

CONFIDENTIAL

As provided on June 1, 2015, to the NMPRC Commissioners,  
Office of General Counsel, Hearing Examiner and Parties in  
Case No. 13-00390-UT that have executed Confidentiality Agreements

**AMENDED AND RESTATED**

**MINE RECLAMATION AND**

**TRUST FUNDS AGREEMENT**

**AMONG**

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

**TUCSON ELECTRIC POWER COMPANY**

**THE CITY OF FARMINGTON, NEW MEXICO**

**M-S-R PUBLIC POWER AGENCY**

**THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

**CITY OF ANAHEIM**

**UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS**

**TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.**

**PNMR DEVELOPMENT AND MANAGEMENT CORPORATION**

\_\_\_\_\_, 2015

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**AMENDED AND RESTATED  
MINE RECLAMATION AND TRUST FUNDS AGREEMENT**

This AMENDED AND RESTATED MINE RECLAMATION AND TRUST FUNDS AGREEMENT (“Mine Reclamation Agreement”), is executed as of \_\_\_\_\_, 2015 (“Execution Date”), among PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation (“PNM”); TUCSON ELECTRIC POWER COMPANY, an Arizona corporation (“TEP”); THE CITY OF FARMINGTON, NEW MEXICO, an incorporated municipality and a body politic and corporate, existing as a political subdivision under the constitution and laws of the State of New Mexico (“Farmington”); M-S-R PUBLIC POWER AGENCY, a joint exercise of powers agency organized under the laws of the State of California (“M-S-R”); THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO, a body politic and corporate, existing as a political subdivision under the constitution and laws of the State of New Mexico (“LAC”); SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint exercise of powers agency organized under the laws of the State of California (“SCPPA”); CITY OF ANAHEIM, a municipal corporation organized under the laws of the State of California (“Anaheim”); UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS, a political subdivision of the State of Utah (“UAMPS”); TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., a Colorado cooperative corporation (“Tri-State”), and PNMR DEVELOPMENT AND MANAGEMENT CORPORATION, a New Mexico corporation (“PNMR-D”). PNM, TEP, Farmington, M-S-R, Los Alamos, SCPPA, Anaheim, UAMPS, Tri-State and PNMR-D are hereinafter sometimes referred to individually as a “Party” and collectively as “Parties.”

**RECITALS**

This Mine Reclamation Agreement is made with reference to the following facts, among others:

A. The San Juan Project is a four-unit, coal-fired electric generation plant located in San Juan County, near Farmington, New Mexico, also known as the San Juan Generating Station (“SJGS” or the “Project”). On the Execution Date, the owners of the Project are: PNM, TEP, Farmington, M-S-R, Los Alamos, SCPPA, Anaheim, UAMPS and Tri-State; these entities, as the owners of the Project on the Execution Date, are sometimes referred to in this Mine Reclamation Agreement as the “Participants.” Concurrently herewith, the Parties are executing: (i) the San Juan Project Restructuring Agreement (“Restructuring Agreement”); (ii) the San Juan Project Decommissioning and Trust Funds Agreement (“Decommissioning Agreement”); (iii) the SJPPA Restructuring Amendment; and (iv) the SJPPA Exit Date Amendment, all of which were agreed upon pursuant to a mediation among the Parties.

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B. Under the terms of the Restructuring Agreement, the Parties have agreed to the restructuring of Project ownership interests, rights and cost responsibilities. Certain of the Participants (the “Exiting Participants”) will cease their active involvement in the operation of the Project on the Exit Date, but the Exiting Participants will nonetheless remain “Parties” for purposes of this Mine Reclamation Agreement and the obligations herein contained. PNM and PNMR-D will assume certain of the Exiting Participants’ ownership interests, rights and cost responsibilities as of the Exit Date.

C. PNMR-D is a wholly-owned subsidiary of PNM Resources, Inc., and intends, consistent with the provisions of the Restructuring Agreement, to acquire an Ownership Interest in the Project on the Exit Date and, prior to the acquisition of such Ownership Interest, to assume certain obligations under this Mine Reclamation Agreement, the Restructuring Agreement and the SJPPA. PNMR-D is a party to this Mine Reclamation Agreement but is not as of the Execution Date a Participant in the Project. After the Exit Date, PNMR-D will become a Remaining Participant in the Project.

D. Coal for the operation of the Project is mined from the San Juan Mine, located adjacent to SJGS. PNM and TEP and San Juan Coal Company (“SJCC”) are the parties to an Underground Coal Sales Agreement dated August 31, 2001 (“UG-CSA”), which is anticipated to terminate January 1, 2016. Thereafter, coal will be supplied under a new Coal Supply Agreement (“CSA”) between SJCC and PNM.

E. PNM and TEP are required by Section 7.3(A) of the UG-CSA to “compensate SJCC for all reclamation and related liabilities, obligations and costs associated with disturbance on the SJCC Site Area resulting in any way from the supply of coal for San Juan Station . . . .” and are required under Section 7.3(B) of the UG-CSA to make certain arrangements for post-term reclamation obligations. Under Section 7.4 of the CSA, PNM is required to make arrangements under this Mine Reclamation Agreement to assure PNM’s post-term reclamation obligations under the CSA. Concurrently with the CSA, PNM will enter into a Reclamation Services Agreement (“RSA”) with SJCC for SJCC’s performance of reclamation services.

F. To address PNM’s and TEP’s reclamation responsibilities under the UG-CSA, the Participants entered into the “Mine Reclamation and Trust Funds Agreement among the Participants,” dated June 1, 2012 (the “Original Trust Funds Agreement”). The Original Trust Funds Agreement provided for the establishment by the Participants of certain irrevocable trusts (“Reclamation Trusts”) to satisfy their respective obligations to pay for Reclamation Costs. Consistent with the Original Trust Funds Agreement, the Participants have established and funded their respective Reclamation Trusts.

G. PNM, TEP and SJCC will execute the UG-CSA Termination Agreement that provides for the termination of the UG-CSA and the termination of the mine reclamation obligations thereunder.

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H. The Parties desire, by this Mine Reclamation Agreement, to amend and restate the Original Trust Funds Agreement, to address the replacement of the UG-CSA with the CSA and the establishment of the RSA, to add PNMR-D as a Party to the Mine Reclamation Agreement and to provide for the establishment, continuation and maintenance of irrevocable Reclamation Trusts to satisfy their respective responsibilities to pay for Reclamation Costs. The Reclamation Trusts must continue in effect until reclamation has been completed as determined by Reclamation Bond Release.

I. The foregoing Recitals are included to provide background regarding this Mine Reclamation Agreement, and while certain Recitals may be referenced in this Mine Reclamation Agreement, they are neither part of nor incorporated into the terms, covenants and conditions of this Mine Reclamation Agreement.

## **AGREEMENT**

The Parties, for and in consideration of the mutual covenants to be by them kept and performed, agree as follows.

### **1.0 TERM AND TERMINATION**

1.1 Effective Date. This Mine Reclamation Agreement will become effective (the “Effective Date”) on the effective date of the Restructuring Agreement.

1.2 Termination. This Mine Reclamation Agreement will continue in full force and effect until one hundred and eighty (180) days after Reclamation Bond Release.

### **2.0 DEFINITIONS AND RULES OF INTERPRETATION**

2.1 Definitions. The following terms used in this Mine Reclamation Agreement, with initial capitalization, have the meanings set out below.

2.1.1 AAA has the meaning provided for in Section 13.3.2.

2.1.2 Adjustment Request has the meaning provided for in Section 5.3.

2.1.3 Affiliate means with respect to any person: (i) each person that, directly or indirectly, controls or is controlled by or is under common control with such designated person; (ii) any person that beneficially owns or holds 50% or more of any class of voting securities of such designated person or 50% or more of the equity interest in such designated person; and (iii) any person of which such designated person beneficially owns or holds 50% or more of any class of voting securities or in which such designated person beneficially owns or holds 50% or more of the equity interest; provided, however, that members of a Party will not be deemed to be Affiliates of each such Party. For the purposes of this definition, “control” (including, with correlative meanings, the terms

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“controlled by” and “under common control with”), as used with respect to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities or by contract or otherwise; PNM and PNMR-D are Affiliates.

