

**APPLICATION FOR DESIGNATION
AS A BROWNFIELD ECONOMIC
DEVELOPMENT DISTRICT**

**SUBMITTED BY
OLD STANDARD, LLC
D/B/A OLD STANDARD BUSINESS PARK**

**J. Michael Cassell, Esq.
Campbell Miller Zimmerman
201 N. George Street, Suite 200
Charles Town, WV 25414
304-725-5325/telephone**

**APPLICATION FOR DESIGNATION
AS A BROWNFIELD ECONOMIC DEVELOPMENT DISTRICT**

Old Standard, LLC is the owner of a parcel of land located in Jefferson County, West Virginia formerly known as the Old Standard Quarry. The Quarry was in operation for approximately 100 years and ceased operations in the 1970's. The Property has been left without any significant activity since then. Old Standard, LLC respectfully submits this Application for designation of the Old Standard Quarry as a Business Park and as a Brownfield Economic Development District pursuant to Section 5B-2-6a, West Virginia Code as amended as the regulation promulgated thereunder.

The following Application addresses each element of the information required by the regulations with supporting Exhibits.

I. GENERAL DESCRIPTION OF THE OLD STANDARD BUSINESS PARK

The Old Standard Business Park will be located on the site of the Old Standard Limestone Quarry. The property contains 407 acres more or less. The property is adjacent to the Shenandoah River on the eastern side. Millville Road (Secondary Rt. 27) is the boundary on the western side of the property. The property also shares a boundary with a parcel of land owned by one of the members of the Old Standard, LLC on the north side of the property. On the northeastern side of the property Old Standard shares a boundary with the National Park Service.

The Old Standard Property contains a 40 acre lake. The lake is approximately one (1) mile long and varies in width up to a maximum of 400 feet wide. The lake is ninety feet deep and is fed by natural springs which recharge the water at a fairly swift rate.

The Old Standard, LLC took title to this property by Deeds recorded in the office of the Clerk of the County Commission of Jefferson County in Deed Book 984 at page 501 and Deed Book 998 at page 555. The property is described as Tax Map 11, parcel 24.1 and Tap Map 9-2, parcel 50.

A copy of the Concept Plan prepared by Greenhorn and O'Meara dated August 20, 2008 is attached as Exhibit 1. The Concept Plan shows the proposed placement of office buildings, roads, parking a hotel at the northern end of the Quarry Lake, and an Extended Stay Hotel. Shown on the Concept Plan is the recently completed Waste Water Treatment Plant which will serve the property a topographical map is attached as Exhibit 1A. Attached as Exhibit 1B is a spreadsheet that provides details of the footprint, height, and other information of to the buildings to be constructed in the Old Standard Business Park.

The entire Old Standard Property was included in a Voluntary Remediation Agreement (VRA) Project No. 05295, with the West Virginia Department of Environmental Protection. Approximately 300 acres have been released from the Remediation Plan leaving 67 acres left to be remediated. A copy of the Voluntary Remediation Agreement signed by the Director of the West Virginia Department of Environmental Protection on May 21, 2003, is attached as Exhibit 2.

Old Standard, LLC has made considerable progress in the remediation of the site and remains in full compliance with all applicable requirements pursuant to the Remediation Agreement.

The meets and bounds description of the property is contained in the two (2) Deeds which are attached hereto as Exhibits 3 & 4. The Site Plan prepared by Greenhorn and O'Meara (Exhibit 1) contains the accurate boundaries of the Old Standard.

Old Standard, LLC is the Record Title owner of the Old Standard Quarry Property which should now be known as the Old Standard Brownfield Economic Development District.

II. TIMELINE FOR COMPLETION

The Old Standard Business Park will contain twenty-nine (29) office buildings, a first class hotel, an Extended Stay Hotel and the Waste Water Treatment Plant which is adjacent to the Quarry Lake. The Waste Water Treatment Plant was constructed for \$4.2 million on real estate sold to the Jefferson County Public Service District for \$1.00. The Plant is fully operational. Old Standard, LLC will convey the Waste Water Treatment Plant to the PSD for one dollar (\$1.00) in the future.

The Old Standard contemplates a fifteen (15) year build-out for the Business Park. The Data Center shown as building 24 on the western side of the property

and the Extended Stay Hotel will be constructed as Phase I of the development.

Detailed information pertaining to Phase I is included below.

III. TRAFFIC IMPACT

A Traffic Impact Study is attached as Exhibit 5. The Traffic Impact Study was prepared by Greenhorn and O'Meara. The Study was updated January 16, 2007.

IV. ESTIMATED BREAKDOWN OF PROJECT COSTS

Attached to this Application as Exhibit 6 which contains three (3) spreadsheets with the projected costs for the Extended Stay Hotel and a Computer Data Center which will be the first buildings constructed in the business park. These two (2) buildings constitute Phase I of the project. It is reasonable to believe that the costs of additional buildings would be somewhat in conformity with the costs shown on Exhibit 6 with a reasonable inflation factor.

V. FINANCIAL ABILITY OF APPLICANT TO UNDERTAKE AND COMPLETE THE PROJECT:

Old Standard, LLC moved forward with the construction of the Waste Water Treatment Plant at a cost of \$4.2 million dollars. The Plant is fully operational. The construction of the Waste Water Treatment Plant demonstrates the financial commitment of Old Standard to this project.

The completion of the Waste Water Treatment Plant significantly increases the value of the property. Each phase of the project will be financed separately and the proceeds of the sale will be applied as debt service and further development as

shown in the pro forma marked Exhibit 6. The proceeds of the sale of the lot on which the Extended Stay Hotel will be located are estimated to be \$2.2 million dollars. Exhibit 6 also shows that the sale of the real estate for the construction of the data center expected to be \$6 million dollars.

Old Standard, LLC will convey the property to a related Limited Liability Company in phases. Each phase will be developed as tenants are obtained for the buildings in the Industrial Park. The Members of Old Standard, LLC currently own and operate Extended Stay Hotels in Virginia and Maryland. Old Standard is familiar with this business and can successfully operate the Extended Stay Hotel as a result of the proximity of many federal facilities in Jefferson County. The construction of the Waste Water Treatment Plant and the presence of water utilities on site provide a distinct advantage for further development of this project. One of the Members of Old Standard is the owner and operator significant water and Waste Water Treatment Facilities in Jefferson County and is familiar with this part of the business.

Old Standard, LLC has owned the Old Standard Property for five (5) years. The appraised value of the Old Standard Property is five (5) times the amount which is owed on the property and there is considerable equity for future development.

Old Standard is currently conducting extensive negotiations with future users. However, Old Standard is unable to conclude any agreements until it is able to obtain governmental approval which will allow further design and construction of

the project. Without designation as a Brownfield Economic Development District, Old Standard is unable to finalize arrangements with future users or to proceed with any design and construction in this important project.

VI. UTILITY INFRASTRUCTURE

The Old Standard, LLC holds the NPDES Permit for the Waste Water Treatment Plant constructed near the south end of the Quarry Lake. The Waste Water Treatment Plant discharges effluent which meets or exceeds Chesapeake Bay standards. The Plant may also be expanded as necessary. Waterlines are on site provided by Jefferson Utilities.

A copy of the Old Standard NPDES Permit is attached as Exhibit 7. A copy of the Agreement with Jefferson Utilities is attached as Exhibit 9. A copy of the most recent inspection report and a letter of commendation from the West Virginia Department of Environmental Protection is attached as Exhibit 8. The inspection report contains color photographs of the Plant and some of the machinery. The Letter of Commendation from the WVDEP is dated August 8, 2008.

Old Standard, LLC entered into an Agreement with the Jefferson County Public Service District to convey the Waste Water Treatment Plant to the Public Service District for \$1.00. This will relieve the Jefferson County Public Service District of the capital costs of construction of the state of the art waste water treatment plant at the Old Standard Property. The Public Service District inspected and approved the construction drawings and specifications for the Waste Water Treatment Plant. An onsite inspector from the JCPSD was present throughout construction. The Waste

Water Treatment Plant is constructed in conformity with the plans and specifications approved by the PSD with all requirements of the WVDEP.

VII. ROAD IMPROVEMENTS

Old Standard, LLC will construct a four (4) land access road from US Rte 340 to the Business park in the public right-of-way of Millville Rd. (See Rt. 27) when demand requires. Old Standard, LLC will bear the expense of the traffic signals required at the intersection of Millville Rd. and US Rte. 340. All interior roads, parking and other transportation requirements on the Old Standard Property will be the responsibility of Old Standard, LLC or its Successors and Assigns. A copy of the Agreement with the West Virginia Division of Highways is attached as Exhibit 10. All of the transportation facilities that will be taken into the state road system will be constructed to the standards of the Division of Highways.

VIII. VOLUNTARY REMEDIATION AGREEMENT

A copy of the Voluntary Remediation Agreement is attached as Exhibit 2. Old Standard, LLC remains in full compliance with the Agreement and all regulations applicable thereto. (See Exhibit 2 and Exhibit 8)

IX. THE OLD STANDARD BROWNFIELD ECONOMIC DEVELOPMENT DISTRICT WILL CREATE SIGNIFICANT ECONOMIC DEVELOPMENT

The Extended Stay Hotel will be constructed in Phase I. The hotel will be 250 rooms and approximately 105,000 sq. ft. At approximately \$90.00 per sq. foot for construction, the construction cost for the hotel cost will be \$9.5 million dollars.

Various contractors and employees of contractors will be onsite to complete the construction with an estimated number of 100 employees at \$10.00 - \$30.00 per hour. Permanent employees at the Extended Stay Hotel will be approximately twenty (20) with twenty (20) restaurant employees. These employees will have salaries in the range of \$20,000 - \$60,000 per year.

