

First Interstate Bank
P.O. Box 4667
Missoula, MT 59806
Attn: P.J. Hanson
Fax: (406) 523-4320

16. This Escrow Agreement and the CPSA contain the entire agreement among the parties with respect to the subject matter hereof. This Escrow Agreement may not be amended, supplemented or discharged, and no provision hereof may be modified or waived, except by an instrument in writing signed by all of the parties hereto. No waiver of any provision hereof by any party shall be deemed a continuing waiver of any matter by such party.

17. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Montana, without giving effect to any choice or conflict provision or rule (whether of the State of Montana or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Montana. EACH OF THE PARTIES HERETO HEREBY WAIVES THE RIGHT TO TRIAL BY JURY.

18. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be one and the same instrument. The exchange of copies of this Escrow Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Escrow Agreement as to the parties and may be used in lieu of the original Escrow Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

19. The Escrow Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Escrow Agent (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility).

20. The Escrow Agent does not have any interest in the funds deposited in the Reclamation Fund Escrow Account but is serving as escrow holder only and having only possession thereof. Seller shall pay or reimburse the Escrow Agent upon request for any transfer taxes or other taxes relating to the Reclamation Fund Escrow Account incurred in connection herewith and shall indemnify and hold harmless the Escrow Agent any amounts that it is obligated to pay in the way of such taxes. Any payments of income from this Escrow Account shall be subject to withholding regulations then in force with respect to United States taxes. Seller will provide the Escrow Agent with appropriate W-9 forms for tax I.D., number certifications, or W-8 forms for non-resident alien certifications.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have executed this Escrow Agreement as of the date first set forth above, to be effective as set forth in Section 1 hereof.

ESCROW AGENT: FIRST INTERSTATE BANK

By: _____
Name:
Title:

SELLER: WESTERN ENERGY COMPANY

By: _____
Name:
Title:

BUYERS: PPL MONTANA, LLC
By and through its agent PPL EnergyPlus, LLC

By: _____
Name:
Title:

PUGET SOUND ENERGY, INC.

By: _____
Name:
Title:

Schedule 1

Initial Setup **\$1,500.00**

Annual Escrow Fee

Years 2007-2010 **\$80.00**
 Years 2010 - 2020 **\$250.00**

Closing Out Escrow Fee **\$800.00**

Description	Fee
Deposit Processing Fee (per incoming wire; internal transfer and/or check)	\$ 5.00
Disbursement Fee (per internal transfer and/or check)	\$ 5.00
Disbursement Fee (per outgoing wire transfer)	\$ 20.00
Photocopies	\$ 0.25 \$5.00 min
Faxcopies	\$ 0.25 \$5.00 min
Email notification	\$ 0.25 \$5.00 min
Payment and/or Disbursement Receipts	\$ 1.00
Return check fee	\$ 25.00
Duplicate account statement	\$ 5.00

Additional fees and requirements if the Escrow Department is to monitor late payments.

Exhibit 8

Coal Quality - Sample Calculations

The following example calculations apply only to the rolling weighted average sodium oxide content as referenced in Subsections 10.3(k) and 10.3(s) of the CPSA. All other Price reductions due to coal quality referenced in Article 10 of the CPSA will be assessed independently of the calculations included in this Exhibit.

The example described below specifically applies to the coal received from Area D as provided for in Subsection 10.3(k). Although the period of consecutive Delivery Days along with the range of sodium oxide content and corresponding Price reduction amounts for the respective ranges for coal received from Area A and Area B under Subsection 10.3(s) differ from those included in Subsection 10.3(k), the same methodology used in the following example shall be applied to coal received under Subsection 10.3 (s), using the appropriate specific limits as described in subsection 10.3(s).

Example Part 1

The data shown in Example Part 1 includes Daily and 15-Delivery Day weighted averages for sodium oxide content for the period 2/1 through 3/2 in the example Year.

During this period, the 15-Delivery Day averages did not exceed 0.90%; therefore no Price reduction is required.

Example Part 2

Example Part 2 is a continuation of Example Part 1. Part 2 includes one additional Delivery Day of data (3/4).

The 15-Delivery Day average for sodium oxide content calculated for 3/4 was 0.92% which triggers a quality adjustment (an "Adjustment Trigger") because it exceeds 0.90%. The 15-Delivery Day period associated with the rolling average ending 3/4 is 2/6 through 3/4. During this 15-Delivery Day period, nine (9) days were identified for a Price reduction (2/10, 2/16, 2/20, 2/23, 2/24, 2/27, 3/1, 3/2, and 3/4) because the Daily sodium oxide content on those days ("Adjustment Days") exceeded 0.90%. A \$0.10 per Ton Price reduction was assessed on the Tons delivered on the nine (9) Adjustment Days because the 15-Delivery Day average sodium oxide content on 3/4 was between 0.90% and 0.95%. As an example for an individual Day, the total credit/refund due Buyers on 2/10 would be \$1,156.90, which is the result of the \$0.10 per Ton Price reduction multiplied by the 11,569 Tons delivered on that Day.