2.1.4 Arbitration Notice has the meaning provided for in Section 13.2.

2.1.5 Arbitration Organization has the meaning provided for in Section 13.3.2.

2.1.6 Arbitration Award has the meaning provided for in Section 13.5.

2.1.7 Assigning Party means a Party making a transfer or assignment as described in Section 17.1.

2.1.8 Business Day means any day other than a Saturday, Sunday or federal holiday.

2.1.9 Catalogue ID means the unique identifier assigned to each Disturbance Area within the SJCC Site Area.

2.1.10 CCR Disposal Costs means those costs incurred under the CCRDA.

2.1.11 CCRDA means the new Coal Combustion Residuals Disposal Agreement between PNM and SJCC with an anticipated effective date of January 1, 2016.

2.1.12 Coal Combustion Residuals or CCR means ash and gypsum byproducts produced by the Project.

2.1.13 Composite Reclamation Shares means shares calculated as set forth in Exhibit 8.

2.1.14 CSA means the new Coal Supply Agreement between PNM and SJCC with an anticipated effective date of January 1, 2016.

2.1.15 Decommissioning Agreement means the San Juan Project Decommissioning and Trust Funds Agreement executed concurrently herewith.

2.1.16 Default means a default in performance of a Party’s obligations under this Mine Reclamation Agreement, as defined more particularly in Section 10.1.

2.1.17 Default Declaration means a declaration of default as defined in Section 10.5.

2.1.18 Default Notice means a notice of default as defined in Section 10.2.

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2.1.19 Dispute Protest has the meaning provided for in Section 13.1.2.

2.1.20 Disturbance means a surface or underground physical disturbance resulting from or associated with coal mining activities, including mine pits, facilities, roads, ponds, topsoil and overburden removal, buildings, pipelines, power lines, water systems, fencing or auxiliary facilities that are subject to the Reimbursement Obligation.

2.1.21 Disturbance Area means a discrete area with a similar nature of Disturbance that can be classified as Pre-2017YE Reclamation Liability, Post-2017YE Reclamation Liability or a combination thereof, subject to reclassification as appropriate based on future activities as provided in Exhibit 7.

2.1.22 Effective Date means the date established in Section 1.1 for the effectiveness of this Mine Reclamation Agreement.

2.1.23 Exit Date means the date upon which the Exiting Participants transfer all of their respective rights, titles and interests in and to their Ownership Interests to PNM and PNMR-D as provided in the Restructuring Agreement and terminate their active involvement in the operation of the SJGS, except as expressly provided for in this Mine Reclamation Agreement, the Restructuring Agreement and the Decommissioning Agreement; the Exit Date is anticipated to be on or about December 31, 2017.

2.1.24 Exiting Participants means those Participants that will transfer all of their respective rights, titles and interests in and to their Ownership Interests to PNM and PNMR-D as provided in the Restructuring Agreement and terminate their active involvement in the operation of SJGS on the Exit Date, except as expressly provided for in the Restructuring Agreement, this Mine Reclamation Agreement and the Decommissioning Agreement; the Exiting Participants are M-S-R, Anaheim, SCPPA and Tri-State.

2.1.25 Final Reclamation Report means a report provided by the Reclamation Trust Funds Operating Agent to the Reclamation Oversight Committee pursuant to Section 5.2.

2.1.26 Full Principal Funding Date means the date by which a particular Reclamation Funding Curve calculation indicates a Reclamation Trust needs no additional capital contributions.

2.1.27 Governmental Authority means any federal, state, tribal, local, municipal or foreign governmental or regulatory authority, department, agency, commission, body, court or other governmental authority other than a Party.

2.1.28 Initiating Party has the meaning provided for in Section 18.1.

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2.1.29 Law means statutes, rules, regulations, ordinances, orders and codes of federal, state and local Governmental Authorities.

2.1.30 Make-up Funding Curve means the make-up funding curves established by the Reclamation Investment Committee pursuant to Section 6.4.

2.1.31 Make-up Reclamation Trust Fund means a sub-account within a Party's Reclamation Trust, as provided in Sections 4.1 and 4.8.

2.1.32 Mandatory Provisions means those provisions which must be included in each Party's Reclamation Trust Agreement, as described in Exhibit 3.

2.1.33 Notice means a notification given in accordance with Section 28.

2.1.34 Notice of Dispute has the meaning provided for in Section 13.1.1.

2.1.35 Noticing Party has the meaning provided for in Section 13.1.1.

2.1.36 Notification of Intent means a notification of intent to declare a Party in default, as defined in Section 10.5.

2.1.37 Operating Agent means the Participant or other entity which has been selected by the Participants as the entity responsible for the operation and maintenance of the Project pursuant to the SJPPA; as of the Effective Date, PNM is the Operating Agent. Unless otherwise specifically provided for, when in this Mine Reclamation Agreement a reference is made to the "agent" of a Party, such reference will not be deemed to include reference to the Operating Agent.

2.1.38 Opt-in Participant means a Party that has elected pursuant to Section 9.2 to become an Opt-in Participant.

2.1.39 Opt-out Participant means a Party that does not elect to become an Opt-in Participant.

2.1.40 Original Trust Funds Agreement means the Mine Reclamation and Trust Funds Agreement among the Participants dated June 1, 2012.

2.1.41 Ownership Interest means a Party's percentage of undivided ownership interest in a Unit and in common equipment and facilities and as increased, decreased, acquired or eliminated as provided in the Restructuring Agreement, and rights incidental thereto.

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2.1.42 Participant means any one of PNM, TEP, Farmington, M-S-R, Los Alamos, SCPPA, Anaheim, UAMPS or Tri-State.

2.1.43 Participant Representative has the meaning provided for in Section 9.1.

2.1.44 Party means any one of the Participants as well as PNMR-D.

2.1.45 Permitted Investments means investments identified as permitted investments for Opt-out Participants and Opt-in Participants, as set out in Exhibit 2.

2.1.46 Post-2017YE Reclamation Liability means liability to reimburse costs for reclamation of all Disturbances that are not classified as Pre-2017YE Reclamation Liability; provided that Post-2017YE Reclamation Liability does not include Reclamation A&G Expenses or costs of Reclamation Work.

2.1.47 Post-2017YE Reclamation Liability Costs means the sum of costs for Post-2017YE Reclamation Liability; provided that Post-2017YE Reclamation Liability Costs do not include CCR Disposal Costs and other costs such as coal supply that may be incurred by SJCC.

2.1.48 Pre-2017YE Reclamation Liability means liability to reimburse costs for reclamation of (i) all Disturbance on the SJCC Site Area existing as of the Effective Date as identified in Survey 1, for which there exists a Reimbursement Obligation as of the Effective Date, except those Disturbances before the Effective Date that occur as a result of activities associated with the post-2017 fuel supply; and (ii) all Disturbance on the SJCC Site Area existing as of the Exit Date as identified in Survey 2, for which there exists a Reimbursement Obligation as of the Exit Date, except those Disturbances after the Effective Date that occur as a result of activities associated with the post-2017 fuel supply; provided that Pre-2017YE Reclamation Liability does not include Reclamation A&G Expenses or costs of Reclamation Work.

2.1.49 Pre-2017YE Reclamation Liability Costs means the sum of costs for Pre-2017YE Reclamation Liability; provided that Pre-2017YE Reclamation Liability Costs do not include CCR Disposal Costs and other costs such as coal supply that may be incurred by SJCC.

2.1.50 Prime Rate means the interest rate per annum (sometimes referred to as the base rate) for large commercial loans to creditworthy entities announced from time-to-time by Wells Fargo Bank, N.A. (New York) or its successor bank or, if such rate is not announced, the rate published in the Wall Street Journal as the “prime rate” from time-to-time (or, if more than one rate is published, the arithmetic mean of such rates), in either case determined as of the date the obligation to pay arises.