The data center is expected to be 100,000 sq. ft. at \$700.00 per sq. ft. for a total construction cost of \$70 million dollars. The data centers are designed as full-time back-up computer centers to allow the user to have access to its computer information under any circumstances including a national emergency. All systems must be redundant and the construction specifications are much more expensive to build. During construction the contractors and their employees will be approximately 200 a number at wages at \$10.00 - \$40.00 per hour. Permanent employees will 24 at \$30,000 - \$80,000 per year for salaries.

Assuming that the Extended Stay Hotel and the data center would have a real estate property tax value in the amount of \$79.5 million dollars the real estate taxes paid on these two (2) buildings alone would be over \$1 million dollars per year. Personal property taxes are estimated to be almost \$131,000 per year.

The number of employees, real estate taxes, and personal property taxes would all increase proportionately as the remaining buildings are constructed.

X. BUT FOR THE ECONOMIC DEVELOPMENT DISTRICT, THE PROJECT WOULD NOT BE POSSIBLE

The Old Standard Property is currently zoned in two (2) ways. The northern 80 acres is zoned as High Density Residential. The rest of the property is zoned as Rural. A business park is not a Permitted Use in either the Rural District or the High Density Residential District of Jefferson County. Therefore, the Old Standard Property would need to be rezoned to general commercial/light industrial to allow the construction of the business park.

After initial discussions with various council members, Old Standard filed an Application for Annexation into the City of Charles Town. This was necessary because the county zoning designations did not provide for a Business Park in any of the Principal Permitted Uses. Attached as Exhibit 10, is a copy of the Power Point Presentation in support of Annexation into the City of Charles Town. Exhibit 11 contains important photographs that demonstrate the vast amount of burned limestone on the property. Exhibit 10 also contains the basic information regarding job creation, increases in tax revenues, and other benefits which would come about as a result of the completion of the Business Park Project.

The Charles Town City Council was initially very favorable toward Annexation. After several out of state preservation groups and the National Park Service lobbied hard against the project the City Council rejected the Annexation Proposal. Many of the arguments used by out of state preservation groups and the

National Park Service would later be used in the Petition to Rezone the property which was then filed with Jefferson County.

Sherry Kelly, Chief Planner/Zoning Administrator for Jefferson County, rendered the First Staff Report regarding the Old Standard Rezoning Request. This is marked Exhibit 14. The Report is dated June 4, 2007. Ms. Kelly accurately sites the goals of the Comprehensive Plan on page 1 of her report including encouraging growth and development for sewer and water are available; promoting growth and development that are economically and environmentally sound; encourage and support Commercial, Industrial, and Agricultural activities to provide a diversified sound economy; and increase the employment base and commercial enterprises in Jefferson County.

Ms. Kelly's report is a positive report which concludes that the rezoning of the Old Standard Property would be consistent with the Comprehensive Plan. This is the report that was provided to Old Standard before the Planning Commission conducted its Public Hearing.

At the Public Hearing a second Staff Report dated June 11, 2007, was provided to the Planning Commission and Old Standard. This report is marked as Exhibit 15. The second report took a completely different view point from the first report. The second report was completely focused on issues in the Comprehensive Plan which would be negative factors without presenting a balanced view.

Exhibit 15 (the second report) was drafted by a newly hired County employee who had not been in the County for more than a week or two. It was later learned

that a County Commissioner put additional pressure on the author of the second report to write a report which would conclude that the Old Standard Rezoning Request was inconsistent with the Comprehensive Plan.

On April 17, 2007, Old Standard, LLC filed a Petition to Rezone the property in order that a business park might be constructed. A copy of the Petition for Rezoning is attached as Exhibit 12. Old Standard paid the filing fee required by the Zoning Ordinance in the amount of \$21,327.00 upon filing the Petition for Rezoning. A copy of the receipt of the filing fee is attached as Exhibit 13.

The Jefferson County Zoning Ordinance requires that a Public Hearing be conducted on a Petition to rezone property within sixty (60) days of its filing. The Planning Commission conducted a Public Hearing. The Planning Commission voted unanimously that the Old Standard Business Park was not consistent with the Jefferson County Comprehensive Plan. The Planning Commission voted unanimously to reject the Rezoning Petition. The Planning Commission forwarded its recommendation to deny the Application of Rezoning to the County Commission. The first Staff Assessment is attached as Exhibit 14.

Exhibit 15 (the second report) was drafted by a newly hired County employee who had not been in the County for more than a week or two. It was later learned that a County Commissioner put additional pressure on the author of the second report to write a report which would conclude that the Old Standard Rezoning Request was inconsistent with the Comprehensive Plan.

The Jefferson County Commission voted 3-2 to deny the Old Standard Rezoning Request. A copy of the County Commission Minutes from July 19, 2007 is attached as Exhibit 14.

XI. REASONS FOR DENIAL OF THE OLD STANDARD REZONING PETITION

After Old Standard filed its Rezoning Petition, the County Commission referred the Petition to the Planning Commission for Public Hearing and a Staff Report. The Staff Assessment dated June 11, 2007, is attached as Exhibit 13.

The Planning Commission noted that there were no commercial enterprises adjacent to the Shenandoah River. Even though there is no prohibition in the Comprehensive Plan, the Commission concluded that it would be "inappropriate" for a business park to be located adjacent to the Shenandoah River.

There is no designation for a "business park" in the current Jefferson County Zoning Ordinance. Jefferson County has enacted a new Zoning Ordinance which is not yet effective. The new Zoning Ordinance contains large areas designated for a business park including areas which are adjacent to the Shenandoah River. Old Standard must conclude that the recommendations of the Planning Commission were specifically directed toward the Old Standard Application and not the general concept of a business park located near the Shenandoah River.

At the Planning Commission Public Hearing, various historic preservation groups from outside West Virginia appeared to testify. Officials from the National Park Service testified against the proposal. The opposition of the National Park

Service and its surrogate groups is at odds with federally mandated expansion plans for the National Park. The Old Standard Property is specifically excluded from all plans to expand the Harpers Ferry National Park. Old Standard must conclude that the National Park Service wishes to control the Old Standard Property without acquiring it.

The Federal Government had an option to purchase Old Standard property. The Government performed various studies on the Quarry Property and concluded that they government did not wish to exercise the option to purchase the Quarry. Instead, the government chose to purchase a parcel of land near Shepherdstown for the construction of the National Conservation Training Center. After studying the Old Standard Quarry Property, the government concluded that the remediation costs would be prohibitive.

The Planning Commission placed great weight on the testimony of the National Park Service even though the Planning Commission knew that the Old Standard Property was not scheduled for the proposed expansion of the National Park.

At the County Commission hearing on July 19, 2007, the same out of state Preservation Groups and the National Park Service appeared to oppose the rezoning. Old Standard made every effort to reach out to the National Park Service and its surrogate preservation groups. Representatives of the National Park Service and the preservationist met with the Member of Old Standard to discuss the project to determine if there were adjustments to be made to make the project acceptable to them.

After a full presentation by Old Standard, the preservation groups and the National Park Service left the meeting without further comment. None of these groups has ever attempted to work with Old Standard to resolve any complaints or disputed issues which might allow the opponents to have significant impact in the design of the project. Old Standard made several offers to the County Commission to negotiate the design of the business park to give county government substantial input in the design and implementation of the project. The President of the County Commission expressly refused to negotiate and stated in public that the County Commission would not negotiate with Old Standard.

One of the concerns raised in the Public Hearings was the additional traffic which would be generated by the Business Park. One of the reasons Jefferson County experiences a traffic difficulty is the conversion of Jefferson County into a community. The Old Standard Business Park would relieve traffic congestion created by commuters because those persons working at Old Standard would not be driving to the Washington DC area to work. Anyone who would be coming to the Old Standard Business Park to work from outside Jefferson County would be driving "against the rush hour traffic" thereby relieving traffic congestion created by commuters.

Old Standard, its Successors or Assigns will be responsible for significant road improvements which are described in Section VII. Old Standard has a Contract with the Division of Highways to make the improvements including traffic signal at US 340 and Millville Road and the upgrade of the Millville Road from 340 to

the Business Park. All onsite road improvements will be the responsibility of Old Standard as the Business Park is constructed.

A public Petition in support of the Old Standard Business Park was submitted to the County Commission. The Petition contained over 500 names of residents of Jefferson County. The Chamber of Commerce voted to support the rezoning of the Old Standard Quarry. The Jefferson County Development Authority voted to support the Rezoning Petition. Many business leaders attended the County Commission meeting and spoke in favor of the Rezoning Petition filed by Old Standard. Nonetheless, the County Commission voted to deny the application.

The original Old Standard, LLC Petition for Rezoning the Quarry Property would have accomplished the following goals:

- a. Creation of 6,000 permanent jobs at the business park.
- b. Preservation of significant areas as a buffer between the Shenandoah River and the National Park Service Property at the Murphy Farm.
- c. Infrastructure costs for transportation improvements to be the responsibility of Old Standard.
- d. Waste Water Treatment and water infrastructure costs to be paid by Old Standard.
- e. Preservation of the Riverside Park along the Shenandoah River which would be open to the public.

- f. Construction of approximately 2,000,000 sq. ft. of office space for research, development and flex space which would generate millions of dollars in property taxes for the County.
- g. Construction of a first class hotel – conference center which would generate significant real estate taxes and hotel/motel taxes.
- h. Completion of the WVDEP Voluntary Remediation Program to remove of 2,000,000 cubic yds. of burned limestone and other debris which remains on the property.
- i. All utilities underground with a 6 ft. earth and berm along Millville Road to visually screen the office buildings from the adjacent National Park Service Property.
- j. 100 ft. set back from the eastern edge of the lake to any building on the east side of the lake for preservation of the Old Standard Quarry Lake.