No Price reduction was applied to the Tons delivered on the days during the 15-Delivery Day range when the Daily sodium oxide content of the coal did not exceed 0.90% (2/6, 2/9, 2/11, 2/13, 2/17, and 2/19).

Exhibit 8

Example Part 3

Example Part 3 is a continuation of Example Part 2. Part 3 includes 18 additional Delivery Days (3/5 through 4/5).

The example identifies eleven (11) additional Adjustment Triggers (3/5, 3/8, 3/9, 3/10, 3/12, 3/15, 3/16, 3/18, 3/19, 3/22, and 3/23) because the 15-Delivery Day weighted average for sodium oxide content exceeded 0.90%. Seven (7) additional Adjustment Days were also identified (3/5, 3/9, 3/10, 3/12, 3/15, 3/16, and 3/19) because these days were included in the 15-Delivery Day ranges of at least one of the newly identified Adjustment Triggers, and the Daily sodium oxide content on these days exceeded 0.90%.

An Adjustment Trigger was identified on 3/10 because the 15-Delivery Day sodium oxide content was calculated at 0.97%. This average of 0.97% provides for a Price reduction of \$0.20 per Ton on all coal delivered on days included in the 15 Day range (2/13 through 3/10) because the 15-Delivery Day average is between 0.95% and 1.00% and the Daily average exceeded 0.90%. Eight of these Adjustment Days (2/16, 2/20, 2/23, 2/24, 2/27, 3/1, 3/2, and 3/4) were identified in Part 2 of this Example as being assessed a Price reduction of \$0.10 per Ton; however, because these days have also been included in a 15-Delivery Day range with an average sodium oxide content associated with a higher Price reduction (\$0.20 per Ton), the higher Price reduction (\$0.20 per Ton) would be applied to the Tons delivered on those days, and would supersede the originally assessed Price reduction of \$0.10 per Ton for those Days .

On 3/16, the 15-Delivery Day average sodium oxide content was calculated to be 1.03%. Because this average was greater than 1.00%, the Price reduction on coal delivered on days during this 15-Delivery Day period (2/19 through 3/16) when the Daily average exceeded 0.90% would be assessed a Price reduction of \$0.30 per Ton. Ten (10) days during this period (2/20, 2/23, 2/24, 2/27, 3/2, 3/4, 3/5, 3/9 and 3/10) had been assessed a \$0.20 per Ton Price reduction described in the above paragraph as a result of the 15-Delivery Day average of 0.97% on 3/10, however, these days may now be assessed a \$0.30 per Ton Price reduction based on the 15-Delivery Day average on 3/16. A \$0.30 per Ton Price reduction will also be assessed on the Tons delivered on 3/12, 3/15, and 3/16 as a result of the 15-Delivery Day average on 3/16, and because the Daily average on these days exceeded 0.90%.

On 3/19, the 15-Delivery Day average sodium oxide content was calculated at 0.99%. This Adjustment Trigger added one additional Adjustment Day (3/19) to the example. The Tons delivered on 3/19 will be assessed a Price reduction of \$0.20 per Ton because the 15-Delivery Day average was between 0.95% and 1.00%, and the Daily average on 3/19 was above 0.90%. Other Adjustment Days included in the 15 day period (2/23 through 3/19) were previously assessed a Price reduction of \$0.30 per Ton, therefore the Tons delivered on these days will continue to be assessed at the higher Price reduction rate of \$0.30 per Ton. ~~The Tons delivered on 3/18 will not be assessed a Price reduction~~ because the Daily sodium oxide content for those Tons was less than 0.90%.

Exhibit 8

On 3/12, the Daily average sodium oxide content was 1.26%. Subsection 10.3(h) of the CPSA provides for a \$0.50 per Ton Price reduction for coal delivered on a Delivery Day if the sodium oxide content exceeds 1.25%. Therefore, and as stated in the opening paragraph of this Exhibit, although this \$0.50 per Ton Price reduction is not shown on the data included with this Exhibit, this additional Price reduction of \$0.50 per Ton would be applicable on the 14,774 Tons delivered on 3/12 in addition to the \$0.30 per Ton Price reduction that is shown on the data included with this Exhibit.