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2.1.51 Principal Reclamation Trust Fund means a sub-account within a Party's Reclamation Trust.

2.1.52 Project has the meaning provided for in Recital A.

2.1.53 Protest means a protest made under Section 10.4.

2.1.54 Protesting Party has the meaning provided for in Section 13.1.2.

2.1.55 Purchase Transaction has the meaning provided for in Section 17.2.

2.1.56 Reclamation A&G Expenses means administrative and general expenses incurred by the Reclamation Trust Funds Operating Agent associated with its Reclamation Work as provided for in Section 8.6.

2.1.57 Reclamation Bond Release means the date as of which full reclamation bond release of the SJCC Site Area has been achieved, as defined by New Mexico Energy, Minerals, and Natural Resources Department, Mining and Minerals Division.

2.1.58 Reclamation Correcting Deposits means deposits to a Party's Reclamation Trust as required by Sections 4.7.1 and 4.7.2.2.

2.1.59 Reclamation Correction Period means the time in which Reclamation Correcting Deposits must be completed as provided for in Sections 4.7.1.1 and 4.7.2.

2.1.60 Reclamation Costs means the sum of Pre-2017YE Reclamation Liability Costs and Post-2017YE Reclamation Liability Costs; Reclamation Costs do not include CCR Disposal Costs and other costs such as coal supply that may be incurred by SJCC.

2.1.61 Reclamation Costs Review means a review of Reclamation Costs undertaken pursuant to Section 5.2.

2.1.62 Reclamation Funding Curves means the Reclamation Funding Floor Curve and the Reclamation Funding Target Curve of Exhibit 1A (in the case of an Opt-in Participant), Exhibit 1B or Exhibit 1C (in the case of an Opt-out Participant) and similarly for Exhibit 1D, Exhibit 1E and Exhibit 1F when they are created. Exhibits 1A, 1B, and 1C, pertain to Pre-2017YE Reclamation Liability. Exhibits 1D, 1E, and 1F will pertain to Post-2017YE Reclamation Liability when they are created. Exhibits 1B and 1E are calculated as precursors to Exhibits 1C and 1F, respectively.

2.1.63 Reclamation Funding Floor Amount means the respective annual dollar amounts in the Reclamation Funding Floor Curves of Exhibit 1A, Exhibit 1B, or Exhibit 1C, for any given year and similarly for Exhibit 1D, Exhibit 1E and Exhibit 1F when they are created.

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2.1.64 Reclamation Funding Floor Curve means the set of numbers in Exhibit 1A, Exhibit 1B, or Exhibit 1C, labeled as such and similarly for Exhibit 1D, Exhibit 1E and Exhibit 1F when they are created.

2.1.65 Reclamation Funding Target Amount means the respective annual dollar amounts in the Reclamation Funding Target Curves of Exhibit 1A, Exhibit 1B, or Exhibit 1C, for any given year and similarly for Exhibit 1D, Exhibit 1E and Exhibit 1F when they are created.

2.1.66 Reclamation Funding Target Curve means the set of numbers in Exhibit 1A, Exhibit 1B, or Exhibit 1C, labeled as such and similarly for Exhibit 1D, Exhibit 1E and Exhibit 1F when they are created.

2.1.67 Reclamation Investment Committee means the committee established in Section 6.

2.1.68 Reclamation Oversight Committee means the committee established in Section 7.

2.1.69 Reclamation Recovery Deposit means deposits to a Party's Reclamation Trust as required by Section 4.7.2.

2.1.70 Reclamation Recovery Period means the time in which Reclamation Recovery Deposits must be completed as provided for in Section 4.7.2.2.

2.1.71 Reclamation Share means a Party's proportionate funding and cost responsibility, as specified in Section 3.3, and applied for various purposes in this Mine Reclamation Agreement.

2.1.72 Reclamation Trust means a trust maintained by a Party with a Trustee pursuant to Section 4.

2.1.73 Reclamation Trust Agreement means a trust agreement entered into between a Party and its Trustee as provided for in Section 4.1.

2.1.74 Reclamation Trust Funds Operating Agent means the agent of the Parties, selected in accordance with Section 8, undertaking to perform the Reclamation Work.

2.1.75 Reclamation Work means the work undertaken by the Reclamation Trust Funds Operating Agent pursuant to Section 8.3.

2.1.76 Reimbursement Obligation means the obligation of PNM to pay SJCC, as provided for in the RSA.

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2.1.77 Remaining Participants means those Parties that will continue participation, or acquire an Ownership Interest, in the Project on and after the Exit Date; the Remaining Participants are PNM, TEP, Farmington, UAMPS, Los Alamos and PNMR-D.

2.1.78 Restructuring Agreement means the San Juan Project Restructuring Agreement among the Parties, executed concurrently herewith.

2.1.79 Review Cost has the meaning provided for in Section 5.4.

2.1.80 RSA means the new Reclamation Services Agreement between PNM and SJCC with an anticipated effective date of January 1, 2016.

2.1.81 SJCC means San Juan Coal Company, a Delaware corporation, or its successors or assigns.

2.1.82 SJCC Site Area means the land identified in Exhibit 6.

2.1.83 SJPPA means the Amended and Restated San Juan Project Participation Agreement dated March 23, 2006.

2.1.84 Status Report means a status report prepared and provided to the Parties and to SJCC in accordance with Section 4.10.

2.1.85 Survey means Survey 1, Survey 2, Survey 3 or other Surveys, as provided for in Exhibit 7.

2.1.86 Surveyor has the meaning provided for in Exhibit 7.

2.1.87 Trustee means a financial institution selected by a Party at which the Party's Reclamation Trust is or will be held.

2.1.88 UG-CSA means the Underground Coal Sales Agreement between PNM, TEP and SJCC.

2.1.89 Uncontrollable Forces has the meaning provided for in Section 19.

2.1.90 Willful Action means: (i) action taken or not taken by a Party (or the Reclamation Trust Funds Operating Agent), at the direction of its directors, members of its Board, officers or employees having management or administrative responsibility affecting its performance under this Mine Reclamation Agreement, which action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or damage would probably result

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therefrom; or (ii) action taken or not taken by a Party (or the Reclamation Trust Funds Operating Agent) at the direction of its directors, members of its Board, officers or employees having management or administrative responsibility affecting its performance hereunder, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default hereunder and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default, or if no time to cure is specified therein, occurs or continues beyond a reasonable time to cure such default; or (iii) action taken or not taken by a Party (or the Reclamation Trust Funds Operating Agent), at the direction of its directors, members of its Board, officers or employees having management or administrative responsibility affecting its performance hereunder, which action is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default hereunder. The phrase “employees having management or administrative responsibility,” as used in this Section 2.1.90, means employees of a Party who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Party’s performance under this Mine Reclamation Agreement; provided, however, that, with respect to employees of the Reclamation Trust Funds Operating Agent acting in its capacity as such and not in its capacity as a Party, but only during such time as any one of Unit 1, 2, 3 or 4 is commercially producing electrical power, such phrase refers only to: (x) the senior employee of the Reclamation Trust Funds Operating Agent on duty at the Project who is responsible for the operation of the Units, and (y) anyone in the organizational structure of the Reclamation Trust Funds Operating Agent between such senior employee and an officer. After such time as none of Unit 1, 2, 3 or 4 is commercially producing electrical power, the phrase “employees having management or administrative responsibility” as used in this Section 2.1.90 will mean employees of any Party (including the Reclamation Trust Funds Operating Agent), who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Party’s performance under this Mine Reclamation Agreement. Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.

