

APPENDIX 7-51

LITTLE BEAR SPRING WATER REPLACEMENT AGREEMENT

INCORPORATED

APR 15 2005

DIV OF OIL GAS & MINING

1/23/95 revised 4/97

SEP 16 2003

**WATER TREATMENT PLANT AGREEMENT
LITTLE BEAR SPRING, HUNTINGTON CANYON**

THIS WATER TREATMENT PLANT AGREEMENT ("Agreement") made and entered into this 29 day of April, 2004, by and between Castle Valley Special Service District ("CVSSD"), having an address P.O. Box 877, Castle Dale, UT 84513; PacifiCorp, an Oregon corporation ("PacifiCorp"), having an address c/o Energy West Mining Company, P.O. Box 310, Huntington, UT 84528 ("Energy West") and GENWAL Resources, Inc., a Utah corporation, having an address at P.O. Box 1077, Price, Utah 84501 ("GENWAL").

RECITALS

WHEREAS, CVSSD is a political subdivision of the state of Utah organized as a special service district; and

WHEREAS, CVSSD was legally created in 1977 for the purpose of providing water, sewer, drainage and road-related services for the cities and towns of Huntington, Elmo, Cleveland, Castle Dale, Orangeville, Ferron, and Emery, and the town of Clawson was added to CVSSD in 1999; and

WHEREAS, CVSSD has entered into interlocal governmental agreements with the cities of Huntington, Elmo, and Cleveland (the "Cities") whereby CVSSD has assumed responsibility for the operation and maintenance of the culinary and secondary water systems for the Cities including any treatment facilities and transmission facilities; and

WHEREAS, CVSSD and the Cities obtain a substantial portion of their water from a developed spring located in the SW1/4 of Section 9, Township 16 South, Range 7 East, SLB&M known as the Little Bear Spring; and

WHEREAS, CVSSD is authorized by the various interlocal governmental agreements identified above to make and enter into an agreement with the mining companies conducting coal mining operations in the area of the Little Bear Springs regarding the mitigation of any potential impact such mining operations might have upon the Little Bear Spring; and

WHEREAS, Huntington City owns an existing water treatment plant that is operated and maintained by CVSSD.

WHEREAS, CVSSD has entered into an Agreement dated February 5, 2004 with the North Emery Water Users Special Service District, having to do with the construction of enlarged water treatment units which shall not become effective until such time as this Agreement has become effective among the parties; and

WHEREAS, PacifiCorp conducts coal mining operations in the state of Utah by and through its wholly owned subsidiary, Energy West; and

WHEREAS, one of the general permit conditions imposed upon PacifiCorp and Energy West in connection with the permit issued by the state of Utah, Division of Oil, Gas and Mining, is a requirement that PacifiCorp and Energy West enter into an appropriate agreement to mitigate the potential impact mining might have in connection with the Little Bear Spring; and

WHEREAS, GENWAL conducts coal mining operations in the state of Utah in the vicinity of Little Bear Spring on behalf of ANDALEX Resources, Inc. ("ANDALEX") and the Intermountain Power Agency ("IPA") as the co-owners of the Crandall Canyon Project; and

WHEREAS, ANDALEX and IPA have recently acquired a coal lease from the United States of America, acting through the Bureau of Land Management sometimes identified as the "South Crandall Lease" having lease number UTU-78953; and

WHEREAS, Stipulation #17 attached to the South Crandall Lease requires that in order to adequately protect flow from Little Bear Spring, the Lessee must "enter into a written agreement with the Castle Valley Special District ("CVSSD") to assure an uninterrupted supply of culinary water equivalent to historical flows from the Spring"; and

WHEREAS, CVSSD, PacifiCorp and GENWAL are desirous of entering into an Agreement as to the mitigation measures to be undertaken by Energy West and GENWAL in the event that either or both of their coal mining operations have an impact on the quality and/or quantity of the water coming from the Little Bear Spring, Emery County, Utah as more particularly identified in Energy West's permit and GENWAL'S Special Stipulation #17 to the South Crandall Lease.