Coal Quality - Sample Calculations

EXAMPLE Part 1

Tons	Date	Daily % Sodium	15-Delivery Day % Sodium	Sodium Price Reduction	Actual Total Credit/Refund
9,293	2/1	0.93	0.86	\$ -	\$ -
23,196	2/2	1.12	0.87	\$ -	\$ -
11,771	2/3	0.75	0.87	\$ -	\$ -
17,803	2/5	0.88	0.88	\$ -	\$ -
7,565	2/6	0.85	0.88	\$ -	\$ -
22,850	2/9	0.78	0.87	\$ -	\$ -
11,569	2/10	0.91	0.88	\$ -	\$ -
23,362	2/11	0.81	0.87	\$ -	\$ -
8,903	2/13	0.90	0.88	\$ -	\$ -
22,564	2/16	0.98	0.87	\$ -	\$ -
13,820	2/17	0.69	0.88	\$ -	\$ -
7,519	2/19	0.73	0.86	\$ -	\$ -
22,178	2/20	1.03	0.87	\$ -	\$ -
19,045	2/23	0.95	0.88	\$ -	\$ -
19,550	2/24	0.97	0.89	\$ -	\$ -
21,061	2/27	1.06	0.89	\$ -	\$ -
23,017	3/1	0.99	0.89	\$ -	\$ -
12,588	3/2	0.92	0.90	\$ -	\$ -

 Adjustment Trigger
 Adjustment Day

EXAMPLE Part 2

Tons	Date	Daily % Sodium	15-Delivery Day % Sodium	Sodium Price Reduction	Actual Total Credit/Refund
9,293	2/1	0.93	0.86	\$ -	\$ -
23,196	2/2	1.12	0.87	\$ -	\$ -
11,771	2/3	0.75	0.87	\$ -	\$ -
17,803	2/5	0.88	0.88	\$ -	\$ -
7,565	2/6	0.85	0.88	\$ -	\$ -
22,850	2/9	0.78	0.87	\$ -	\$ -
11,569	2/10	0.91	0.88	\$ 0.10	\$ 1,156.90
23,362	2/11	0.81	0.87	\$ -	\$ -
8,903	2/13	0.90	0.88	\$ -	\$ -
22,564	2/16	0.98	0.87	\$ 0.10	\$ 2,256.40
13,820	2/17	0.69	0.88	\$ -	\$ -
7,519	2/19	0.73	0.86	\$ -	\$ -
22,178	2/20	1.03	0.87	\$ 0.10	\$ 2,217.80
19,045	2/23	0.95	0.88	\$ 0.10	\$ 1,904.50
19,550	2/24	0.97	0.89	\$ 0.10	\$ 1,955.00
21,061	2/27	1.06	0.89	\$ 0.10	\$ 2,106.10
23,017	3/1	0.99	0.89	\$ 0.10	\$ 2,301.70
12,588	3/2	0.92	0.90	\$ 0.10	\$ 1,258.80
10,262	3/4	1.19	0.92	\$ 0.10	\$ 1,026.20

 Adjustment Trigger
 Adjustment Day

EXAMPLE Part 3

Tons	Date	Daily % Sodium	15-Delivery Day % Sodium	Sodium Price Reduction	Actual Total Credit/Refund
9,293	2/1	0.93	0.86	\$ -	\$ -
23,196	2/2	1.12	0.87	\$ -	\$ -
11,771	2/3	0.75	0.87	\$ -	\$ -
17,803	2/5	0.88	0.88	\$ -	\$ -
7,565	2/6	0.85	0.88	\$ -	\$ -
22,850	2/9	0.78	0.87	\$ -	\$ -
11,569	2/10	0.91	0.88	\$ 0.10	\$ 1,156.90
23,362	2/11	0.81	0.87	\$ -	\$ -
8,903	2/13	0.90	0.88	\$ -	\$ -
22,564	2/16	0.98	0.87	\$ 0.20	\$ 4,512.80
13,820	2/17	0.69	0.88	\$ -	\$ -
7,519	2/19	0.73	0.86	\$ -	\$ -
22,178	2/20	1.03	0.87	\$ 0.30	\$ 6,653.40
19,045	2/23	0.95	0.88	\$ 0.30	\$ 5,713.50
19,550	2/24	0.97	0.89	\$ 0.30	\$ 5,865.00
21,061	2/27	1.06	0.89	\$ 0.30	\$ 6,318.30
23,017	3/1	0.99	0.89	\$ 0.30	\$ 6,905.10
12,588	3/2	0.92	0.90	\$ 0.30	\$ 3,776.40
10,262	3/4	1.19	0.92	\$ 0.30	\$ 3,078.60
21,971	3/5	1.17	0.94	\$ 0.30	\$ 6,591.30
16,185	3/8	0.87	0.94	\$ -	\$ -
15,880	3/9	0.92	0.95	\$ 0.30	\$ 4,764.00
4,926	3/10	1.11	0.97	\$ 0.30	\$ 1,477.80
14,774	3/12	1.26	0.99	\$ 0.30	\$ 4,432.20
14,314	3/15	1.14	1.00	\$ 0.30	\$ 4,294.20
15,799	3/16	1.10	1.03	\$ 0.30	\$ 4,739.70
13,240	3/18	0.20	0.99	\$ -	\$ -
21,213	3/19	0.99	0.99	\$ 0.20	\$ 4,242.60
17,598	3/22	0.49	0.96	\$ -	\$ -
19,133	3/23	0.33	0.92	\$ -	\$ -
18,953	3/25	0.42	0.87	\$ -	\$ -
16,054	3/26	0.92	0.87	\$ -	\$ -
9,816	3/29	0.94	0.87	\$ -	\$ -
16,496	3/30	0.84	0.85	\$ -	\$ -
15,546	3/31	0.68	0.81	\$ -	\$ -
19,180	4/2	0.77	0.81	\$ -	\$ -
20,202	4/5	0.71	0.79	\$ -	\$ -