2.2 Rules of Interpretation. Unless a clear contrary intention appears, this Mine Reclamation Agreement will be construed and interpreted as follows:

2.2.1 Any reference to a person includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization, governmental entity or other entity;

2.2.2 Any reference to a day, week, month or year is to a calendar day, week, month or year, unless otherwise specified as a Business Day;

2.2.3 Any act required to occur by or on a certain day is required to occur before or on that day unless the day falls on a Saturday, Sunday or federal holiday, in which case the act must occur before or on the next Business Day;

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2.2.4 The singular includes the plural and *vice versa*;

2.2.5 Reference to the feminine, masculine or neutral gender includes reference to all other genders;

2.2.6 Reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Mine Reclamation Agreement;

2.2.7 Unless expressly stated otherwise, reference to any agreement (including this Mine Reclamation Agreement), document, instrument or tariff means such agreement, document, instrument or tariff as amended, supplemented, replaced or modified and in effect from time-to-time;

2.2.8 Reference to any Law means such Law as amended, modified, codified supplemented or reenacted, in whole or in part, and in effect from time-to-time, including, if applicable, rules and regulations promulgated thereunder;

2.2.9 Unless expressly stated otherwise, reference to any article, section, exhibit or appendix means such article, section, exhibit or appendix of this Mine Reclamation Agreement, as the case may be;

2.2.10 "Hereunder," "hereof," "herein," "hereto" and words of similar import are deemed references to this Mine Reclamation Agreement as a whole and not to any particular provision hereof;

2.2.11 "Including," "include" and "includes" are deemed to be followed by the phrase "without limitation" and will not be construed to mean the examples given constitute an exclusive list of the matters covered;

2.2.12 Relating to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including"; and

2.2.13 Whenever an act is required to be performed by a particular time of day, prevailing Mountain Time will be the standard by which performance is measured.

### **3.0 RECOGNITION OF OBLIGATIONS**

3.1 Reclamation Trust Funding Obligations. Each Party acknowledges and recognizes its respective obligation to have a balance in its Reclamation Trust sufficient to fund its Reclamation Share of the appropriate Reclamation Funding Target Curve in any given year during the term hereof, subject to the provisions of Section 4. The initial Reclamation Funding

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Curve for Opt-in Participants, having a Full Principal Funding Date of December 31, 2022, is set out in Exhibit 1A, as adjusted from time-to-time in accordance with Sections 5 and 6.3.3. The initial Reclamation Funding Curve for Opt-out Participants, having a Full Principal Funding Date of December 31, 2017, is set out in Exhibit 1C, as adjusted from time-to-time in accordance with Sections 5 and 6.3.3. Other funding curves will, as appropriate, be created with respect to Post-2017YE Reclamation Liability and adjusted from time-to-time in accordance with Sections 5 and 6.3.3. An adjustment to a Reclamation Funding Curve will not be deemed an amendment to this Mine Reclamation Agreement but rather will be considered an element of the administration and implementation of this Mine Reclamation Agreement; upon approval of a Reclamation Funding Curve adjustment, as provided for herein, such adjusted Reclamation Funding Curve will replace the Reclamation Funding Curve previously in effect.

### 3.2 Cost Obligations.

3.2.1 Each Party acknowledges and recognizes its obligation to pay its Reclamation Share of: (i) Reclamation Costs as provided herein; and (ii) costs of Reclamation Work and Reclamation A&G Expenses as provided in Sections 8.5 and 8.6.

3.2.2 In light of the fact that under the Restructuring Agreement the Exiting Participants will be terminating their active involvement in the operation of the Project on the Exit Date, the Reclamation Trust Funds Operating Agent will conduct, or cause to be conducted, the Surveys provided for in Exhibit 7 to identify Pre-2017YE Reclamation Liability and Post-2017YE Reclamation Liability.

3.2.3 Reclamation Costs are distinguished from the costs of other services (e.g., coal supply and CCR disposal). In particular, CCR is currently placed in the mine pits for disposal. Cover or spoil material over the CCR, as required by the CCRDA, will be assigned to the CCR disposal activity, not to Reclamation Costs, for so long as CCR disposal is ongoing at San Juan mine. Any joint use of equipment, infrastructure or facilities in connection with Reclamation Costs activities and other services activities will be equitably allocated to each such activity by the Reclamation Trust Funds Operating Agent.

3.3 Definition of Reclamation Shares. The Reclamation Shares of the Parties for purposes of determining the proportionate funding and for cost responsibilities hereunder of each Party are the following:

		For Pre-2017YE Reclamation <u>Liability</u>	For Post-2017YE Reclamation <u>Liability</u>
3.3.1	PNM:	46.297 percent	58.671 percent
3.3.2	PNMR-D:	0.000 percent	7.673 percent
3.3.3	TEP:	19.800 percent	20.068 percent

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3.3.4	M-S-R:	8.700 percent	0.000 percent
3.3.5	Farmington:	2.559 percent	5.076 percent
3.3.6	Tri-State:	2.490 percent	0.000 percent
3.3.7	Los Alamos:	2.175 percent	4.309 percent
3.3.8	SCPPA:	12.710 percent	0.000 percent
3.3.9	Anaheim:	3.100 percent	0.000 percent
3.3.10	UAMPS:	2.169 percent	4.203 percent

#### **4.0 FUNDING OF RECLAMATION TRUSTS AND OF MAKE-UP ACCOUNTS**

4.1 Establishment and Funding of Reclamation Trusts. Within ninety (90) days after the Effective Date of this Mine Reclamation Agreement, each Party will either execute or, if necessary, amend a separate Reclamation Trust Agreement between that Party and its Trustee for the establishment of an irrevocable Reclamation Trust to carry out the purposes of this Mine Reclamation Agreement. The Trustee will not be an Affiliate of a Party establishing a Reclamation Trust. To the extent not already provided, a copy of each Reclamation Trust Agreement will upon execution be provided to each other Party and to SJCC. Each Reclamation Trust will be funded as provided for in Sections 4.5, 4.6, 4.7 and 4.8. Each Reclamation Trust will be segregated into one or more sub-accounts: a Principal Reclamation Trust Fund and, if necessary, a Make-up Reclamation Trust Fund. Opt-out Participants will have a Principal Reclamation Trust Fund and may have Make-up Reclamation Trust Funds for the pre-Exit Date period, and Opt-in Participants will have a Principal Reclamation Trust Fund and may have Make-up Reclamation Trust Funds for both the pre- and post-Exit Date periods.

4.2 Investment Policies. Subject to compliance with the Permitted Investments standards set out in Exhibit 2, each Party may implement its own policies in relation to the investment of funds in its Reclamation Trust. Each Party may, at its discretion, appoint one or more investment managers to direct the investment of all or parts of funds held in trust.

4.3 Mandatory Provisions. Each Reclamation Trust Agreement must contain and maintain certain Mandatory Provisions. The Mandatory Provisions are described in Exhibit 3. Proposed amendments to any Mandatory Provision in a Party's Reclamation Trust Agreement are subject to review and approval by the Reclamation Investment Committee, as provided for in Section 6.3.6. A Party desiring to amend a Mandatory Provision must submit such proposed amendment to the Reclamation Investment Committee for prior review in accordance with procedures established by the Reclamation Investment Committee.

4.4 Only Purposes. Funds held in a Party's Reclamation Trust will be utilized for the following and no other purposes: (a) to pay the costs and fees associated with the maintenance of the Reclamation Trust, including the fees and expenses of the Trustee; and (b) to pay the Party's Reclamation Share (as defined in Section 3.3) of Reclamation Costs.

4.5 Initial Funding of Reclamation Trusts. Consistent with the Original Trust Funds Agreement, the Participants have established and funded, and are continuing to fund, their

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Reclamation Trusts. Within ninety (90) days after the Effective Date of this Mine Reclamation Agreement, PNMR-D will deposit into its Reclamation Trust immediately available funds sufficient to satisfy its Reclamation Share of the Reclamation Funding Target Amount for calendar year 2015.