Old Standard proposed an alternative plan for seventeen (17) buildings with hotel and conference center. The President of the County Commission expressly stated that the Commission would not negotiate with Old Standard.

Both the County Commission and the Planning Commission rejected the Old Standard Rezoning Petition which included all of the positive features above-described.

**XII. REASONS FOR DENIAL OF THE OLD STANDARD REZONING
PETITION**

Old Standard respectfully requests approval of this Application for designation as a Brownfield Economic Development District for the construction of the Old Standard Business Park. The infrastructure costs for road improvements, waste water treatment facilities and water service are all being born by Old Standard. The benefits for this significant economic development are set forth in the Application. Old Standard requests that the Secretary receive and file the Application and give the Application expeditious treatment.

OLD STANDARD, LLC
By Counsel

J. Michael Cassell, Esq. (WVSB# 670)
Campbell Miller Zimmerman
201 N. George Street, Suite 200
Charles Town, West Virginia 25414
304-725-5325/telephone
304-724-8009/facsimile

Old Standard, LLC - Jefferson County, West Virginia

Preliminary Land Use Tabulations

Bldg.	Use (1)	Stories		Building height (2)		Building area		Parking (3)	Notes	
		Front	Back	FF elev.	Height	Roof elev.	Footprint			Gross Floor Space
1	Office	4	4	420	49 ft.	478	40,000 s.f.	3.5 /1k s.f. =	560	Signature office building
2	Office	2	3	480	30	520	25,000 s.f.	3.5	263	
3	Hotel	2	6	410	30 ft.	450	22,500 s.f.	2.0 /1k s.f. =	270	Approximately 250 rooms
	Conference Center/	1	1				22,000 s.f.	8.0 /1k s.f. =	176	
	Restaurant	1	1				10,000 s.f.	10.0 /1k s.f. =	100	Approximately 200 seats
4	Office/R&D	2	3	500	30 ft.	540	30,000 s.f.	3.2 /1k s.f. =	288	
5	Office/R&D/Flex Space	2	3	510	30 ft.	550	30,000 s.f.	3.0 /1k s.f. =	270	
6	Office/R&D/Flex Space	2	3	510	30 ft.	550	30,000 s.f.	3.0 /1k s.f. =	270	
7	Office/R&D/Flex Space	2	3	520	30 ft.	560	40,000 s.f.	3.0 /1k s.f. =	360	
8	Office/R&D/Flex Space	2	3	520	30 ft.	560	30,000 s.f.	3.0 /1k s.f. =	270	
9	Office/R&D/Flex Space	2	3	510	30 ft.	550	30,000 s.f.	3.0 /1k s.f. =	270	
10	Office/R&D/Flex Space	2	3	510	30 ft.	550	30,000 s.f.	3.0 /1k s.f. =	270	
11	Condominium	2	3	460	30 ft.	500	32,000 s.f.	3.0 /1k s.f. =	288	600 foot minimum setback to river
12	Condominium	2	3	460	30 ft.	500	30,000 s.f.	3.0 /1k s.f. =	270	600 foot minimum setback to river
13	Condominium	2	3	450	30 ft.	490	32,000 s.f.	3.0 /1k s.f. =	288	600 foot minimum setback to river
14	Office/R&D/Flex Space	1	2	450	30 ft.	490	40,000 s.f.	3.0 /1k s.f. =	240	100 foot minimum preserved woodland along lake
15	Office/R&D/Flex Space	1	2	450	30 ft.	490	40,000 s.f.	3.0 /1k s.f. =	240	100 foot minimum preserved woodland along lake
16	Office/R&D/Flex Space	1	2	480	30 ft.	520	40,000 s.f.	3.0 /1k s.f. =	240	100 foot minimum preserved woodland along lake
17	Office/R&D/Flex Space	1	2	450	30 ft.	490	40,000 s.f.	3.0 /1k s.f. =	240	100 foot minimum preserved woodland along lake
18	Office/R&D/Flex Space	1	2	470	30 ft.	510	40,000 s.f.	3.0 /1k s.f. =	240	100 foot minimum preserved woodland along lake
19	Extended Stay Motel	2	3	400	30 ft.	440	35,000 s.f.	3.0 /1k s.f. =	315	Phase One, Berm along Millville Rd
20	Office/R&D/Flex Space	2	2	370	30 ft.	410	35,000 s.f.	3.0 /1k s.f. =	210	
21	Office/R&D/Flex Space	2	2	360	30 ft.	400	35,000 s.f.	3.0 /1k s.f. =	210	
22	Office/R&D/Flex Space	2	2	350	30 ft.	390	35,000 s.f.	3.0 /1k s.f. =	210	
23	Office/R&D/Flex Space	2	2	345	30 ft.	385	70,000 s.f.	3.0 /1k s.f. =	420	
24	Data Center	1	1	380	30 ft.	420	100,000 s.f.	0.5 /1k s.f. =	50	Six foot vegetated berm along Millville Road
25	Office/R&D/Flex Space	2	2	380	30 ft.	420	30,000 s.f.	3.0 /1k s.f. =	180	Phase One, Berm along Millville Rd
26	Office/R&D/Flex Space	2	2	380	30 ft.	420	30,000 s.f.	3.0 /1k s.f. =	180	Six foot vegetated berm along Millville Road
27	Data Center	1	1	380	30 ft.	420	100,000 s.f.	0.5 /1k s.f. =	50	Six foot vegetated berm along Millville Road
28	Data Center	1	1	400	30 ft.	440	100,000 s.f.	0.5 /1k s.f. =	50	Six foot vegetated berm along Millville Road
29	Office/R&D/Flex Space	2	2	390	30 ft.	430	20,000 s.f.	3.0	120	Six foot vegetated berm along Millville Road
Totals:							1,223,500 s.f.	2,659,000 s.f.	7,288	

- 1 Projected uses
- 2 Building heights do not include mechanicals
- 3 Parking approximated pending allocation to specific use



Division of Land Restoration
Office of Environmental Remediation
1356 Hansford Street
Charleston, WV 25301
304-558-2508, Fax 304-558-3998

-303-

West Virginia Department of Environmental Protection

Bob Wise
Governor

Stephanie R. Timmermeyer
Cabinet Secretary

May 19, 2003

Mr. Herb Jonkers
120 Industrial Boulevard
Kearneysville, WV 25430

**RE: Voluntary Remediation Agreement, VRA Project # 05295
Old Standard LLC, Millville, Jefferson County, WV**

Dear Mr. Jonkers:

Enclosed, please find your copy of the signed and executed Voluntary Remediation Agreement for the site located at Millville, West Virginia. We look forward to your participation in the program, with the common goal of securing a Certificate of Completion for the site so that the property will remain in productive and protective use for the citizens of our State.

Thank you for your participation in the Voluntary Remediation program, and please feel free to contact me if you have any questions or comments.

Sincerely,

Jim Maurin
Project Manager

Enclosure

cc: Charleston Office
File



West Virginia
Department of
Environmental Protection

"Promoting a Healthy Environment"

VOLUNTARY REMEDIATION AGREEMENT FOR INVESTIGATION AND REMEDIATION ACTIVITIES

I. INTRODUCTION

1. The West Virginia Department of Environmental Protection ("WVDEP"), by its Secretary, Stephanie R. Timmermeyer ("Secretary") and Old Standard, LLC ("applicant") hereby enter into this Voluntary Remediation Agreement ("Agreement"), pursuant to the Voluntary Remediation and Redevelopment Act, W. Va. Code §22-22-1 et. seq. ("the Act"), for the purpose of investigating and remediating the property that is the subject of this Agreement ("the site").

II. JURISDICTION

2. This Agreement is entered into by and between the WVDEP, by its Secretary, and the applicant, pursuant to W. Va. Code §22-22-7.

3. The parties agree to the following terms and conditions as satisfying the requirements of the Act for the investigation and remediation of the site. The applicant reserves all rights under common law, the West Virginia Code and federal statutes to seek contribution or indemnity. The WVDEP reserves all rights it may have under common law, the West Virginia Code and federal statutes, to seek contribution or indemnity from persons other than the applicant and those persons identified in W. Va. Code § 22-22-18.

4. By entering into this Agreement, the applicant neither admits nor denies liability.

III. STATEMENT OF ELIGIBILITY

5. The Secretary has determined that the application submitted by the applicant is complete and that the applicant is eligible to participate in the voluntary remediation program. However, neither the Secretary's determination of eligibility nor the entry into this Agreement precludes any finding by the Secretary at a later date that the site poses an imminent and substantial threat to human health or the environment within the meaning of W. Va. Code § 22-22-7(d). In addition, if it is determined that the applicant withheld or misrepresented information that would be relevant to applicant's eligibility, the Secretary may withdraw from this Agreement.

IV. PARTIES BOUND

6. This Agreement shall apply to and be binding upon the applicant, its officers, directors, principals, employees, agents, successors, subsidiaries, and assigns, and upon

WVDEP, its employees, agents and successors. The signatories to this Agreement certify that they are fully authorized to execute and legally bind the parties they represent. No change in ownership, corporate, or partnership status of the applicant shall in any way alter its status or responsibilities under this Agreement, unless the applicant or WVDEP withdraws from this Agreement as provided herein.

7. The applicant shall provide a copy of this Agreement to any subsequent owners or successors before ownership rights are transferred. The applicant shall provide a copy of this Agreement to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Agreement, within fourteen (14) days after the effective date of this Agreement, or within fourteen (14) days of the date of retaining their services.

V. DEFINITIONS

8. "Day" or "calendar day" means the 24-hour period between 12:00 A.M. - 12:00 A.M.

9. "No further action" means a site is eligible to receive a Certificate of Completion on the basis of site assessment sampling or sampling data developed under a Voluntary Remediation Agreement which demonstrates that the site meets applicable standards.