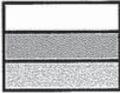

 Adjustment Trigger
 Adjustment Day
 Price Reduction change from Example Part 2

Exhibit 9
Truck Dump Site
Legal Description

THE SURFACE ONLY of the following-described real estate situated in the County of Rosebud, State of Montana, to-wit:

Parcels 1 and 2 situated in the S1/2 NW1/4 of Section 35, T. 2 N., R. 41 E., P.M.M., being more particularly described as follows:

Parcel No. 1:

Beginning at a point where the N-S centerline of Section 35 intersects the northerly right-of-way line of the Burlington Northern Railroad, said point bears S 01° 12' 28" E., 2235.45 feet from the ¼ corner between Sections 26 and 35;

thence N 74° 42' 43" W, 1393.28 feet along the northerly right-of-way line of the Burlington Northern Railroad to a point on the N-S centerline of the NW1/4 of Section 35;

thence N 00° 50' 19" W, 539.56 feet along the N-S centerline of the NW1/4 of Section 35 to the NW1/16 corner of Section 35;

thence N 89° 57' 50" E, 666.37 feet along the E-W centerline of the NW1/4 of Section 35 to the C-E-NW-1/64 corner of Section 35;

thence S 01° 01' 24" E, 662.04 feet along the N-S centerline of the SE1/4 NW1/4 of Section 35 to the SE1/4NW1/64 corner of Section 35;

thence S 89° 53' 29" E, 668.53 feet along the E-W centerline of the SE1/4 NW1/4 of Section 35 to the C-S-N-1/64 corner of Section 35;

thence S 01° 12' 28" E, 244.14 feet along the N-S centerline of Section 35 to the point of beginning.°

The described parcel contains 12.020 acres.

Parcel No. 2:

A parcel of land located in the S1/2NW1/4, W1/2SW1/4 of Section 35, T. 2 N., R. 41 E., P.M.M., Rosebud County, Montana, being Parcel 2 Amended of C/S 85124 being more particularly described as follows:

Considering the Basis of Bearing to be the East-West Mid Section line of said Section 35, said line bears S 89° 44' 48" E, and all bearings contained herein relative thereto.

Commencing at the West 1/4 corner of said section 35; thence S 89° 44' 48" E along said east-west mid section line, a distance of 773.33 feet to the True Point of Beginning; thence

N 39° 42' 15" W, a distance of 175.71 feet; thence

N 45° 04' 39" W, a distance of 88.43 feet; thence

N 34° 08' 05" W, a distance of 185.11 feet; thence

N 69° 37' 48" W, a distance of 238.43 feet; thence

N 86° 44' 40" W, a distance of 134.93 feet to a point on the east line of Parcel B C/S No. 34152, thence N 00° 27' 59" W along said east line of Parcel B C/S No.

34152 a distance of 353.00 feet to a point on the southerly right-of-way of the Burlington Northern/Santa Fe Railroad; thence S 74° 42' 43" E along said southerly right-of-way, a distance of 2640.37 feet; thence departing said railroad right-of-way S 01° 12' 28" E a distance of 106.75 feet to a point on said east-west mid section line of section 35; thence N 89° 44' 48" W along said east-west mid section line, a distance of 1244.00 feet; thence

S 52° 15' 25" W, a distance of 75.02 feet; thence

S 64° 19' 58" W, a distance of 78.40 feet; thence

S 71° 17' 59" W, a distance of 114.46 feet; thence

S 89° 30' 10" W, a distance of 285.90 feet; thence

N 51° 25' 57" W, a distance of 150.51 feet; thence

N 39° 42' 15" W, a distance of 36.61 feet; to the Point of Beginning. Said parcel containing 23.19 acres more or less and subject to all easements and/or rights-of-way apparent on the ground or of record.

ALL OF THE AFORESAID DESCRIBED PARCEL 1 AND PARCEL 2 ARE SUBJECT TO those exceptions, reservations, rights-of-way, easements, licenses, restrictions, leases, covenants and encumbrances presently of record.

Exhibit 10

**TRUCK DUMP SITE
CORPORATE DEED**

This CORPORATE DEED, made this ____ day of _____, 20__, by and between Western Energy Company, a Montana corporation, whose address is P.O. Box 99, Colstrip, MT 59323 ("Grantor"), and Puget Sound Energy, Inc. a Washington corporation, whose address is P.O. Box 97034, Bellevue, WA 98009-9734 and PPL Montana, LLC, a Delaware Limited Liability Company, whose address is Two North Ninth Street (GENPL 7), Allentown, PA 18101-1179 (collectively "Grantees").