4.6 Subsequent Funding of Reclamation Trusts. By December 31 of each year during the term hereof, each Party will have a balance in its Reclamation Trust sufficient to comply with the provisions of Section 3.1, 4.8 and this Section 4.6. Except as provided in Sections 4.9, 8.7, 11.3, 12.2 and 17.5, during the term hereof, no Party will be permitted to withdraw funds in its Reclamation Trust, including net earnings on accumulations in the Reclamation Trust. No additional funding of a Reclamation Trust will be required of a Party if the funds in its Reclamation Trust are sufficient by December 31 of each year during the term hereof, to satisfy the Party's Reclamation Share of the Reclamation Funding Target Amount for that year.

4.7 Reclamation Recovery Deposits and Reclamation Correcting Deposits.

4.7.1 In the event that, as of December 31 of any year during the term hereof, the value of funds in a Party's Reclamation Trust is less than its Reclamation Share of the Reclamation Funding Target Amount, but greater than its Reclamation Share of the Reclamation Funding Floor Amount for such year, then the Party will make one or more Reclamation Correcting Deposits. The amount and timing of such Reclamation Correcting Deposits will be made in conformance with policies established by the Reclamation Investment Committee under Section 6.3.4.

4.7.1.1 Reclamation Correcting Deposits in the aggregate will be sufficient to ensure that the value of funds in a Party's Reclamation Trust is equal to or greater than its Reclamation Share of the Reclamation Funding Target Amount at the end of the applicable Reclamation Correction Period determined as provided in Section 4.7.1.2.

4.7.1.2 The applicable Reclamation Correction Period during which one or more Reclamation Correcting Deposits must be made pursuant to Section 4.7.1.1 will be two (2) years.

Example:

Assuming the value of funds in Party A's Reclamation Trust is less than the Reclamation Funding Target Amount for Party A but greater than or equal to the Reclamation Funding Floor Amount for Party A at the end of 2015, then the Reclamation Correction Period expires December 31, 2017.

4.7.2 In the event that, as of December 31 of any year during the term hereof, the value of funds in a Party's Reclamation Trust is less than its share of the Reclamation Funding Floor Amount for such year, then the Party will make one or more Reclamation Recovery Deposits. The amount and timing of such Reclamation Recovery Deposits will

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be made in conformance with policies established by the Reclamation Investment Committee under Section 6.3.4.

4.7.2.1 Reclamation Recovery Deposits in the aggregate will be sufficient to ensure that the value of funds in a Party's Reclamation Trust is equal to or greater than its Reclamation Share of the Reclamation Funding Floor Amount at the end of the applicable Reclamation Recovery Period determined as provided in Section 4.7.2.2.

4.7.2.2 The applicable Reclamation Recovery Period during which one or more Reclamation Recovery Deposits must be made pursuant to Section 4.7.2.1 will be one (1) year, subject thereafter to the obligation to make one or more Reclamation Correcting Deposits within a Reclamation Correction Period equal to one (1) additional year.

Example:

Assuming the value of funds in Party A's Reclamation Trust is less than the Reclamation Funding Floor Amount for Party A at the end of 2015, the Reclamation Recovery Period expires December 31, 2016; such Party would then, however, be required to make Reclamation Correcting Deposits no later than December 31, 2017.

4.7.3 If any Party fails to make any Reclamation Correcting Deposit or Reclamation Recovery Deposit when due, then, within ten (10) days after the applicable due date, the chairperson of the Reclamation Investment Committee will report such failure by the Party to each representative on the Reclamation Investment Committee, to the Reclamation Oversight Committee and to the Reclamation Trust Funds Operating Agent.

4.8 Make-up Reclamation Trust Funds. In the event of a Default Declaration, made pursuant to Section 10.5, that a Party is in Default in regard to the funding of its Reclamation Trust, each of the non-defaulting Parties will fund a Make-up Reclamation Trust Fund within its Reclamation Trust in the manner provided for, and subject to the various requirements and limitations set out in, Sections 6.4, 9.2, 11 and 12.

4.9 Return of Funds in a Reclamation Trust. Any funds remaining in a Party's Reclamation Trust after Reclamation Bond Release will be returned to the Party pursuant to the Party's Reclamation Trust Agreement. Any funds remaining in a Party's Make-up Reclamation Trust Fund may, at the election of the Party, and subject to the provisions of the Party's Reclamation Trust Agreement, be returned to the Party if a defaulting Party has cured the Default the existence of which led to the creation and funding of the Make-up Reclamation Trust Fund.

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4.10 Status Reports. Each Party will prepare on an annual basis a funding status report regarding the funds in its Reclamation Trust (in both the Principal Reclamation Trust Fund and any Make-up Reclamation Trust Fund), as of December 31 of each year during the term hereof and will provide such annual funding status report to each of the other Parties, to the Reclamation Investment Committee and to SJCC. To demonstrate compliance with Exhibit 2, the funding status report will include a detailed summary of the investments made by the Party in its Reclamation Trust during the period covered by the status report. The funding status report will be prepared and provided to the other Parties, to the Reclamation Investment Committee and to SJCC no later than thirty (30) days following the end of a calendar year unless otherwise directed by the Reclamation Investment Committee. In addition to such annual funding status reports, on the written request of any other Party or of SJCC, for reasonable cause (*e.g.*, changes in market conditions that could significantly affect the value of funds in a Reclamation Trust), each Party will provide special funding status reports, in the same format and content as annual funding status reports, to the other Parties, to the Reclamation Investment Committee and to SJCC; provided, that such special reports will not be required of any Party more frequently than once in any calendar quarter.

4.11 Compliance. A Party whose funding of its Reclamation Trust (Principal Reclamation Trust Fund or any Make-up Reclamation Trust Fund) has been determined by the Reclamation Investment Committee, pursuant to Section 6.3.2, not to be in compliance with the requirements of this Mine Reclamation Agreement will act promptly to bring itself into compliance therewith. A Party, the Mandatory Provisions of whose Reclamation Trust Agreement have been determined by the Reclamation Investment Committee, pursuant to Section 6.3.6, not to be in compliance with the requirements of this Mine Reclamation Agreement, will act promptly to bring itself into compliance therewith and will promptly inform the Reclamation Investment Committee of actions taken to bring itself into compliance.

## **5.0 ADJUSTMENTS TO RECLAMATION FUNDING CURVES**

5.1 Adjustments to Reclamation Funding Curves. The Parties acknowledge the appropriateness of adjusting, from time-to-time, the Reclamation Funding Curves for both Opt-in Participants and Opt-out Participants.

5.2 Reclamation Costs Review. A Reclamation Costs Review is a technical assessment performed (or caused to be performed) by the Reclamation Trust Funds Operating Agent of reclamation methods, status and costs using appropriate reclamation scenarios as determined by the Reclamation Oversight Committee. An initial Reclamation Costs Review will be commenced as soon as practicable after Survey 1 is both completed and approved by the Reclamation Oversight Committee as provided in Exhibit 7. A second Reclamation Costs Review will be performed as soon as practicable after Survey 2 is both completed and approved by the Reclamation Oversight Committee as provided in Exhibit 7. At the request of any Party made at any time after the second Reclamation Costs Review, the Reclamation Trust Funds Operating Agent will perform (or cause to be performed) a further Reclamation Costs Review; provided, such further review will not be required more frequently than every two (2) years. The

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Reclamation Costs Review will report estimated Pre-2017YE Reclamation Liability Costs and Post-2017YE Reclamation Liability Costs based on the results of the most current Survey. The Reclamation Oversight Committee will establish reasonable goals, timelines and procedures with respect to the manner in which the required Reclamation Costs Review is to be conducted.

5.2.1 In performing the Reclamation Costs Review, the Reclamation Trust Funds Operating Agent (and its contractor or agent) will consult with SJCC and will utilize, as appropriate, information that may be provided by SJCC in reassessing reclamation methods, status and costs, including SJCC's anticipated annual reclamation expenditures.

5.2.2 The study period for purposes of a Reclamation Costs Review will be from January 1 of the year that the Reclamation Costs Review commences through Reclamation Bond Release.