10. "Rules" mean those rules adopted by the Secretary of the Department of Environmental Protection pursuant to the Voluntary Remediation and Redevelopment Act and promulgated at 60 CSR 3 as the Voluntary Remediation and Redevelopment Rule.

11. "Site" shall be used in the manner as defined by W.Va. Code §22-22-2(dd) and, for purposes of this Agreement, means the property located in Millville, Jefferson County, West Virginia and described in the Application for Participating in the Voluntary Remediation Program attached and incorporated herein as Exhibit "A" [Submitted to WVDEP and accepted by letter dated March 26, 2003]

12. All other terms contained in this Agreement shall be used in the manner as defined by W. Va. Code § 22-22-2 or the Rules.

VI. STATEMENT OF PURPOSE

13. This Agreement sets forth necessary terms and conditions to satisfy the requirements of the Act for the investigation and remediation of the Site.

14. The activities conducted by the applicant under this Agreement are subject to approval by WVDEP as provided herein. Applicant shall provide all necessary information for

the Site. The activities conducted by the applicant shall be consistent with this Agreement, all applicable laws and regulations and any appropriate guidance documents.

VII. WORK TO BE PERFORMED

15. All work to be performed by the applicant pursuant to this Agreement shall be under the direction and supervision of a licensed remediation specialist. The licensed remediation specialist may be designated by applicant as applicant's project manager pursuant to Paragraph 33. Prior to the initiation of Site work, the applicant shall notify WVDEP, in writing, regarding the name and title of the licensed remediation specialist, if different from the licensed remediation specialist designated in the Application, and of any contractors and/or subcontractors to be used in carrying out the terms of this Agreement.

16. Applicant shall submit a Voluntary Remediation Work Plan which when implemented provides for the attainment of the applicable standard specified in Paragraph 18 of this Agreement.

Prior to the filing of the application and prior to the execution of this Agreement, applicant has undertaken work at the site. The following documents have been accepted and approved by the licensed remediation specialist in support of the requirements of the Act for the investigation and remediation of the site:

Millville drinking water/groundwater supply wells analytical results, March 10, 2003

Spoil Pile analytical results, March 18, 2003

For the purposes of remediation and preparing Final Reports the Site may be divided into separate areas, and different human health and ecological remediation standards; e.g., De Minimis, Uniform Risk-Based, Site-Specific Risk-Based, may be utilized for these individual areas. Applicant currently contemplates that the Site will be subdivided into the following areas:

Eastern and Western Area

17. The Voluntary Remediation Work Plans submitted with this Agreement include the following:

Site Assessment Work Plan, Old Standard Quarry Eastern Area, April 2003

18. The parties agree that the applicable standard for this Site, consistent with Section 9 of the rule, is as follows:

The parties agree that the applicable standard(s) for this Site will be determined upon approval of the work plan(s) and report(s) described in Paragraph 20 of this Agreement. The

parties agree that the future determination of standard(s) will be described in a modification to the Agreement.

19. The statutes and regulations for which compliance is mandated in connection with the investigation or remediation of this Site are as follows:

- (a) Air Pollution Control Act, W.Va. Code §§ 22-5-1 et seq.;
- (b) Water Pollution Control Act, W. Va. Code §§ 22-11-1 et seq.;
- (c) Groundwater Protection Act, W. Va. Code §§ 22-12-1 et seq.;
- (d) Hazardous Waste Management Act, W. Va. Code §§ 22-18-1 et seq.;
- (e) Section 103(a) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C.A. §§ 9603(a)
- (f) Section 304 of Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C.A. §§ 11001 to 11050;
- (g) Occupational Safety & Health Act, 29 U.S.C.A. §§ 651 to 678;
- (h) Resource Conservation and Recovery Act, as amended, et. seq., 42 U.S.C.A. §§ 6901, et seq.; and
- (i) Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; and any applicable regulation promulgated thereunder.

VIII. SUBMITTAL AND APPROVAL OF WORK PLANS OR REPORTS

20. The applicant shall submit the following work plans or reports in accordance with the schedule provided in this Agreement:

- Site Assessment Work Plan, Old Standard Quarry, Eastern Area, April 2003
- Site Assessment Report, Old Standard Quarry, Eastern Area, June 2003
- Site Assessment Work Plan, Old Standard Quarry, Western Area, July 2003
- Site Assessment Report, Old Standard Quarry, Western Area, October 2003

When additional work plans or reports are planned as a follow-up to initial activities, the applicant shall submit the subsequent work plans, reports (including final reports), and schedules in accordance with a modification to this Agreement.

21. The Secretary may, based upon accuracy, quality, and completeness, either approve or disapprove a work plan or report submitted by applicant.

22. If the Secretary disapproves a work plan or report, the Secretary must, within 5 days of its disapproval, notify the applicant in writing that its work plan or report has been disapproved. Such written notice shall include a list specifying the reasons that the work plan or

report was disapproved, and shall specify all additional information needed for the work plan or report to obtain approval.

23. If the Secretary disapproves a work plan or report as submitted, the applicant must resubmit the work plan or terminate this Agreement as provided in Paragraph 74.

24. The Secretary shall either approve or disapprove all work plans and reports within 30 days of receipt. Any such action taken on a work plan or report must be confirmed in writing and received by the applicant within the 30-day period. An extension of time for approval or disapproval of work plans or reports may be mutually agreed to by and between the applicant and the Secretary. If an extension of time is mutually agreed to by the Secretary and the applicant, it must be confirmed in writing.

25. After work plans or reports are resubmitted, the Secretary shall approve or disapprove the resubmitted work plans or reports within thirty (30) days of receipt, or within such shorter period specified in the party's voluntary remediation agreement. Any action taken on resubmitted work plans or reports must be confirmed in writing and received by the applicant within the thirty (30)-day period for acting on a resubmitted application, or within such shorter period specified in the party's voluntary remediation agreement. An extension of time or action on resubmitted work plans or reports may be mutually agreed to between the applicant and the Secretary. If an extension of time is mutually agreed to by the Secretary and the applicant, it must be confirmed in writing. If resubmitted work plans or reports are not approved by the Secretary, then the Secretary and applicant may mutually agree, in writing, to a schedule for additional review of the resubmitted work plans or reports.

26. If work plans or reports are not approved or disapproved within 30 days of receipt by the Secretary, or if resubmitted work plans or reports are not approved or disapproved within 30 days of receipt by the Secretary, then the work plans or reports will be deemed approved unless such work plans or reports are determined to be materially inaccurate.

27. Notice. Any notice required to be given under the provisions of this section must be in writing and sent via United States certified mail. Notice is complete upon receipt.

28. If the applicant desires to proceed with the implementation of the approved work plan, the applicant must notify the Secretary in writing not more than 90 days after the work plan is approved. After providing such notice, the applicant shall initiate the work detailed in the Voluntary Remediation Work Plan according to the schedule as set forth in the Secretary's Notice of Approval. Upon the Secretary's receipt of notice that the applicant intends to proceed, the fully approved voluntary remediation work plan shall be deemed incorporated into and made an enforceable part of this Agreement.

29. Upon completion of the work contemplated by all work plans, the applicant shall submit to the Secretary the final report prepared by the licensed remediation specialist. The final

report shall include all information necessary to verify that all work contemplated by the work plan has been completed and all information required by the rules.

IX. ADDRESSES FOR ALL CORRESPONDENCE

30. Documents, including reports, approvals, notifications, disapprovals, and other correspondence to be submitted under this Agreement, may be sent by certified U.S. mail, return receipt requested, hand-delivery, overnight mail, or by courier service to the following addresses, or to such addresses as applicant or WVDEP may designate in writing.

Documents to be submitted to WVDEP should be sent to:

Jim Maurin
Project Manager
West Virginia Department of Environmental Protection
Division of Land Restoration
Office of Environmental Remediation
2031 Pleasant Valley Road, Suite #1
Fairmont, WV 26554

Phone No. (304) 368-3950
Fax No. (304) 368-3953

Documents to be submitted to applicant should be sent to:

Old Standard, LLC
Rt. 2, Box 99E
Charles Town, WV 25414
Attn: Herb Jonkers

Phone No. (703) 627-0935
Fax No. (304) 724-7292

X. COMPLIANCE WITH APPLICABLE LAWS

31. All work undertaken by the applicant pursuant to this Agreement shall be performed in compliance with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, all Occupational Safety and Health Administration, Department of Transportation and Resource Conservation and Recovery Act regulations. The

applicant shall be responsible for obtaining all permits, which are necessary for the performance of any work hereunder.

32. Completion of the work performed in accordance with this Agreement shall satisfy all applicable remediation requirements of Chapter 22 of the West Virginia Code, including the following: the Surface Coal Mining and Reclamation Act, W. Va. Code §§22-3-1 et seq.; the Air Pollution Control Act, W. Va. Code §§22-5-1 et seq.; the Water Pollution Control Act, W. Va. Code §§ 22-11-1 et seq.; the Groundwater Protection Act, W. Va. Code §§22-12-1 et seq.; the Solid Waste Management Act, W. Va. Code §§22-15-1 et seq.; the Underground Storage Tank Act, W. Va. Code §22-17-1 et seq.; and the Hazardous Waste Management Act, W. Va. Code §§22-18-1 et seq.