Grantor, for and in consideration of the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby convey and quitclaim to Grantees and their respective successors and assigns forever, each an undivided one half interest as tenants in common, in and to all the real property together with improvements, if any, situate, lying and being in the County of Rosebud, State of Montana, as more particularly described on Exhibit A attached hereto and incorporated herein by reference ("the Real Estate").

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or in equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

Grantor also conveys and assigns to Grantees, their successors and assigns, any and all ancillary rights that Grantor holds with respect to the Real Estate, such as any easement agreements or encroachment agreements regarding the railroad facility that transects the Real Estate.

TO HAVE AND TO HOLD the Property above bargained and described, with the appurtenances unto Grantees, its successors and assigns forever. And Grantor, for itself, its successors and assigns, does convey and quitclaim the Real Estate to Grantees without warranty of title whatsoever.

This conveyance is made by Grantor and accepted by Grantees subject to all exceptions, reservations, rights-of-way, easements, restrictions, leases, taxes and assessments and other matters of record.

IN WITNESS WHEREOF, Grantor has executed this deed on the date set forth above.

Grantor:

Western Energy Company

By: _____
Title: _____

EXHIBIT A
TO SPECIAL CORPORATE WARRANTY DEED

**Truck Dump Site
Legal Description**

THE SURFACE ONLY of the following-described real estate situated in the County of Rosebud, State of Montana, to-wit:

Parcels 1 and 2 situated in the S1/2 NW1/4 of Section 35, T. 2 N., R. 41 E., P.M.M., being more particularly described as follows:

Parcel No. 1:

Beginning at a point where the N-S centerline of Section 35 intersects the northerly right-of-way line of the Burlington Northern Railroad, said point bears S 01° 12' 28" E., 2235.45 feet from the ¼ corner between Sections 26 and 35;

thence N 74° 42' 43" W, 1393.28 feet along the northerly right-of-way line of the Burlington Northern Railroad to a point on the N-S centerline of the NW1/4 of Section 35;

thence N 00° 50' 19" W, 539.56 feet along the N-S centerline of the NW1/4 of Section 35 to the NW1/16 corner of Section 35;

thence N 89° 57' 50" E, 666.37 feet along the E-W centerline of the NW1/4 of Section 35 to the C-E-NW-1/64 corner of Section 35;

thence S 01° 01' 24" E, 662.04 feet along the N-S centerline of the SE1/4 NW1/4 of Section 35 to the SE1/4NW1/64 corner of Section 35;

thence S 89° 53' 29" E, 668.53 feet along the E-W centerline of the SE1/4 NW1/4 of Section 35 to the C-S-N-1/64 corner of Section 35;

thence S 01° 12' 28" E, 244.14 feet along the N-S centerline of Section 35 to the point of beginning.°

The described parcel contains 12.020 acres.

Parcel No. 2:

A parcel of land located in the S1/2NW1/4, W1/2SW1/4 of Section 35, T. 2 N., R. 41 E., P.M.M., Rosebud County, Montana, being Parcel 2 Amended of C/S 85124 being more particularly described as follows:

Considering the Basis of Bearing to be the East-West Mid Section line of said Section 35, said line bears S 89° 44' 48" E, and all bearings contained herein relative thereto.

Commencing at the West 1/4 corner of said section 35; thence S 89° 44' 48" E along said east-west mid section line, a distance of 773.33 feet to the True Point of Beginning; thence

N 39° 42' 15" W, a distance of 175.71 feet; thence

N 45° 04' 39" W, a distance of 88.43 feet; thence

N 34° 08' 05" W, a distance of 185.11 feet; thence

N 69° 37' 48" W, a distance of 238.43 feet; thence

N 86° 44' 40" W, a distance of 134.93 feet to a point on the east line of Parcel B C/S No. 34152, thence N 00° 27' 59" W along said east line of Parcel B C/S No. 34152 a distance of 353.00 feet to a point on the southerly right-of-way of the Burlington Northern/Santa Fe Railroad; thence S 74° 42' 43" E along said southerly right-of-way, a distance of

2640.37 feet; thence departing said railroad right-of-way S 01° 12' 28" E a distance of 106.75 feet to a point on said east-west mid section line of section 35; thence N 89° 44' 48" W along said east-west mid section line, a distance of 1244.00 feet; thence

S 52° 15' 25" W, a distance of 75.02 feet; thence

S 64° 19' 58" W, a distance of 78.40 feet; thence

S 71° 17' 59" W, a distance of 114.46 feet; thence

S 89° 30' 10" W, a distance of 285.90 feet; thence

N 51° 25' 57" W, a distance of 150.51 feet; thence

N 39° 42' 15" W, a distance of 36.61 feet; to the Point of Beginning. Said parcel containing 23.19 acres more or less and subject to all easements and/or rights-of-way apparent on the ground or of record.

ALL OF THE AFORESAID DESCRIBED PARCEL 1 AND PARCEL 2 ARE SUBJECT TO those exceptions, reservations, rights-of-way, easements, licenses, restrictions, leases, covenants and encumbrances presently of record.