5.2.3 The Reclamation Trust Funds Operating Agent will present a Final Reclamation Report to the Reclamation Oversight Committee.

5.2.4 The Reclamation Oversight Committee will, consistent with the voting procedures set out in Section 7.4, promptly either (i) approve the Final Reclamation Report; or (ii) direct that further study or revisions be made to the Final Reclamation Report. In the event the Reclamation Oversight Committee directs further study or revisions, the Reclamation Trust Funds Operating Agent will submit a new Final Reclamation Report to the Reclamation Oversight Committee. Upon approval of the Final Reclamation Report by the Reclamation Oversight Committee, the Reclamation Oversight Committee will forward a copy of the Final Reclamation Report to the members of the Reclamation Investment Committee for the establishment by the Reclamation Investment Committee of new Reclamation Funding Curves as necessary.

5.3 Adjustment Requests. A Party may request a Reclamation Costs Review by serving a written request ("Adjustment Request") upon the Reclamation Trust Funds Operating Agent, the members of the Reclamation Oversight Committee and SJCC, setting out in detail the facts relied on by the Party making the request.

5.4 Costs of Reclamation Costs Review. The cost of performing the Reclamation Costs Review ("Review Cost") will be allocated among the Parties based on the following calculation: Review Cost multiplied by the Composite Reclamation Shares of each Party as determined by Exhibit 8. The Reclamation Trust Funds Operating Agent will issue appropriate invoices to the Parties for such costs based on the Composite Reclamation Shares determined for the previously approved Reclamation Costs Review and then reallocate costs based on, and following the completion and approval of, the latest Reclamation Costs Review.

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## **6.0 RECLAMATION INVESTMENT COMMITTEE**

6.1 Establishment of Reclamation Investment Committee. The Original Trust Funds Agreement established a Reclamation Investment Committee. The Reclamation Investment Committee will remain in existence during the term of this Mine Reclamation Agreement. The Reclamation Investment Committee will have no authority to modify any of the provisions of this Mine Reclamation Agreement.

6.2 Reclamation Investment Committee Membership. The Reclamation Investment Committee will consist of one representative from each Party who will be an officer or other authorized representative of the Party. Any of the Parties may designate an alternate or substitute to act as its representative on the Reclamation Investment Committee in the absence of the regular representative on the Reclamation Investment Committee or to act on specified occasions or with respect to specified matters. Each Party will notify the other Parties promptly, in writing, of the designation of its representative and alternate representative on the Reclamation Investment Committee and of any subsequent changes in such designations. The chairperson of the Reclamation Investment Committee will be a representative of the Reclamation Trust Funds Operating Agent. Each Party will be responsible for the costs of its Reclamation Investment Committee representative, including fees and travel reimbursement.

6.3 Functions and Responsibilities of Reclamation Investment Committee. The Reclamation Investment Committee will have the following functions and responsibilities:

6.3.1 Establish and revise the format and content to be used for each Party's annual funding status report;

6.3.2 Review each Party's annual and special funding status report(s), including, as to each Party, whether the investments in the Party's Reclamation Trust have been made in a manner consistent with Exhibit 2 and report the review findings to the Reclamation Oversight Committee;

6.3.3 Upon receipt from the Reclamation Oversight Committee of a copy of a Final Reclamation Report, as provided for in Section 5.2.4, establish and provide to each of the Parties new Reclamation Funding Curves for Opt-in Participants and for Opt-out Participants. The new Reclamation Funding Curves will be incorporated in new Exhibits 1A, 1B, and 1C and similarly for Exhibits 1D, 1E and 1F when they are created which will be substituted for the then-existing Exhibits 1A, 1B, 1C, 1D, 1E, and 1F. The new Exhibits 1A, 1B, and 1C will utilize the same assumptions, procedures and principles, to the extent possible, as are reflected in Exhibits 1A, 1B, and 1C attached hereto on the Effective Date. Such assumptions, procedures and principles are set out in Exhibit 4. In establishing a new Exhibit 1C, the Reclamation Funding Target Curve values and Reclamation Funding Floor Curve values in Exhibit 1B that occur during or after 2017 will be adjusted upward by a risk adjustment factor of three percent (3%). Exhibits 1A, 1B, and 1C pertain to Pre-2017YE Reclamation Liability. New Exhibits 1D, 1E and 1F,

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analogous to Exhibits 1A, 1B and 1C, will be created for Post-2017YE Reclamation Liability Cost estimates as soon as practicable after any such estimates are available;

6.3.4 Establish, consistent with Section 4.7, policies regarding the number and timing of Reclamation Correcting Deposits and Reclamation Recovery Deposits;

6.3.5 Audit, or cause to be audited, as determined to be necessary, compliance of Parties in meeting their obligations under Sections 3.1, 4.5, 4.6, 4.7 and 4.8;

6.3.6 Under procedures to be established in a timely fashion by the Reclamation Investment Committee, (i) promptly upon execution of each Party's Reclamation Trust Agreement, review the Mandatory Provisions of each such Reclamation Trust Agreement to assure that the Mandatory Provisions of each such Reclamation Trust Agreement conform to the requirements of Section 4.3 and of Exhibit 3; and (ii) review any proposed amendment to a Mandatory Provision in a Party's Reclamation Trust Agreement. If the Reclamation Investment Committee representatives (other than the representative representing any Party whose compliance is under review) conclude that a Party's initial Reclamation Trust Agreement is inconsistent with Section 4.3 and Exhibit 3, or that a proposed amendment to a Mandatory Provision is inconsistent with the purposes of this Mine Reclamation Agreement, the Reclamation Investment Committee will inform the Party of the reasons why, in the judgment of the Reclamation Investment Committee, the Mandatory Provisions of its initial Reclamation Trust Agreement are inconsistent with Section 4.3 and Exhibit 3 or why the proposed amendment to the Mandatory Provision is inconsistent with this Mine Reclamation Agreement. No Party may amend a Mandatory Provision in its Reclamation Trust Agreement in a manner contrary to a determination of the Reclamation Investment Committee;

6.3.7 In the event of a Default Declaration against a Party resulting from the Party's failure to fund its Reclamation Trust as required by Sections 3.1, 4.1, 4.5, 4.6 and 4.7, establish funding curves for Make-up Reclamation Trust Funds, consistent with Section 6.4;

6.3.8 Perform such other tasks as the Reclamation Oversight Committee will from time-to-time assign to the Reclamation Investment Committee; and

6.3.9 Perform such other tasks as may be delegated under this Mine Reclamation Agreement to the Reclamation Investment Committee.

6.4 Make-up Funding Curves. In the event a Default Declaration is made against a Party on the basis of the Party's failure to fund its Reclamation Trust (including making required Reclamation Recovery Deposits and Reclamation Correcting Deposits) in the manner provided for in this Mine Reclamation Agreement, the Reclamation Investment Committee will act promptly to provide the non-defaulting Parties with appropriate funding curves for their Make-up Reclamation Trust Funds ("Make-up Funding Curves").

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6.4.1 Investments in a Make-up Reclamation Trust Fund will be subject to the same Permitted Investment limitations as those applicable to each Party's respective Principal Reclamation Trust Fund.

6.4.2 With regard to Pre-2017YE Reclamation Liability, the Reclamation Investment Committee will develop two sets of Make-up Funding Curves: the first, applicable to Opt-in Participants, will assume the return and discount rates of Exhibit 1A; the second, applicable to Opt-out Participants, will assume the return and discount rates of Exhibit 1B. However, after December 31, 2017, Opt-out Participants will have no further liability for defaulting Parties and any shortfalls in the Make-up Reclamation Trust Funds of the Opt-out Participants will be made up by non-defaulting Opt-in Participants as described in Section 11.3. Subject to Section 4.9, such Opt-out Participant Make-up Reclamation Trust Funds will remain available to pay any relevant invoices. After December 31, 2017, a set of Make-up Funding Curves for Opt-out Participants is not necessary.