XI. PROJECT MANAGER/LICENSED REMEDIATION SPECIALIST

33. The WVDEP Project Manager for the Site is identified in Paragraph 30 of this Agreement. The applicant has designated Jeffrey H. Mitchell as the applicant's Licensed Remediation Specialist (LRS) and Lydia M. Work as the Project Manager for the Site. The LRS shall be responsible for the supervision of all activities under this Agreement. The WVDEP project manager will be the WVDEP designated representative at the Site. To the maximum extent possible, communications between applicant and WVDEP and all documents (including reports, approvals, and other correspondence) concerning the activities performed pursuant to the terms and conditions of this Agreement shall be directed through the project managers. During the implementation of this Agreement, the project manager shall, whenever possible, operate by consensus and shall attempt in good faith to resolve disputes informally through discussion of the issues. Each party has the right to change its respective project manager or licensed remediation specialist and shall notify the other party of such change within seventy-two (72) hours.

34. The absence of applicant's or WVDEP's project manager from the Site shall not be cause for the stoppage of work. The applicant's project manager or licensed remediation specialist or his supervisor shall be reasonably available by telephone while work is being performed. The applicant shall designate a person to be in charge that will be available on-site when field work is being performed.

XII. QUALITY ASSURANCE

35. The applicant shall use quality assurance, quality control, and chain of custody procedures in accordance with Quality Assurance Project Plan approved for use by WVDEP throughout any work plan sample collection and analysis activities under this Agreement, unless WVDEP agrees otherwise.

36. The applicant shall provide the WVDEP project manager with reasonable advance notice of all sampling and analysis as detailed in the work plan. To provide quality assurance and maintain quality control, the applicant shall:

- a) Use laboratories certified by WVDEP;
- b) Ensure that all sampling and analyses are performed according to US EPA methods, the approved Quality Assurance Project Plan, or other methods deemed satisfactory by WVDEP; and
- c) Ensure that any laboratories used by the applicant for analyses participate in a documented Quality Assurance/Quality Control program that complies with US EPA guidance documents. As part of such a program, and upon request by WVDEP, such laboratories shall perform analyses of samples provided by WVDEP to demonstrate the quality of analytical data for each such laboratory.

37. In the event any laboratory fails to perform the activities required in Paragraph 36, WVDEP reserves the right to reject any data not gathered pursuant to the requirements listed, and to require that the applicant utilize a different laboratory.

XIII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

38. The applicant shall, upon request, make the results of all sampling, including raw data and/or tests or other data generated by the applicant, or on the applicant's behalf, available to WVDEP. WVDEP shall make available to the applicant the quality-assured results of sampling and/or tests or other data similarly generated by WVDEP.

39. At the request of WVDEP, the applicant shall permit an authorized representative of WVDEP to take samples of wastes, soils, air, surface water and groundwater at the Site. For each sample taken, the authorized representative shall provide the applicant a receipt describing the sample obtained and, if requested, a portion of each sample equal in weight or volume to the portion retained.

XIV. ACCESS

40. To the extent that the Site or other areas where work is performed hereunder is presently owned or controlled by parties other than those bound by this Agreement, the applicant shall obtain, or use its best efforts to obtain, access agreements from the present owners. Best efforts shall include, at a minimum, a certified letter from the applicant to the present owner of such property requesting access agreements to permit the applicant or any authorized representative of the WVDEP access to such property. Such agreement shall provide access for authorized representatives of the WVDEP as specified below. In the event such access

agreements are not obtained, the applicant shall so notify the WVDEP, which may then, at its discretion, assist the applicant in gaining access.

41. Upon presentation of proper credentials, authorized representatives of the WVDEP shall be provided access by the applicant to the Site and other areas where work is to be performed under this Agreement at all reasonable times. Such access shall be related solely to the work being performed on the Site and shall include, but not be limited to: inspecting records, operating logs and contracts related to the Site; reviewing the progress of the applicant in carrying out the terms of this Agreement; conducting such tests, inspections and sampling as WVDEP may deem necessarily consistent with this Agreement. The applicant shall permit WVDEP's authorized representatives to inspect and copy all records, files, photographs, documents and other writings, including all sampling and monitoring data, which pertain to this Agreement over which the applicant exercises control. All persons with access to the Site, pursuant to this Agreement, shall comply with any applicable health and safety plans.

42. Nothing herein shall be construed as restricting the inspection or access authority of WVDEP under any law or regulation.

XV. RECORD PRESERVATION

43. The applicant agrees to preserve, during the pendency of this agreement, and for a minimum of three years after its termination, all documents required by this Agreement and any other documents generated or used to prepare the documents required by this Agreement. Upon request by WVDEP, the applicant shall make available to WVDEP such records, or copies of any such records.

44. The applicant may assert a confidentiality claim for any information submitted pursuant to this Agreement on the grounds that such information, or parts thereof, if made public, would divulge methods, processes, or activities entitled to protection as trade secrets. If no such confidentiality claim accompanies the information when it is submitted to the WVDEP, it may be made available to the public by WVDEP without further notice to the applicant. The applicant agrees not to assert any confidentiality claim with regard to any physical or analytical data regarding environmental conditions at the Site.

XVI. DISPUTE RESOLUTION

45. The parties shall use their best efforts to, in good faith, resolve all disputes or differences of opinion informally. The period of informal resolution shall not exceed thirty (30) days from the time that either party commences informal resolution, unless the parties agree otherwise in writing. If, however, the parties are unable to resolve the dispute informally, the applicant may present written notices of such dispute to WVDEP and set forth specific points of dispute and the position of the applicant. This written notice shall be submitted no later than 10

calendar days after the expiration of the informal dispute resolution period. The applicant's project manager will notify the WVDEP project manager immediately by phone or other appropriate methods of communication, prior to written notice, when she/he believes that the parties are unable to resolve a dispute. If either party requests, within 14 days receipt of written notice of the dispute by WVDEP, disputes will be submitted to a mutually-approved impartial third party for non-binding mediation.

46. After the parties have attempted in good faith to resolve disputes pursuant to the terms of Paragraph 45, any unresolved disputes arising out of or relating to this agreement, or the breach thereof, shall be settled by binding arbitration and judgment on the arbitrator's decision may be entered in any court having jurisdiction. The applicant shall notify WVDEP in writing of any unresolved disputes which they believe require arbitration. Within 5 days, the parties shall agree to an arbitrator. If the parties fail to agree to an arbitrator, the arbitration shall be administered by the American Arbitration Association. In selecting a mediator or arbitrator, the parties shall attempt to select persons with experience in environmental matters, including but not limited to a licensed remediation specialist.

47. The applicant shall make a written submission in support of its position to the agreed arbitrator within 10 days of the arbitrator's selection, and the other party may make a written response in support of its position within 7 days thereafter. Upon notice to the parties, the arbitrator may request additional information or make specific inquiry of either party. Within 30 days of the written response under this paragraph, the arbitrator shall render a decision on the dispute and notify each of the parties of the decision. The applicant agrees to pay for the services of any mediator and arbitrator used by the parties in attempting to resolve disputes arising out of or relating to this agreement. Each party shall pay its own legal fees in conducting mediation or arbitration.

48. Until the dispute is resolved, any actions concerning that element of work in dispute shall be halted. The resolution of the dispute shall be incorporated into the work plan and made an enforceable part thereof. The time schedule for the work in dispute shall be extended by the amount of time needed for resolution. Elements of work and/or obligations not affected by the dispute shall be completed in accordance with the schedule contained in the work plan.

49. Elements of work and any actions required as a result of such dispute resolution shall immediately be incorporated, if necessary, into the appropriate plan or procedure, and into this Agreement. The applicant shall proceed with all remaining work according to the modified plan or procedure.

XVII. FORCE MAJEURE

50. The applicant shall cause all work or required reporting to be performed within the time limits set forth herein, unless performance is delayed by events, which constitute a

Force Majeure. "Force Majeure" shall mean conditions or circumstances beyond the reasonable control of applicant which could not have been overcome by due diligence and shall include, without limitation, acts of God, action or inaction of other governmental agencies, or administrative or judicial tribunals or other third parties, or strikes or labor disputes (provided, however, applicant shall not be required to concede to any labor demands), which prevent or delay applicant from complying with the work plan.

51. The applicant shall notify WVDEP by telephone within three (3) working days and by writing no later than seven (7) working days after any event, which the applicant contends, is a Force Majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken or to be taken by the applicant to minimize the delay, and the timetable by which these measures will be implemented. Applicant shall have the burden of demonstrating that the event is a Force Majeure. The decision of whether an event is a force majeure shall be made by the Secretary, or the Secretary's designee. The decision shall be immediately communicated to the applicant.

52. If a delay is attributable to a Force Majeure, the time period for performance under this Agreement shall be extended, in writing, by the amount of time that is attributable to the event constituting the Force Majeure.

XVIII. RESERVATION OF RIGHTS

53. WVDEP and applicant reserve all rights and defenses they may have pursuant to any available authority unless expressly waived herein.

54. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of actions or demands in law or equity which the parties may have against any person, firm, partnership or corporation, not a party to this Agreement for any liability it may have arising out of or relating in any way to, the generation, storage, treatment, handling, transportation, release or disposal of any materials, hazardous substances, hazardous waste, contaminants, or pollutants at, to, or from the Site. The parties to this Agreement expressly reserve all rights, claims, demands, and causes of action they have against any and all other persons and entities who are not parties to this Agreement, and as to each other for matters not covered hereby.

55. The applicant reserves the right to seek contribution, indemnity, or any other available remedy against any persons found to be responsible or liable for contributions, indemnity, or otherwise for any amounts which have been or will be expended by the applicant in connection with the Site.

56. The WVDEP reserves the right to bring an action, including an administrative action, against the applicant for any violation of statutes or regulations except for the specific violations or releases that are being remediated in the work plan.

57. The WVDEP reserves the right to withdraw its approval of the work plan at any time during the implementation of the work plan if:

- a) WVDEP determines that the applicant has failed to substantially comply with the terms and conditions of this Agreement or the work plan;
- b) Applicant declines to implement the work plan after being notified of its approval by the WVDEP; or
- c) WVDEP determines that a hazardous substance or petroleum has become an imminent or substantial threat to human health or the environment.