FIRST AMENDMENT TO COAL PURCHASE AND SALE AGREEMENT

This First Amendment to the Coal Purchase and Sale Agreement is made and entered into this ¹⁶ day of March 2010, by and among PPL Montana, LLC and Puget Sound Energy Inc., as Buyers, and Western Energy Company, as Seller.

Whereas, Buyers and Seller heretofore entered into that certain Coal Purchase and Sale Agreement dated March 21, 2007 ("the CPSA");

Whereas, Buyers and Seller have reached a further understanding and agreement as to the method of calculating and determining Final Reclamation pursuant to Article 8 of the CPSA for the 2010 AOP and subsequent AOPs;

Now therefore the parties hereto hereby agree as follows:

1. All capitalized terms herein shall have the meanings set forth in the CPSA unless otherwise specifically defined herein.
2. Section 8.6 of the CPSA shall be amended and restated as follows:

8.6 Annual Calculation of Final Reclamation Accrual. Seller will complete a Final Reclamation and facilities removal study annually during the fourth quarter of each Year ("the Final Reclamation Study"). This Final Reclamation Study will be used to determine the estimated reclamation liability for each Mine Area in accordance with reclamation plans approved by the Montana Department of Environmental Quality, and as the basis to calculate the Final Reclamation Accrual. Upon approval by the Administrative Committee, the Final Reclamation Study and Final Reclamation Accrual will be made part of the AOP for the following Year. The Final Reclamation Accrual shall be paid by or credited to the Buyers as provided for in **subsection 7.15**. The per Ton amount of the Final Reclamation Accrual shall be applied to each Ton of Third Party Sales, which shall be included in the accruals charged for Final Reclamation identified in **subsection 8.6(b)**. The Final Reclamation Accrual will be calculated as follows:

(a) The Final Reclamation Study will provide an estimate of the total Final Reclamation expenses for each of Areas A, B and D (inclusive of all Final Reclamation expenses remaining and all Final Reclamation expenses spent to date). The estimate will be made considering a reasonable projection of Base Reclamation for the current Year and Base Reclamation for all future Years to be completed through the Term.

(b) Prior payments or accruals charged for Final Reclamation in each of Areas A, B and D will be calculated and subtracted from the estimate of Final Reclamation expense for each of Areas A, B and D. This calculation will determine the "Total Estimate of Unfunded Costs" of Final Reclamation by Area, or in the case when the prior payments or accruals charged for Final Reclamation exceed the estimate of Final Reclamation expense for an Area, the difference in costs will represent the "Total Estimate of Overfunded Costs" of Final Reclamation for the Area.

(c) The General Mining Plan and Sequence identifies the Total Remaining Mineable Tons as of the date indicated therein. The Total Remaining Mineable

Tons will be adjusted in accordance with each subsequent Final Reclamation Study. The Total Estimate of Unfunded Costs of Final Reclamation or Total Estimate of Overfunded Costs of Final Reclamation by Area will be divided by the Total Remaining Mineable Tons for that Area, subject to reductions in such Tons as a result of a Termination Notice or Reserve Exhaustion Notice given pursuant to **subsections 3.2 and 3.4**, in each of Areas A, B and D to determine the Final Reclamation Accrual for each Area on a per Ton basis for the upcoming Year. In the case where expenses for Final Reclamation have been overfunded, the Final Reclamation Accrual will represent a per Ton credit to the Buyers. The Buyers shall be invoiced the Final Reclamation Accrual for each Ton of coal taken in the upcoming Year.

(d) A new Final Reclamation Accrual will be calculated in this manner for each Year of coal delivery under this CPSA. Because the AOP will be approved before the new Final Reclamation Accrual is determined, the Final Reclamation Accrual in the prior Year's Approved AOP will be included as an estimate of the Final Reclamation Accrual in the next Year's AOP. This estimated Final Reclamation Accrual shall be the basis for billing in accordance with **subsection 7.15** until the new Final Reclamation Accrual has been determined and approved by the Administrative Committee. Once approved, the new Final Reclamation Accrual shall supersede the estimated Final Reclamation Accrual and apply to all coal mined under the Approved AOP, with an appropriate credit for either Buyers or Seller for any difference resulting from the retroactive application of the new Final Reclamation Accrual.

(e) Notwithstanding any provision of **subsection 8.5** to the contrary, upon the final removal of coal from any of Area A, B or D under this CPSA, Seller shall complete an ultimate Final Reclamation Study for that Area, and Seller shall calculate and submit to Buyers for their approval the Total Estimate of Unfunded / Overfunded Costs of Final Reclamation in accordance with this **subsection 8.6**. The ultimate Final Reclamation Study and the Total Estimate of Unfunded/Overfunded Costs of Final Reclamation shall be prepared using the condition of the Area on a date no later than thirty (30) days after the final removal of coal from that Area under this CPSA and in a manner consistent with the methodology employed to develop the most recent Final Reclamation Accrual for that Area, which methodology in both instances will be the methodology set forth in Exhibit 2 hereto. Each Buyer shall pay Seller that Buyer's share of the amount of any calculated Underfunded Cost of Final Reclamation, or Seller shall pay each Buyer that Buyer's share of the amount of any Overfunded Cost of Final Reclamation.