6.4.3 With regard to Post-2017YE Reclamation Liability, the Reclamation Investment Committee will develop two sets of Make-up Funding Curves: the first, applicable to Opt-in Participants, will assume the return and discount rates of Exhibit 1D; the second, applicable to Remaining Opt-out Participants, will assume the return and discount rates of Exhibit 1E. After December 31, 2017, Remaining Opt-out Participants will have no further liability for defaulting Parties and any shortfalls in the Make-up Reclamation Trust Funds of the Remaining Opt-out Participants will be made up by non-defaulting Opt-in Participants as described in Section 11.3. Subject to Section 4.9, such Remaining Opt-out Participant Make-up Reclamation Trust Funds will remain available to pay any relevant invoices.

6.4.4 The Make-up Funding Curves will be based on the defaulting Party's projected reclamation liability remaining after all funds in the defaulting Party's Reclamation Trust are exhausted when using the reclamation costs underlying Exhibit 1A and Exhibit 1B, or Exhibit 1D and Exhibit 1E, as the case may be, at the time of the Default Declaration.

6.4.5 The Make-up Funding Curves will be revised when revisions and updates are made to Exhibit 1A and Exhibit 1B or Exhibit 1D and Exhibit 1E, as the case may be.

6.4.6 The same general financial analysis principles will be applied to the calculation of the Make-up Funding Curves as were applied in developing the Reclamation Funding Curves of Exhibit 1A and Exhibit 1B, or Exhibit 1D and Exhibit 1E, as the case may be, as set forth in Exhibit 4.

6.4.7 As to Make-up Funding Curves that are established before the expiration of the CSA (as extended or replaced), the Make-up Funding Curves will be calculated to

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reach full principal funding upon expiration of the CSA (as extended or replaced); and such Make-up Funding Curves will be developed by assuming equal annual payments for the period between the Default Declaration and the expiration of the CSA, with the exception that the first year's Make-up funding target will be modified to reflect the existing balance in the defaulting Party's Reclamation Trust, *i.e.*, any funding shortage should be made up in the year of the Default Declaration. For Opt-out Participants, the date of expiration, extension, or replacement of the CSA for purposes of this Section 6.4.7 will be fixed at December 31, 2017. From the Effective Date until December 31, 2017, for Opt-in Participants, the date of expiration, extension, or replacement of the CSA, for purposes of this Section 6.4.7, will be fixed at December 31, 2022. After December 31, 2017, Opt-in Participants may request the Reclamation Trust Investment Committee to modify their Make-up Funding Curves to reflect any extension or replacement of the CSA with an expiration date subsequent to December 31, 2022.

6.4.8 With respect to Make-up Funding Curves for Defaults that occur after the expiration of the CSA (as extended or replaced), the Make-up Funding Curves will be developed by assuming a single, lump sum contribution is made by December 31 of the year in which the Make-up Reclamation Trust Funds are established to fully fund the shortfall in the defaulting Party's Reclamation Trust.

6.4.9 Annual funding requirements for Make-up Reclamation Trust Funds will be analogous to the provisions of Sections 4.6 and 4.7. The Make-up Reclamation Funding Floor Curve will be one hundred percent (100%) of the Make-up Funding Target Curve by the expiration date of the CSA (or any extension or replacement thereof) for Opt-in Participants and by December 31, 2017 for Opt-out Participants.

6.5 Decisions of Reclamation Investment Committee. Any actions or determinations brought before the Reclamation Investment Committee will require the affirmative vote of the representatives on the Reclamation Investment Committee as set out in Sections 6.5.1 and 6.5.2. Matters approved by the requisite majority of the Reclamation Investment Committee will be binding on all Parties. If a Party's right to vote has been suspended because of a Default, such Party will not have a right to vote, and the requisite majorities for actions or determinations of the Reclamation Investment Committee will be adjusted in proportion to the number of Reclamation Investment Committee members whose right to vote has not been suspended.

6.5.1 If the matter involves purely Pre-2017YE Reclamation Liability issues or purely Post-2017YE Reclamation Liability issues, the affirmative vote is required of: (i) more than a sixty-six and two thirds percent (66 2/3%) majority of the Reclamation Shares of the Parties as set out in Section 3.3; and (ii) more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties with Reclamation Shares of greater than zero percent (0%).

6.5.2 If the matter involves both Pre-2017YE Reclamation Liability issues and Post-2017YE Reclamation Liability issues, the affirmative vote is required of: (i) more

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than a sixty-six and two thirds percent (66 2/3%) majority of the Composite Reclamation Shares of the Parties as set out in Exhibit 8; and (ii) more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties.

6.6 Meetings of Reclamation Investment Committee. The Reclamation Investment Committee will meet no less frequently than annually. Special meetings will be held promptly at the written request of any Party, such request to be delivered to the chairperson of the Reclamation Investment Committee. The Reclamation Investment Committee will keep written minutes and records of all meetings, the draft of which minutes will be distributed for review within forty-five (45) days. Any action or determination made by the Reclamation Investment Committee will be reduced to writing and will become effective when signed by the representatives of the Parties entitled to vote thereon, representing a voting majority of the members of the Reclamation Investment Committee. Reclamation Investment Committee representatives may, by prior arrangement with the chairperson of the Reclamation Investment Committee, attend a meeting of the Reclamation Investment Committee by conference call or video conferencing. A Reclamation Investment Committee representative who is unable to attend a meeting of the Reclamation Investment Committee may vote in absentia by delivering to the chairperson of the Reclamation Investment Committee, at least twenty-four (24) hours prior to the scheduled commencement of the meeting, a written statement, including by e-mail or facsimile, identifying the matter to be voted on and how the representative desires to vote.

## **7.0 RECLAMATION OVERSIGHT COMMITTEE**

7.1 Establishment of Reclamation Oversight Committee. The Original Trust Funds Agreement provides for a Reclamation Oversight Committee. The Reclamation Oversight Committee will be activated on the Effective Date of this Mine Reclamation Agreement and will remain in existence during the term of this Mine Reclamation Agreement. The Reclamation Oversight Committee will have no authority to modify any of the provisions of this Mine Reclamation Agreement.

7.2 Reclamation Oversight Committee Membership. The Reclamation Oversight Committee will consist of one representative from each Party who will be an officer or other authorized representative of a Party. Any of the Parties may designate an alternate or substitute to act as its representative on the Reclamation Oversight Committee in the absence of the regular representative on the Reclamation Oversight Committee or to act on specified occasions or with respect to specified matters. Each Party will notify the other Parties promptly, in writing, of the designation of its representative and alternate representative on the Reclamation Oversight Committee and of any subsequent changes in such designations. The chairperson of the Reclamation Oversight Committee will be a representative of the Reclamation Trust Funds Operating Agent. Each Party will be responsible for the costs of its Reclamation Oversight Committee representative, including fees and travel reimbursement.

7.3 Functions and Responsibilities of Reclamation Oversight Committee. The Reclamation Oversight Committee will have the following functions and responsibilities:

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7.3.1 Oversee the Reclamation Work of the Reclamation Trust Funds Operating Agent;

7.3.2 Vote as to matters assigned to the Reclamation Oversight Committee, including amendments to provisions of the RSA or a new agreement for the performance of reclamation services for Disturbances at the SJCC Site Area;

7.3.3 Establish goals, timelines and procedures with respect to Reclamation Costs Reviews and perform related functions, as provided for in Section 5.2;

7.3.4 Establish goals, timelines and procedures with respect to the Surveys;

7.3.5 Require reports or updates from the Reclamation Trust Funds Operating Agent and the Participant Representatives on negotiations and discussions with SJCC concerning reclamation activities;

7.3.6 Review, provide input on and act on proposed RSA Annual Operating Plans (including SJCC's budget for Reclamation Costs) as forwarded to the Reclamation Oversight Committee by the Reclamation Trust Funds Operating Agent;

7.3.7 Approve revisions to a previously-approved budget;

7.3.8 Perform other tasks delegated to the Reclamation Oversight Committee by this Mine Reclamation Agreement; and

7.3.9 Such other tasks as the Parties will from time-to-time by unanimous agreement assign to the Reclamation Oversight Committee.