Upon WVDEP's withdrawal of its approval, this Agreement shall be terminated and WVDEP reserves the right to bring any action to enforce any statute or regulation under Chapter 22 of the West Virginia Code, including an action regarding the violations or releases that were the subject of this Agreement.

58. The WVDEP acknowledges that, pursuant to W. Va. Code §22-22-18, applicant, upon receipt of the Certificate of Completion, is not liable for claims for contribution concerning matters addressed in the Voluntary Remediation Agreement or any related work plan.

XIX. ADMINISTRATIVE COSTS

59. Applicant agrees to reimburse WVDEP for all of its reasonable administrative costs associated with implementation of this Agreement at the rate of 2.5 times the hourly rate of the primary employee assigned to the site plus the actual and direct expenses of such employee. Within 60 calendar days of the approval of the work plan, WVDEP shall send the applicant an itemized list of estimated in-house costs that WVDEP expects to incur under this Agreement. The applicant agrees that a reasonable estimate of WVDEP contractor costs will be provided as described in paragraph 60. Itemization will be in standard WVDEP format. The estimated costs may include the preparation of the itemized list of administrative costs. Upon request, the applicant shall have the right to examine any documentation in WVDEP's possession used to develop the itemized list of costs. Requests for such documentation shall be made in writing and must be received by WVDEP within two (2) weeks from the date the applicant receives the estimate of costs.

60. WVDEP agrees to allow the applicant to review and comment on the scope of work and associated cost estimates for outside contractors prior to WVDEP's authorization of the said contractor to proceed with the associated work. WVDEP will strive where possible to use cost effective and qualified outside contractor(s). "Outside contractors" are defined as individuals, partnerships or corporations paid by WVDEP to assist in the oversight of the activities under this agreement (e.g., risk assessment), but shall not include WVDEP employees. Cost estimates and invoices from outside contractors shall be submitted to the applicant within two (2) weeks from the date the WVDEP receives the cost estimate or invoice. The applicant shall raise any and all objections regarding cost estimates or invoiced work to the WVDEP

within two (2) weeks from the date the applicant receives the forwarded estimates/invoice(s) from the WVDEP or within two (2) weeks of the receipt by the applicant of any back-up documentation of the said cost estimates/invoices which is contained in WVDEP files and requested by the applicant, whichever shall last occur.

61. Applicant shall pay these costs in accordance with the following provisions. The \$5,000 application fee shall be credited against the first accounting. WVDEP shall periodically send an accounting of contractor, subcontractor and laboratory costs to applicant. Said accounting shall itemize all costs incurred by WVDEP for the previous calendar quarter. Applicant shall pay said amount within 45 days of receipt of the accounting. WVDEP shall also periodically send an accounting of WVDEP's primary employee time charged to this site to applicant. Applicant shall pay said amount within 45 days of receipt of the accounting.

62. Checks should be made payable to the Voluntary Remediation Fund and mailed along with a transmittal letter stating the site name and address to the West Virginia Department of Environmental Protection, Attention: Chief, Office of Environmental Remediation. In addition, a copy of the check and transmittal letter should be mailed to the WVDEP project manager.

XX. NOTICE OF BANKRUPTCY

63. As soon as the applicant has knowledge of its intention to file bankruptcy or no later than 7 days prior to the actual filing of a voluntary or involuntary bankruptcy petition, applicant shall notify WVDEP of its intention to file a bankruptcy petition.

XXI. INDEMNIFICATION

64. Applicant agrees to indemnify and save and hold the state of West Virginia, its agencies, departments, agents, and employees, harmless from and all claims or causes of action arising from, or on account of, acts or omissions of the applicant, its officers, employees, receivers, trustees, agents, or assigns, in carrying out the activities pursuant to this Agreement.

XXII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

65. The effective date of this Agreement shall be the date on which the applicant receives the notice that this Agreement has been signed by the Secretary of WVDEP.

66. This agreement may be amended by mutual agreement of WVDEP and the applicant. Amendments shall be in writing and shall be effective when the applicant receives notice that the amendment has been signed by the Secretary of WVDEP.

67. If the Secretary determines that there is an imminent threat to the public, the Secretary may unilaterally modify or amend this Agreement.

XXIII. EXTENSIONS OF TIME PERIODS

68. Any written response shall be deemed timely performed if hand-delivered or postmarked by the last day of any time period prescribed herein. Whenever a party has the right or is required to do some act or make some response within a prescribed period after the service of a notice or other paper on him and the notice or paper is served upon him by United States mail, three (3) days shall be added to the prescribed period.

69. Whenever any party is called upon to respond or otherwise act in a certain number of days, and if the final day occurs on a Saturday, Sunday or legal holiday (whether state or national), such time limitation shall automatically extend to the next business day after such Saturday, Sunday, or holiday.

70. Any time periods specified in this Agreement may be extended only by agreement of the parties.

XXIV. TERMINATION AND SATISFACTION

71. Upon completion of the final report prepared by the LRS, the applicant may seek a Certificate of Completion from the Secretary. Upon receipt of a request for a Certificate of Completion, the Secretary shall determine that the Site meets applicable standards for those areas of the Site and for those contaminants identified in the voluntary remediation agreement and that the applicant has complied with the voluntary remediation agreement and any approved work plans for the Site. Upon making this determination, the Secretary shall issue a Certificate of Completion which conforms substantially to Appendix 60-3C of the rules. Where a land use covenant is required by this Agreement, such Certificate of Completion shall not become effective until it is properly filed with the Clerk of the County Commission of the county in which the property is located.

If the Secretary determines that the certificate should not be issued because work required by this Agreement and any approved work plans has not been completed or because the Site does not meet applicable standards, the Secretary shall initiate the procedures relating to denial of a certificate as provided in the rules.

72. The provisions of this Agreement shall be satisfied and this Agreement shall terminate when the Secretary issues the Certificate of Completion.

73. Nothing in this Agreement shall restrict the state of West Virginia from seeking other appropriate relief to protect human health or the environment from pollution or contamination at or from this Site not remediated in accordance with this Agreement.

74. Applicant may, in its sole discretion, terminate this Agreement by providing to the Secretary fifteen (15) days advance written notice of termination. Only those costs incurred or obligated by the Secretary before the notice of termination is received are recoverable if the Agreement is terminated. If the applicant terminates this Agreement, then the applicant shall pay WVDEP's costs associated with the voluntary remediation within thirty-one (31) days after receiving notice that the costs are due and owing.

XXV. LAND USE COVENANTS

75. The parties agree that restrictions may be required on the future use of the Site. Once such restrictions have been determined, an appropriate land use covenant will be prepared and recorded for the Site.

XXVI. REOPENER

76. Upon agreement of the parties or upon occurrence of one or more conditions of W.Va. Code § 22-22-15, this Agreement may be reopened in accordance with W. Va. Code §22-22-15 and the rules implementing that section.

XXVII. PRECEDENCE OF AGREEMENT

77. In the event that conflict arises among the terms and conditions of this Agreement, the State of Work, or the approved work plan, this Agreement shall govern and the terms and conditions hereunder shall determine the parties' rights and responsibilities.

XXVIII. GOVERNING LAW

78. This Agreement will be governed by the laws of the state of West Virginia.

Old Standard, LLC (APPLICANT)

Printed Name: Robert L. [unclear]
Title: MANAGER
Signature: [Handwritten Signature]
Date: 5/21/03

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Printed Name: Ken Ellison
Title: Director
Signature: [Handwritten Signature]
Date: 5/21/03

THIS CONFIRMATORY DEED, dated this 13th day of January, 2004, by and between **OLD STANDARD QUARRY LLC**, a limited liability company, party of the first part and hereinafter referred to as Grantor and **OLD STANDARD LLC**, a limited liability company, party of the second part and hereinafter referred to as Grantee.

WHEREAS, the Grantor purchased the herein described real estate from Braun A. Hamstead, Substitute Trustee, by deed dated January 29, 2003, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia in Deed Book 969 at Page 630, and

WHEREAS, subsequent to the purchase, the Grantor changed its name from Old Standard Quarry LLC to Old Standard LLC, and

WHEREAS, the Grantor wishes to execute a confirmatory deed unto the Grantee to acknowledge the change of name, and

NOW, THEREFORE WITNESSETH: That for and in the consideration of a confirmatory deed, the said Grantor does hereby grant and convey unto said Grantee all of its right, title and interest in and to all of that certain lot or parcel of real estate, with general warranty of title, with improvements thereon and appurtenances thereunto belonging, situate, lying and being in the Harpers Ferry District of Jefferson County, West Virginia and being more particularly described as follows:

All that certain lot, tract or parcel of real estate, situate, lying and being in the Harpers Ferry District of Jefferson County, West Virginia, being more particularly described as follows, to-wit:

BEGINNING at (313) a 5/8" rebar and cap set on the easterly side of W. Va. Sec. Rte. 27 and corner to the Edith B. Hoffman tract; thence with the said Hoffman tract in part and in part with the John N. & June H. Newcomer tract, S. 56° 06' 53" E. 2557.32' to (202) a 5/8" rebar and cap set in the southerly line of the said Newcomer tract and corner to the Alexander Murphy tract, said point being N. 56° 06' 53" W. 260.29' from (148) an iron pin found corner to the Lynwood S. Barton tract; thence with the said Murphy tract the following courses: S. 64° 37' 57" W. 263.88' to (203) a 5/8" rebar and cap set; thence S. 33° 07' 57" W. 362.84' to (204) a 5/8" rebar and cap set; thence S. 19° 22' 57" W. 230.90' to (205) a 5/8" rebar and cap set; thence S. 35° 07' 57" W. 329.85' to (146) a hacked double red oak; thence S. 45° 07' 03" E. 462.74' to (208) a point on the westerly bank of the Shenandoah River, said point being S. 45° 07' 03" E. 10.58' from a flanged axle set; thence with the meanderings of the westerly bank of the said Shenandoah River the following courses; S. 62° 07' 30" W. 493.70' to (144); thence S. 46° 01' 37" W. 605.33' to (143); thence S. 38° 56' 59" W. 661.57' to (142); thence S. 30° 05' 18" W. 1611.93' to (141); thence S. 44° 19' 36" W. 455.84' to (140); thence S. 61° 22' 15" W. 1341.40' to (139); thence S. 71° 24' 56" W. 2417.02' to (189) a point on the westerly bank of the said Shenandoah River and corner to the Blue Ridge Ent. of W. Va. Inc. tract, said point being an extension of a large row of trees; thence with the said Blue Ridge tract, N. 15° 30' 44" W. 149.91' to (231) a 5/8" rebar and cap set corner to the Chessie System R.R./W and the Ellis A. Johnson tract (Lot No. 2); thence with the said Lot No. 2 the following courses: N. 75° 05' 12" E. 284.00' to (232) a 5/8" rebar and cap set; thence N. 24° 43' 25" W. 148.00' to (221) a rebar and cap set on the easterly side of the said Chessie System R/W; thence crossing the said Chessie System R/W the following courses: N. 04° 09' 51" W. 45.00' to (222) a 5/8" rebar and cap set; thence N. 31° 27' 31" E. 54.88" to (234) a 5/8" rebar and cap set on the westerly side of the said Chessie System R/W and corner to the Ellis A.

Johnson tract (Lot No. 1); thence with the said Lot No. 1, N. 18°03' 13" W. 64.58' to (235) a 5/8" rebar and cap set on the easterly side of the above-mentioned W. Va. Sec. Rte. 27; thence with the said W. Va. Sec. Rte. 27 on a curve to the left having a length of 203.64', a radius of 321.583' and a chord of N. 41° 15' 17" E. 91.79' to (236) a 5/8" rebar and cap set on the easterly side of the said W. Va. Sec. Rte. 27 and corner to the M. E. Church-South tract; thence with the said church tract the following courses: S. 52° 29' 06" E. 150.68' to (238) a 5/8" rebar and cap set; thence N. 37° 30' 54" E. 90.00' to (239) a 5/8" rebar and cap set; thence N. 52° 29' 06" W. 167.66' to (237) a 5/8" rebar and cap set on the easterly side of the above-mentioned W. Va. Sec. Rte. 27; thence with the easterly side of the said W. Va. Sec. Rte. 27 the following courses: on a curve to the right having a length of 65.142' a radius of 176.461' and a chord of N. 37° 31' 49" E. 36.81' to (246); thence N. 42° 54' 23" E. 340.94' to (248); thence on a curve to the left having a length of 146.600', a radius of 328.037' and a chord of N. 30° 06' 13" E. 145.383' to (251); thence N. 17° 18' 03" E. 212.50' to (253); on a curve to the left having a length of 84.420', a radius of 129.275' and a chord of N. 01° 24' 25" W. 82.928' to (255); thence N. 20° 06' 53" W. 247.51' to (257); thence on a curve to the left having a length of 55.829', a radius of 139.778' and a chord of N. 31° 33' 25" W. 55.458' to (260); thence N. 42° 14' 58" W. 86.13' to (290); thence on a curve to the right having a length of 493.906', a radius of 403.862' and a chord of N. 08° 33' 02" W. 463.697' to (292); thence N. 26° 29' 04" E. 175.25' to (294); thence on a curve to the right having a length of 41.969', and a radius of 1230.00' and a chord of N. 27° 27' 43" E. 41.967' to (296); thence N. 28° 26' 22" E. 1609.36' to (298); thence on a curve to the right having a length of 94.172', a radius of 244.557' and a chord of N. 39° 28' 16" E. 93.592' to (300); thence N. 50° 30' 09" E. 938.90' to (302); thence on a curve to the right having a length of 18.668', a radius of 480.00' and a chord of N. 51° 37' 00" E. 18.667' to (304); thence N. 52° 43' 51" E. 307.36' to (306); thence on a curve to the left having a length of 139.332', a radius of 2402.353' and a chord of N. 51° 04' 09" E. 139.313' to (308); thence N. 49° 24' 28" E. 551.01' to (310); thence on a curve to the left having a length of 88.295', a radius of 323.00' and a chord of N. 41° 34' 35" E. 88.023' to (312); thence N. 33° 44' 42" E. 2188.212' to (313) the point of beginning, containing 429.656 acres, as shown on that certain plat prepared by P. C. Dimagno Engineers and Surveyors, dated February 12, 1979, recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, immediately preceding that Deed from Martin Marietta Corporation to Shenandoah Quarries, Inc., dated June 8, 1979, and in Deed Book No. 456, at page 697."

This conveyance is expressly made subject to easements of record and in existence.

SAVING AND EXCEPTING the following described parcels of real estate:

(1) That certain Chessie System right-of-way as shown on the aforesaid plat and more particularly bounded and described as follows:

"BEGINNING at (222) a 5/8" rebar and cap set on the easterly side of the R.R. R/W, said point being 15' left of Station 206+31.8; thence crossing the said R/W N. 31° 27' 31" E. 54.88' to (234) a 5/8" rebar and cap set on the westerly side of the said R/W, said point being 20' right of Station 206+00.6; thence with the said westerly side of the said R/W the following courses: on a curve to the right having a centerline length of 351.50', a radius of 1273.320' and a chord of S. 72° 33' 26" E. 29.84' to (229), said point being 20' right of Station 205+73; thence N. 01° 31' 06" W. 20.00' to (230), said point being 40' right of Station 205+73; thence on a curve to the right having a centerline length of 351.50', a radius of 1273.320' and a chord of S. 88° 30' 21" E. 138.04' to (270), said point being 40' right of Station 204+39.1; thence S. 85° 29' 36" E. 39.10' to (274), said point being 40' right of Station 204+00; thence S. 04° 30' 24" W. 10.00' to (273), said point being 30' right of Station 204+00; thence S. 85° 29' 35" E. 130.00' to (287), said point being 30' right of Station 202+70; thence N. 04° 30' 24" E. 11.00' to (279), said point being 41' right of Station 202+70; thence N. 88° 01' 08" E. 265.47' to (286), said point being 41' right of Station 200+00; thence S. 03° 31' 54" E. 16.00' to (318), said point being 25' right of Station 200+00; thence on a curve to the left having a centerline length of 526.90', a radius of 1074.31' and chord of N. 76° 25' 14" E. 366.146' to (319), said point being 25' right of Station 196+23.2; thence N. 66° 22' 24" E. 323.20' to (325), said point being 25' right of Station 193+00; thence N. 23° 37' 36" W. 2.00' to (326), said point being 27' right of Station 193+00; thence N. 66° 22' 24" E. 721.50' to (327), said point being 27' right of Station 185+78.5; thence N. 23° 37' 36" W. 23.00' to (328), said point being 40' right of Station 185+78.5; thence on a curve to the left having a centerline length of 363.60', a radius of 2460.581', and a chord of N. 63° 44' 30" E. 356.77' to (331), said point being 40' right of Station 182+14.9; thence S. 32° 05' 36" E. 9.00' to (330), said point being 31' right of Station 182+14.9; thence N. 59° 06' 49" E. 284.86' to (335), said point being 31' right of Station 179+00; thence N. 56° 45' 39" E. 500.14' to (339), said point being 35' right of Station 172+00; thence N. 53° 52' 23" E. 520.81' to (342), said point being 45' right of Station 169+00; thence on a curve to the left having a centerline length of 604.50', a radius of 1432.193' and a chord of N. 40° 11' 32" E. 312.57' to (344), said point being 45' right of Station 165+76.6; thence S. 56° 16' 36" E. 10.00' to (343), said point being 35' right of Station 165+76.6; thence N. 34° 36' 12" E. 976.72' to (70), said point being 20' right of Station 156+00; thence S. 56° 16' 36" E. 5.00' to (350) said point being 15' right of Station 156+00; thence N. 33° 43' 24" E. 354.70' to (73), said point being 15' right of Station 152+45.3; thence on a curve to the right having a centerline length of 1257.40', a radius of 5729.279' and a chord of N. 40° 00' 37" E. 1258.17' to (75), said point being 15' right of Station 139+87.9; thence on a curve to the right having a centerline length of 715.10' a radius of 996.391' and a chord of N. 62° 38' 34" E. 569.28' to (77), said point being 15' right of Station 134+19.4; thence crossing the said R/W S. 45° 07' 03" E. 40.17' to (78) to a point on the easterly side of the said R/W,