(f) Attached hereto as Exhibit 1 to this Amendment is the Final Reclamation Accrual calculation for the 2010 AOP. The Final Reclamation expenses for each of Areas A, B and D have been adjusted to reflect costs applicable to facilities in those areas but associated with other mining areas, and/or costs applicable to mining for other non-Colstrip Units 1-2 customers of Seller, and/or costs of bonding for Areas A, B and D, to determine the Adjusted Final Reclamation

Expense for each of Areas A, B and D. Adjustments were also made to the Final Reclamation Accrual to account for Final Reclamation expenses spent to date associated with other customers. The Final Reclamation Expense Spent to Date and Total Final Reclamation Accrual identified in Exhibit 1 by "As of 12/31/08" will not be further retroactively adjusted for either the 2010 AOP or subsequent AOPs. Annually the Final Reclamation Expense Spent to Date will be updated with the prior Year's actual expenses and the Total Final Reclamation Accrual will be updated with the prior Year's actual accruals.

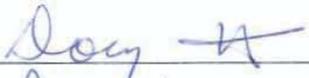
(g) Attached hereto as Exhibit 2 to this Amendment is a proforma example of the Final Reclamation Accrual calculation for the AOPs for 2011 and subsequent Years. The numbers and value set forth in Exhibit 2 are for illustration purposes only and they may change from year to year.

(h) Except for the ultimate Final Reclamation Studies and resulting payments referenced in *subsection 8.6(e)*, no other Final Reclamation Studies or true-ups for Final Reclamation will be conducted for any Area after the final removal of coal from that Area under this CPSA.

(The rest of this page intentionally left blank)

In Witness Whereof, the Parties, through their duly authorized representatives, have executed this First Amendment to Coal Purchase and Sale Agreement as of the Effective Date. This First Amendment to Coal Purchase and Sale Agreement may be signed in counterparts, which, when taken together, shall constitute a single, binding document.

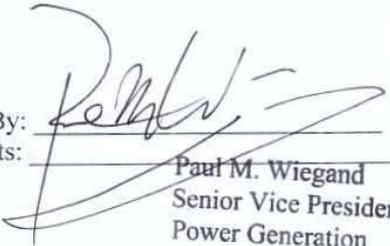
WESTERN ENERGY COMPANY

By: 
Its: Doug Kazuo - VP

PPL MONTANA, LLC
By and through its agent: PPL EnergyPlus, LLC

By: _____
Its: _____

PUGET SOUND ENERGY, INC.

By: 
Its: _____
Paul M. Wiegand
Senior Vice President
Power Generation
Puget Sound Energy

In Witness Whereof, the Parties, through their duly authorized representatives, have executed this First Amendment to Coal Purchase and Sale Agreement as of the Effective Date. This First Amendment to Coal Purchase and Sale Agreement may be signed in counterparts, which, when taken together, shall constitute a single, binding document.

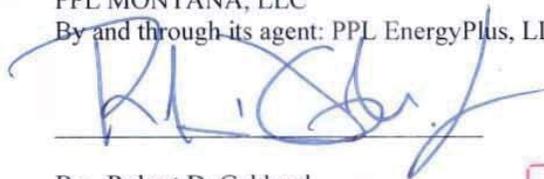
WESTERN ENERGY COMPANY

By: _____

Its: _____

PPL MONTANA, LLC

By and through its agent: PPL EnergyPlus, LLC



By: Robert D. Gabbard

Its: President

OFFICE OF
GENERAL COUNSEL
BY: [Signature]
DATE: 3/16/10

CREDIT
DEPARTMENT
BY: [Signature]
DATE: 3-16-10

PUGET SOUND ENERGY, INC.