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WITNESSETH:

NOW THEREFORE, for and in consideration of the promises, the mutual covenants and agreements of the parties hereto, and the consideration in favor of CVSSD described below, the parties hereto agree as follows:

1. The "Recitals" as set forth above are an integral part of this Agreement and are incorporated into the body of this Agreement by this reference.
2. Definitions. The following definitions shall apply to this agreement:

"Companies" shall mean PacifiCorp, Energy West, GENWAL, ANDALEX and IPA either individually or collectively as their interests appear.

"CVSSD Water" shall mean any and all water and/or water rights CVSSD administers, maintains, treats and/or distributes for the cities of Huntington, Cleveland and Elmo, whether at the Little Bear Spring, the Huntington Canyon Water Treatment Plant or otherwise.

"GENWAL Water" shall mean any and all water and/or water rights to which GENWAL, ANDALEX and/or IPA have an interest of any kind whether by ownership, lease or otherwise.

"Little Bear Spring" shall mean and have reference to that certain developed spring area located in the SW1/4, Section 9, Township 16 South, Range 7 East, SLB&M.

"PacifiCorp Water" shall mean any and all water and/or water rights to which PacifiCorp and/or Energy West have an interest of any kind whether by ownership, lease or otherwise.

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“Plant Site” and/or “Huntington Canyon Water Treatment Plant” shall mean the existing and proposed new addition to the Huntington Canyon Water Treatment Plant owned by Huntington City and operated and maintained by CVSSD, located about four and one-half miles north of Huntington in Section 8, Township 17 South, Range 8 East SLB&M, including the existing structures and facilities together with any and all additions and/or improvement thereto.

“Existing Plant Site” shall mean the Plant Site as it exists on the date of this Agreement.

“Water Treatment Plant” shall mean the new “water treatment facility to be constructed at the Plant Site pursuant to this Agreement, for CVSSD, as more particularly described in the materials prepared by Bowen Collins & Associates as contained in a two volume set labeled “Contract Documents for the Construction of the Huntington Water Treatment Plant.” Volume 1 of 2 is identified as “Specifications” and Volume 2 of 2 is identified as “Drawings.” Said materials are referred to herein as the “Contract Documents.” The Contract Documents are incorporated herein and are made a part of this Agreement by this reference.

3. Consideration and Release. CVSSD agrees that the Companies performance of the terms and conditions of this Agreement shall constitute the full and complete consideration for the full release, and discharge of the Companies and any or all of its (or their) officers, directors, shareholders, parent or affiliated corporations, agents, attorneys, and assigns, and all other persons, firms, and corporations whomsoever of and from any and all actions, claims, demands, damages, costs, expenses and compensation on account of or in any way growing out of any and all known and unknown claims which CVSSD, and any claiming by, through or under it may now have or may hereafter have resulting from, arising out of, or in any way connected to impacts, on the quantity and/or quality of the

CVSSD Water from the Little Bear Spring as a result of or in any way related to the mining operations of the Companies.

4. Permitting and Enforcement. CVSSD agrees that upon execution of this Agreement and so long as CVSSD continues to receive, subject to anticipated seasonal and climatic variations, the quantity and quality of water from the Huntington Canyon drainage area historically experienced at all times in the future, its comments, both written and verbal, to the various regulatory agencies including, but not limited to, the State of Utah Division of Oil, Gas & Mining the Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, the United States Forest Service, and the State Engineer of the State of Utah regarding both permitting and enforcement of permits and leases, including but not limited to PacifiCorp's Deer Creek Mine permit application package, the GENWAL Mine permit application package (together with the related Stipulation #17) and all similar or related permits of the Companies, regarding mining within the Mill Fork Canyon area and the Huntington Canyon area, will reflect the fact that PacifiCorp, GENWAL and CVSSD have developed effective mitigation measures, which address potential mining related impacts to the CVSSD Water including, but not limited to, the water of the Little Bear Spring. The comments may include the status of said mitigation measures. CVSSD agrees the Companies permit application packages may be approved or renewed as necessary so long as the Companies have fulfilled their obligations under this Agreement. CVSSD agrees that it will make a good faith effort to resolve any questions or concerns related to this Agreement or mining operations with the Companies prior to any contacts with a regulatory authority.