said point being 18' left of Station 133+96.4; thence with the easterly side of the said R/W the following courses: on a curve to the left having a centerline of 715.10', a radius of 996.391' and a chord of S. 63° 18' 08" W. 572.28' to (76), said point being 18' left of Station 139+87.9; thence on a curve to the left having a centerline length of 1257.40', a radius of 5729.279' and a chord of S. 40° 00' 36" W. 1250.94' to (74), said point being 18' left of Station 152+45.3; thence S. 33° 43' 24" W. 354.70' to (71), said point being 18' left of Station 156+00; thence S. 56° 16' 36" E. 2.00' to (72), said point being 20' left of Station 156+00; thence S. 33° 43' 24" W. 600.00' to (347), said point being 20' left of Station 162+00; thence S. 56° 16' 36" E. 5.00' to (348), said point being 25' left of Station 162+00; thence S. 33° 43' 24" W. 376.60' to (345), said point being 25' left of Station 165+76.6; thence on a curve to the right having a centerline length of 604.50', a radius of 1432.193' and a chord of S. 49° 03' 32" W. 831.44' to (341), said point being 25' left of Station 171+81.1; thence S. 57° 54' 24" W. 324.40' to (337), said point being 25' left of Station 177+00; thence S. 56° 43' 30" W. 484.90' to (332), said point being 35' left of Station 182+14.9; thence S. 32° 05' 36" E. 9.00' to (333), said point being 44' left of Station 182+14.9; thence on a curve to the right having a centerline length of 363.60', a radius of 2460.581' and a chord of S. 62° 08' 24" W. 369.77' to (329), said point being 44' left of Station 185+78.5; thence S. 66° 22' 24" W. 921.50' to (323), said point being 44' left of Station 195+00; thence N. 23° 37' 36" W. 19.00' to (322), said point being 25' left of Station 195+00; thence S. 66° 22' 24" W. 123.20' to (320), said point being 25' left of 196+23.2; thence on a curve to the right having a centerline length of 526.90', a radius of 1074.341' and a chord of S. 73° 45' 15" W. 282.46' to (288), said point being 25' left of Station 199+00; thence S. 53° 26' 31" W. 71.51' to (278), said point being 60' left of Station 199+60; thence S. 88° 18' 22" W. 256.20' to (283), said point being 50' left of Station 202+05.1; thence N. 40° 29' 36" W. 42.43' to (281), said point being 20' left of Station 202+35.1; thence N. 85° 29' 36" W. 164.90' to (276), said point being 20' left of Station 204+00; thence N. 04° 30' 24" E. 5.00' to (275), said point being 15' left of Station 204+00; thence N. 85° 29' 36" W. 39.10' to (271), said point being 15' left of Station 204+39.1; thence on a curve to the left having a centerline length of 351.50', a radius of 1273.320' and a chord of N. 89° 49' 51" W. 192.60' to (222) the point of beginning, containing 10.571 acres."

(2) Those certain contiguous lots of real estate located within the perimeter of the aforesaid 429.656-acre tract shown on the plat attached hereto and designated "Outsales 11.55 acres," and more particularly bounded and described as follows:

"BEGINNING at (165) a 1" x 1" angle iron found corner to the Mary Nathanson--Trustee tract, said point being S. 42° 30' 56" W. 335.33' from property corner point (146) a hacked double red oak; thence with the said Nathanson tract S. 51° 49' 09" W. 384.31' to (164) a 1" x 1" angle iron found another corner to the said Nathanson tract; thence still with the said Nathanson tract in part, in part with the Charles S. Webb, Sr. estate tract and in part with the Mary H. McCormick estate tract N. 55° 20' 08" W. 1184.65' to (200) a 5/8" rebar and cap set another corner to the said McCormick tract; thence still with the said McCormick tract N. 28° 53' 04" E. 429.98' to (201) a 5/8" rebar and cap set another corner to the said McCormick tract; thence still with the said McCormick tract in part, in part with the above mentioned Webb tract and in part with the above mentioned Nathanson tract S. 52° 45' 42" E. 1341.59' to (165) the point of beginning, containing 11.55 acres," leaving an approximate residue of 407.535 acres.

SUBJECT to a Deed of Right of Way made and entered into on the 7th day of February, 1979, by and between Martin Marietta Corporation, a corporation, and Mary Nathanson, Trustee, which Deed of Right of Way is of record in the aforesaid Clerk's Office in Deed Book No. 452, at page 712, and reference is made thereto for a description by metes and bounds, and a plat of a survey showing the location of said right of way and for purposes of ingress and egress only, made by P. C. DiMagno Engineers and Surveyors, dated February 2, 1979, which plat is of record in the aforesaid County Clerk's Office in Plat Book No. 5, at page 48.

TOGETHER with a well located on or near the premises conveyed herein.

THIS CONVEYANCE IS MADE SUBJECT, HOWEVER, to all those reservations, restrictions, easements and other matters more particularly set forth in the aforesaid deed to the Grantor herein.

DECLARATION OF CONSIDERATION OR VALUE

The undersigned Grantor does hereby certify that the document to which this declaration is attached does not involve a transfer and is done for the sole purpose of confirming the change of name of the Grantor herein to the Grantee herein.

WITNESS the following signature and seal.

Old Standard Quarry LLC

By: [Signature] (SEAL)
Herbert Jonkers, Manager

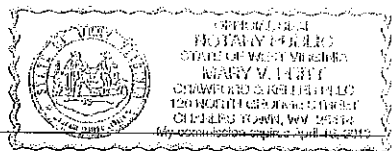
By: [Signature] (SEAL)
Gene P. Capriotti, Manager

STATE OF WEST VIRGINIA

COUNTY OF JEFFERSON, to-wit:

The foregoing instrument was acknowledged before me this 15th day of January, 2004, by Herbert Jonkers and Gene P. Capriotti, Managers of Old Standard Quarry LLC a limited liability company.

Commission expiration date and seal:



[Signature]
NOTARY PUBLIC

This document was prepared by James B. Crawford, III of CRAWFORD & KELLER PLLC, Liberty & George Streets P.O. Box 266, Charles Town, West Virginia 25414.

JEFFERSON COUNTY, WV
FILED
January 15, 2004 13:30:14
JAMES B. CRAWFORD
COUNTY CLERK
TRANSACTION NO. 2004001221
BOOK 00000 PAGES 00001



THIS DEED made this 18th day of November, 2004, by and between JOHN K. DORSEY and JOHN C. SKINNER, JR., SPECIAL COMMISSIONERS, parties of the first part and hereinafter referred to as Grantors, and OLD STANDARD, L.L.C., a West Virginia Limited Liability Company, party of the second part and hereinafter referred to as Grantee.

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the said Grantors do hereby grant and convey unto the Grantee all that certain parcel of real estate situate in Harpers Ferry District, Jefferson County, West Virginia:

That certain tract or parcel of land, situated near Millville in Jefferson County, West Virginia, improved by a dwelling house and out buildings, containing one and one-half acres, more or less, bounded on the North by the land of Susan V. Henkle, on the East by Charles Webb, on the South by Standard Lime and Stone Company, and on the West by Daniel Lancaster.

AND BEING the same real estate conveyed to Mary C. McCormick by deed dated March 13, 1950, from Ralph J. Hawbaker and Nellie Dorothea Hawbaker, his wife, recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book 179, at Page 311. Pursuant to and by virtue of a decree of the Circuit Court of Jefferson County, West Virginia, made and entered on the 24th day of May, 2004, in the cause therein pending wherein Edith E. McCormick was Plaintiff, and John W. McCormick, John W. McCormick, Jr., Larry McCormick, Phyllis Cecelia McCormick Yonkers, Edith Darlene McCormick McDowell, Linda McCormick Dever, Oscar Llewellyn McCormick, Marie McCormick Reeves, Alice Marie McCormick Holmes, Llewellyn H. Holmes, Bertha Holmes, and Their Heirs, Devisees, Executors and/or administrators, successors and assigns, and any Unknown parties who may claim an interest in that parcel of real estate located in Harpers Ferry District, Jefferson County, West Virginia, known as 1 ½ A., Alstadts, Hawbaker, Tax Map 9, Parcel

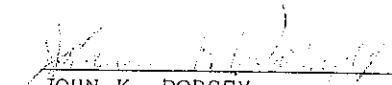

:0050, were Defendants, Civil Action No. 02-C-231, John K. Dorsey and John C. Skinner, Jr., were appointed Special Commissioner for purposes of selling and transferring the property.

THIS CONVEYANCE IS MADE SUBJECT, HOWEVER, to covenants, agreements, rights of way, restrictions and easements of record.

DECLARATION OF CONSIDERATION OR VALUE

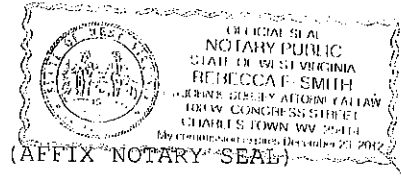
Under penalty of fine and imprisonment as provided by law, the undersigned Grantor hereby declares that the total consideration paid for the real estate conveyed by the document to which this declaration is appended was \$76,000.00.

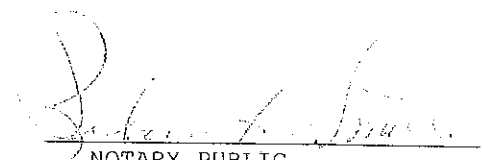
WITNESS the following signatures and seals.

 (SEAL)
JOHN K. DORSEY,
SPECIAL COMMISSIONER
 (SEAL)
JOHN C. SKINNER, JR.,
SPECIAL COMMISSIONER

STATE OF WEST VIRGINIA,
COUNTY OF JEFFERSON, to-wit:

The foregoing instrument was acknowledged before me this 18th day of November, 2004, by John K. Dorsey, Special Commissioner, in my said County and State.




NOTARY PUBLIC

My commission expires: December 23, 2012

STATE OF WEST VIRGINIA,
COUNTY OF JEFFERSON, to-wit:

The foregoing instrument was acknowledged before me this
17th day of November, 2004, by John C. Skinner, Jr., Special
Commissioner, in my said County and State.



Beth Gray

NOTARY PUBLIC

(AFFIX NOTARY SEAL)

My commission expires: July 6, 2014

THIS DOCUMENT WAS PREPARED BY:
John K. Dorsey, Attorney at Law
104 West Congress Street
P.O. Box 42
Charles Town, WV 25414
(304) 728-6000

FILE NO 520

JEFFERSON COUNTY, W.
FILED
November 24, 2004 10:46:27

JOHN E. OTT
COUNTY CLERK
TRANSACTION NO: 2004090722
Transfer Tax: \$501.60

BOOK OF DEEDS
Book: 992 Page: 00555