By: _____

Its: _____

Exhibit 1. 2010 AOP Final Reclamation Accrual Methodology			
Description	Area A	Area B	Area D
Final Reclamation Expense Remaining (December 2008 Final Reclamation Study)	\$13,541,352	\$23,885,369	\$18,413,350
Final Reclamation Expense Spent to Date (As of 12/31/08)	\$5,745,561	\$652,388	\$4,914,143
Final Reclamation Expense (As of 12/31/08)	\$19,286,913	\$24,537,757	\$23,327,493
Less Items in the Final Reclamation Study that are not passed on to customer:			
Conveyor	(\$288,400)		
Rail Loop	(\$318,400)		(\$228,400)
ACCP	(\$286,900)		
Overhead on above @ 11%	(\$98,307)		(\$25,124)
<i>Subtotal</i>	<i>(\$992,007)</i>	<i>\$0</i>	<i>(\$253,524)</i>
Less buildings all in one area that should be split between A, B, and D:			
Less Building Removal 100% included in Area A in Study	(\$482,244)		
Spreading Building Removal to Areas A, B, and D	\$157,358	\$172,804	\$152,082
<i>Subtotal buildings spread between A, B, and D</i>	<i>(\$324,886)</i>	<i>\$172,804</i>	<i>\$152,082</i>
Less other items included all in one area that should be split between A & B:			
Substation and Power Line Removal	(\$125,000)	(\$26,010)	
County Road Overpass Removal		(\$307,200)	
Overhead on above @ 11%	(\$13,750)	(\$36,653)	
Spreading Other Items to Areas A & B	\$242,409	\$266,204	
<i>Subtotal other items spread between Areas A & B</i>	<i>\$103,659</i>	<i>(\$103,659)</i>	<i>\$0</i>
Plus bond costs not included in the Final Reclamation Study:			
<i>Bond Costs</i>	<i>\$1,849,438</i>	<i>\$1,195,381</i>	<i>\$1,470,193</i>
Total all Adjustments	\$636,204	\$1,264,526	\$1,368,751
Adjusted Final Reclamation Expense (As of 12/31/08)	\$19,923,117	\$25,802,283	\$24,696,244
Total Unadjusted Final Reclamation Accrual (As of 12-31-08)	\$17,595,078	\$24,961,900	\$20,158,682
Total Final Reclamation Accrual Adjustments For Final Reclamation Spent to Date (As of 12-31-08)	\$17,843	\$1,341,101	
Total Final Reclamation Accrual (As of 12-31-08)	\$17,612,921	\$26,303,001	\$20,158,682
Total Estimate of Unfunded/(Overfunded) Costs for Final Reclamation Including Adjustments	\$2,310,196	(\$500,718)	\$4,537,562
Total Remaining Minable Tons (as of 12-31-08)	32,720,036	24,687,260	10,936,017
Final Reclamation Accrual Rate (January 1, 2010)	\$0.071	(\$0.020)	\$0.415

Exhibit 2. 20XX AOP Final Reclamation Accrual Methodology

Description	Area A	Area B	Area D
Final Reclamation Expense Remaining (Current Final Reclamation Study)	\$13,541,352	\$23,885,369	\$18,413,350
Final Reclamation Expense Spent to Date (As of Date of Current Final Reclamation Study)	\$5,745,561	\$652,388	\$4,914,143
Final Reclamation Expense (As of Date of Current Final Reclamation Study)	\$19,286,913	\$24,537,757	\$23,327,493
Total Final Reclamation Accrual (As of Date of Current Final Reclamation Study)	\$17,612,921	\$26,303,001	\$20,158,682
Total Estimate of Unfunded/(Overfunded) Costs for Final Reclamation Including Adjustments	\$1,673,992	(\$1,765,244)	\$3,168,811
Total Remaining Minable Tons (As of Date of Current Final Reclamation Study)	32,720,036	24,687,260	10,936,017
Final Reclamation Accrual Rate (January 1, 20XX)	\$0.051	(\$0.072)	\$0.290

SECOND AMENDMENT TO COAL PURCHASE AND SALE AGREEMENT

This Second Amendment to the Coal Purchase and Sale Agreement is made and entered into this 18th day of June 2014, by and among PPL Montana LLC and Puget Sound Energy Inc., as Buyers, and Western Energy Company, as Seller.

Whereas, Buyers and Seller heretofore entered into that certain Coal Purchase and Sale Agreement dated March 21, 2007, which was amended by that First Amendment To Coal Purchase And Sale Agreement dated March 16, 2010, (“the CPSA”);

Whereas, Buyers and Seller have reached a further understanding and agreement as to the definition of a “Delivery Day” under the CPSA from Area C of the Mine;

Now therefore the parties hereto hereby agree as follows:

1. All capitalized terms herein shall have the meanings set forth in the CPSA unless otherwise specifically defined herein.
2. The CPSA is amended to delete the definition of Delivery Day set forth in Section 1.37 and substitute in lieu thereof the following definition:

Section 1.37 “Delivery Day” means a 24-hour period that begins at the starting time of the first coal delivery shift on a calendar day on which Seller delivers any coal under this CPSA.
3. All other terms and provisions of the CPSA shall remain in full force and effect.

(Signature page to follow)

In Witness Whereof, the Parties, through their duly authorized representatives, have executed this Second Amendment to Coal Purchase and Sale Agreement as of the Effective Date. This Second Amendment to Coal Purchase and Sale Agreement may be signed in counterparts, which, when taken together, shall constitute a single, binding document.

WESTERN ENERGY COMPANY

By: [Signature]
Its: President + GM

PPL MONTANA, LLC
By and through its agent: PPL EnergyPlus, LLC

CREDIT
DEPARTMENT
BY: AB
DATE: 6/10/14
No Credit Terms

OFFICE OF
GENERAL COUNSEL
BY: [Signature]
DATE: 6/10/14

By: [Signature]
Its: ROBERT GABBURD

PUGET SOUND ENERGY, INC.

By: [Signature]