5. Water Treatment Plant. Energy West and GENWAL, on behalf of the Companies, shall construct, or cause to be constructed, the Water Treatment Plant to treat CVSSD Water. The technical design is included in the Contract Documents. Upon Water Treatment Plant completion, ownership and operation and maintenance of the Water Treatment

Plant will be the responsibility of CVSSD. The final type, design and construction of the Water Treatment Plant will be subject to the advice and approval of CVSSD. CVSSD will provide to Energy West, GENWAL, Bowen Collins & Associates and the contractor ultimately selected to construct the Water Treatment Plant any and all access rights and permissions necessary or convenient for the constructions of the Water Treatment Plant at the Plant Site.

6. Waters to be Treated. The Water Treatment Plant shall utilize water from the Little Bear Spring, Huntington River, other CVSSD Water, and such other water sources as CVSSD may legally utilize in the Water Treatment Plant. The Water Treatment Plant will not utilize PacifiCorp Water or GENWAL Water unless authorized by separate agreement.

This Agreement contemplates that the Cities will transfer water rights in Huntington Cleveland Irrigation Company from one approved diversion point (Little Bear Spring) to another approved diversion point (Water Plant Diversion), both within the Huntington Cleveland Irrigation Company's water right area. In the event that this anticipated transfer is contested or otherwise not approved by Huntington Cleveland Irrigation Company, the Companies agree to provide a sufficient number of their water shares, on a temporary basis, for use by the Cities and District, until the dispute is resolved and a permanent transfer of the Cities water rights is achieved.

7. Water Monitoring. The Companies, after notification to CVSSD, have the right to collect and analyze samples of the Little Bear Spring. Analytical results of all samples obtained by any Party, used for determination of water quality and quantity, will be made available to the other Parties.

8. Water Treatment Plant - Design, Construction and Completion. Energy West and GENWAL will assume the responsibility for the construction of the Water Treatment

Plant and the Companies, by separate agreement among them will provide all funds necessary to complete the construction in accordance with the Contract Documents. CVSSD and the Companies hereby accept the Contract Documents as constituting the final engineering and facility design and as being complete and accurate. The Parties by their execution of this Agreement and the Cities by their acceptance of this Agreement acknowledge that the Water Treatment Plant, as designed and to be constructed, is acceptable to all Parties with respect to both facility design and operating parameters. Upon completion of the Water Treatment Plant, CVSSD, in cooperation with the Companies, will temporarily operate the Water Treatment Plant and have it tested to verify that it meets the design criteria contained in the Contract Documents. Upon completion of the necessary testing, CVSSD shall provide to the Companies a notarized letter, signed by the Board Chairperson, verifying in writing that CVSSD concurs that the design criteria previously agreed to by the Parties have been satisfied and indicating its willingness to accept the Water Treatment Plant in accordance with the terms of this Agreement.

9. Water Treatment Plant Transfer. No deed transfers are required to comply with the terms of this Agreement. Upon the receipt of the notarized letter specified in the preceding paragraph, the Water Treatment Plant will be owned by Huntington City and operated and maintained by CVSSD in accordance with the existing interlocal governmental agreements referred to in this Agreement.

10. Operation and Maintenance Expense. CVSSD agrees that it shall be responsible for operation and maintenance of the Water Treatment Plant from and after the date of the signed, notarized acceptance letter, sent to the Companies. At the time of delivery of the notarized acceptance letter, Energy West shall pay to CVSSD, by its check the lump sum payment of Fifty Thousand Dollars (\$50,000) and GENWAL shall pay to CVSSD, by its check, the lump sum payment of Fifty Thousand Dollars (\$50,000). Payment of said amounts shall constitute the one time payment by the Companies of the full and complete

contribution of the Companies to the future operation and maintenance costs of the Huntington Canyon Water Treatment Plant (Operation and Maintenance Expense Analysis is included as Exhibit "A") for the life of the facility. No additional operation and maintenance expenses will be owed by the Companies at any time in the future because of their mining operations.

11. Indemnification. During the period of time beginning with the date the contractor engaged to construct the Water Treatment Plant first enters the existing Plant Site and continuing until the date the Companies receive the notarized acceptance letter specified above the Companies shall indemnify and hold harmless CVSSD from and against any and all claims, losses, costs, suits, damages or causes of action including costs and attorney's fees, for and on account of injury, bodily or personal, or death of persons, damage to or destruction of property belonging to CVSSD, its directors, officers, employees, and agents in any way related to this Agreement. Upon delivery of the said notarized acceptance letter and thereafter for the life of the Huntington Canyon Water Treatment Plant, CVSSD shall likewise indemnify, defend, and hold harmless the Companies, their boards of directors, officers, employees, and agents against and from any and all claims, losses, costs, suits, damages or causes of action including costs and attorneys' fees, for and on account of injury, bodily or personal, or death of persons, damage to or destruction of property belonging to the Companies their directors, officers, employees, and agents in any way related to this Agreement.

12. Construction Warranties. In connection with the construction of the Water Treatment Plant, Energy West and GENWAL will obtain the warranties and representations more fully set out in the Contract Documents. The Parties agree that the representations and warranties contained in the Contract Documents are adequate for the purposes of this Agreement and Energy West and GENWAL shall be under no obligation to obtain additional or further warranties and representations from the parties constructing the Water Treatment Plant.

13. Water Rights. The waters treated in the Water Treatment Plant shall be waters owned, rented or otherwise acquired by the cities of Huntington, Cleveland and Elmo, administered by CVSSD. CVSSD shall be solely responsible to ensure that the cities of Huntington, Cleveland and Elmo have adequate water rights for use in connection with the Water Treatment Plant. CVSSD shall take such action as is necessary in accordance with the laws of the State of Utah to ensure that the CVSSD Water may be utilized in connection with the terms of this Agreement. The PacifiCorp Water and the GENWAL Water shall not be utilized in any way in connection with the performance of this Agreement and, the Companies shall be under no obligation or duty to supply water or water rights in connection with the operation and maintenance of the Water Treatment Plant unless authorized by separate agreement.

This Agreement contemplates that the Cities will transfer water rights in Huntington Cleveland Irrigation Company from one approved diversion point (Little Bear Spring) to another approved diversion point (Water Plant Diversion), both within the Huntington Cleveland Irrigation Company's water right area. In the event that this anticipated transfer is contested or otherwise not approved by Huntington Cleveland Irrigation Company, the Companies agree to provide a sufficient number of their water shares, on a temporary basis, for use by the Cities and District, until the dispute is resolved and a permanent transfer of the Cities water rights is achieved.

14. Representations and Warranties. With respect to this Agreement, the Parties hereby represent and warrant to each other as follows:
- a. That there are no outstanding conveyances, assignments or agreements granting preferential rights to CVSSD subject to this Agreement in anyone claiming by, through or under the party making this Agreement.
 - b. That each Party has all of the rights and powers required to enable it to enter into this Agreement and perform the covenants and obligations on its part to be kept

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and performed hereunder; that the execution and delivery of this Agreement and the performance of the covenants and obligations to be kept and performed hereunder are not contrary to and do not constitute a default under any agreement, either oral or written, to which the party executing this Agreement is a party or by which it is bound.

- c. That the Parties making this Agreement have not violated any federal, state or local law, statute, regulations, rule or order applicable to the subject matter of this Agreement and that the parties making this Agreement have complied in all material respects with all applicable federal, state and local laws, statutes, regulations, rules and orders relating to this Agreement.

The above-described representations and warranties shall be applicable at the time of the execution of this Agreement and until the completion of the construction of the Water Treatment Plant.

15. Taxes and Rentals. All rentals, taxes and assessments accrued during construction of the Water Treatment Plant, including design, shall be paid by the Companies. All subsequent rentals, taxes and assessments shall be paid by CVSSD.
16. Survival. Each and every representation, warranty, covenant and agreement of the Parties contained in this Agreement shall survive the completion of the transactions contemplated by this Agreement to take place on the date of this Agreement or subsequent thereto.
17. Successors and Assigns. All of the terms, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors, legal representatives and assigns of the Parties. Any assignee of this Agreement, by accepting such assignment, agrees to be bound by all the terms, covenants and conditions of this Agreement or such assignment shall be void and of no effect.

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18. Notices. Any notice given under this Agreement shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested. If notice is given by mail, it shall be deemed received seventy-two (72) hours following the time of deposit to the United States mail as evidenced by the postmark on such notice, and such time shall be the effective time of the notice for the purpose of commuting any time periods provided herein. Any such notice shall be delivered or mailed to the following addresses:

If to CVSSD:

Castle Valley Special Service District
c/o Chairman Paul Crawford
P.O. Box 877
Castle Dale, UT 84513

If to PacifiCorp:

PacifiCorp
c/o Energy West Mining Company
Attn: Dee Jense, President and General Manager
P.O. Box 310
Huntington, UT 84528

If to GENWAL:

GENWAL Resources, Inc.
ATTN: Laine Adair, General Manager
P.O. Box 1077
Price, Utah 84501

Any Party may, by the giving of written notice as provided hereunder, change the address to which notices given hereunder are to be directed.

19. Miscellaneous.

a. This Agreement and all other instruments executed in furtherance of the

transactions contemplated hereby and the rights and obligations of the parties hereunder and under such other instruments shall be governed in accordance with the laws of the State of Utah.

- b. The invalidity or unenforceability of any portion or provisions of this Agreement shall in no way affect the validity or enforceability of any other portion or provision of this Agreement.
- c. This Agreement may not be amended or modified in any respect except by written agreement signed by a duly authorized representative of each of the Parties.
- d. With respect to the subject matter hereof, this Agreement supersedes all previous negotiations, understandings and agreements, whether written or oral, between the Parties or their representatives and constitutes the entire agreement of the Parties.
- e. The captions preceding each paragraph of the Agreement are utilized for the convenience of the Parties, but the captions shall not be used to modify, change or interpret the substantive content of this Agreement.
- f. The waiver by any Party of a breach of any term or condition in this Agreement shall not be deemed a waiver of any further breach of said term and condition, nor shall such a waiver constitute or affect any other term or condition. Any waiver must be in writing signed by the Party against whom such waiver is asserted.
- g. Any Party may, with the consent of the others, which shall not unreasonably be withheld, assign its interests, rights and obligations hereunder to a successor in interest to the business operated by the Party in connection with this Agreement, but in doing so the assignee under such an assignment shall, in writing, expressly assume all obligations hereunder of the assigning Party, and the assigning Party shall not be relieved of such interests, rights and obligations until the non-assigning Party has been furnished with a signed copy of such assumption.
- h. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.
- i. The parties agree from time to time to execute such additional documents as are

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necessary to effect the intent of the Parties as manifested by this Agreement.

20. Approvals. This Agreement shall not be binding on any Party until such time as it has been approved by the CVSSD board, the Cities and the Companies.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

CASTLE VALLEY SPECIAL SERVICE DISTRICT

By: Paul Crawford
Its: _____

PACIFICORP

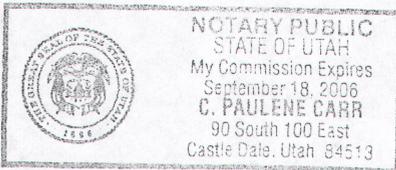
By: [Signature]
Its: President Energy West Murray Co.

GENWAL Resources, Inc.

By: [Signature]
Its: General manager

STATE OF UTAH)
) :ss.
COUNTY OF EMERY)

On the 26 day of April, 2004, personally appeared before me Paul Crawford the Chairman of Castle Valley Special Service District, who is the signer of the forgoing instrument and who duly acknowledged to me that he executed the same.



[Signature]
NOTARY PUBLIC **INCORPORATED**

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My Commission Expires:
9-18-06

SaltLake-223936.1 0099999-00001

STATE OF UTAH)
)
 :SS.
COUNTY OF SALT LAKE)

On the 28 day of APRIL, 2004, personally appeared before me DEE W. JENSE,
the PRESIDENT of Pacific Energy West Mining Company, who is the signer of the forgoing instrument and who
duly acknowledged to me that he executed the same.



Joyce Sorensen
NOTARY PUBLIC

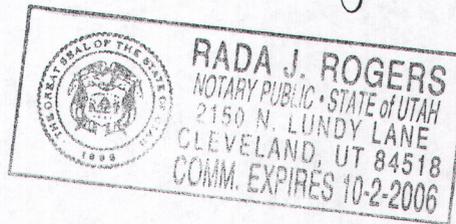
My Commission Expires:
May 23, 2005

STATE OF UTAH)
)
 :SS.
COUNTY OF EMERY)

On the 29th day of April, 2004, personally appeared before me Laine W. Adair
the General Manager of GENWAL Resources, Inc., who is the signer of the forgoing
instrument and who duly acknowledged to me that he executed the same.

Rada J. Rogers
NOTARY PUBLIC

My Commission Expires:
10/2/04



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