7.4 Decisions of Reclamation Oversight Committee. Any actions or determinations brought before the Reclamation Oversight Committee will require the affirmative vote of the representatives on the Reclamation Oversight Committee as set out in Sections 7.4.1 and 7.4.2. Matters approved by the requisite majority of the Reclamation Oversight Committee will be binding on all Parties. If a Party's right to vote has been suspended because of a Default such Party will not have a right to vote, and the requisite majorities for actions or determinations of the Reclamation Oversight Committee will be adjusted in proportion to the number of Reclamation Oversight Committee members whose right to vote has not been suspended.

7.4.1 Except as provided for in Section 7.4.2, approval of any actions or determinations brought before the Reclamation Oversight Committee will require the following affirmative vote:

7.4.1.1 If the matter involves purely Pre-2017YE Reclamation Liability issues or purely Post-2017YE Reclamation Liability issues: (i) more than a sixty-

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six and two thirds percent (66 2/3%) majority of the Reclamation Shares of the Parties as set out in Section 3.3; and (ii) more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties with Reclamation Shares of greater than zero percent (0%).

7.4.1.2 If the matter involves both Pre-2017YE Reclamation Liability issues and Post-2017YE Reclamation Liability issues: (i) more than a sixty-six and two thirds percent (66 2/3%) majority of the Composite Reclamation Shares of the Parties as set out in Exhibit 8; and (ii) more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties.

7.4.2 Approval of any actions or determinations brought before the Reclamation Oversight Committee regarding: (i) an amendment of any provisions of the RSA; or (ii) a new agreement for the provision of reclamation services, will require the following affirmative vote:

7.4.2.1 If such amendment or new agreement involves purely Pre-2017YE Reclamation Liability issues or purely Post-2017YE Reclamation Liability issues: (i) more than an eighty-two percent (82%) majority of the Reclamation Shares of the Parties as set out in Section 3.3; and (ii) a minimum of sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties with Reclamation Shares of greater than zero percent (0%).

7.4.2.2 If such amendment or new agreement involves both Pre-2017YE Reclamation Liability issues and Post-2017YE Reclamation Liability issues: (i) more than an eighty two percent (82%) majority of the Composite Reclamation Shares of the Parties as set out in Exhibit 8; and (ii) a minimum of sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties.

7.5 Meetings of Reclamation Oversight Committee. The Reclamation Oversight Committee will meet no less frequently than twice a year. Special meetings will be held promptly at the written request of any Party, such request to be delivered to the chairperson of the Reclamation Oversight Committee. The Reclamation Oversight Committee will keep written minutes and records of all meetings, the draft of which minutes will be distributed for review within forty-five (45) days. Any action or determination made by the Reclamation Oversight Committee will be reduced to writing and will become effective when signed by the representatives of the Parties entitled to vote thereon, representing a voting majority of the members of the Reclamation Oversight Committee. Reclamation Oversight Committee representatives may, by prior arrangement with the chairperson of the Reclamation Oversight Committee, attend a meeting of the Reclamation Oversight Committee by conference call or video conferencing. A Reclamation Oversight Committee representative who is unable to attend a meeting of the Reclamation Oversight Committee may vote in absentia by delivering to the chairperson of the Reclamation Oversight Committee, at least twenty-four (24) hours prior to the scheduled commencement of the

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meeting, a written statement, including by e-mail or facsimile, identifying the matter to be voted on and how the representative desires to vote.

## **8.0 RECLAMATION TRUST FUNDS OPERATING AGENT**

### **8.1 Selection of Reclamation Trust Funds Operating Agent.**

8.1.1 The Parties agree to the selection of a Reclamation Trust Funds Operating Agent to carry out the responsibilities assigned to the Reclamation Trust Funds Operating Agent hereunder. The Reclamation Trust Funds Operating Agent will be the agent of the Parties and will exercise only such authority as is conferred upon it by this Mine Reclamation Agreement.

8.1.2 Through December 31, 2017, the functions and responsibilities of the Reclamation Trust Funds Operating Agent will be performed by the Operating Agent; all references herein to the Reclamation Trust Funds Operating Agent will, through December 31, 2017, be deemed to refer to the Operating Agent and all costs and expenses provided hereunder to be incurred by the Reclamation Trust Funds Operating Agent before December 31, 2017 will be billed under the SJPPA to the Parties as work of the Operating Agent. After December 31, 2017, the Reclamation Trust Funds Operating Agent will invoice Parties for the costs of Reclamation Work and Reclamation A&G Expenses in accordance with this Mine Reclamation Agreement.

8.2 PNM as Initial Reclamation Trust Funds Operating Agent. The Parties hereby appoint PNM as the initial Reclamation Trust Funds Operating Agent, and PNM agrees to undertake, as the agent of the Parties, and as principal on its own behalf, the performance of the responsibilities assigned herein to the Reclamation Trust Funds Operating Agent.

8.3 Responsibilities of the Reclamation Trust Funds Operating Agent. The Reclamation Trust Funds Operating Agent will have the following responsibilities (the "Reclamation Work"):

8.3.1 Serve as liaison for the coordination of all interchanges and discussions among the Parties in connection with matters arising under this Mine Reclamation Agreement;

8.3.2 If the Reclamation Trust Funds Operating Agent is a party to the RSA, conduct negotiations and discussions with SJCC in connection with matters arising under the RSA, with participation of Participant Representatives as provided for in Section 9.1, and communicate with the Parties in relation thereto; if PNM is no longer the Reclamation Trust Funds Operating Agent, but is a party to the RSA, PNM will perform the functions provided for in this Section 8.3.2;

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8.3.3 Review all reclamation cost information and estimates from SJCC, including quarterly reports provided pursuant to RSA Section 3.4, and provide to the Parties quarterly appropriate summaries of such information as well as summaries of any other cost information or analysis from third-party contractors of the Reclamation Trust Funds Operating Agent;

8.3.4 Upon the delivery of an Adjustment Request by a Party pursuant to Section 5.3, perform (or cause to be performed) a Reclamation Costs Review and prepare a Final Reclamation Report for submission to the Reclamation Oversight Committee;

8.3.5 Monitor the operations of SJCC;

8.3.6 Receive invoices for Reclamation Costs associated with the Reimbursement Obligation submitted to PNM by SJCC, review the form, content and cost distribution of such invoices and, where appropriate, approve such invoices for payment;

8.3.7 Issue Reclamation Costs invoices to each Party (categorized by Pre-2017YE Reclamation Liability Costs and Post-2017YE Reclamation Liability Costs) for payment either directly from other funds or, if permitted by this Mine Reclamation Agreement, out of each Party's Reclamation Trust pursuant to the terms of each Party's Reclamation Trust Agreement; appropriate back-up information will accompany each invoice, and the Reclamation Trust Funds Operating Agent will provide any additional back-up information that a Party may reasonably request;

8.3.8 Provide summaries and reports to the Parties and to SJCC by February 10 of each year during the term hereof concerning the total amount of funds in the Parties' Reclamation Trusts (Principal Reclamation Trust Fund and any Make-up Reclamation Trust Funds) as of December 31 of the previous calendar year;

8.3.9 Subject to Section 8.1.2, issue invoices to the Parties for their share of expenses incurred by the Reclamation Trust Funds Operating Agent in the performance of the Reclamation Work and for Reclamation A&G Expenses;

8.3.10 Furnish from its own resources or contract for the procurement of goods or services necessary for the performance of the Reclamation Work;

8.3.11 Administer, perform and enforce all contracts entered into by the Reclamation Trust Funds Operating Agent;

8.3.12 Comply with all Law applicable to its performance of the Reclamation Work;

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8.3.13 Maintain in the name of the Parties and for the purposes of this Mine Reclamation Agreement an operating account for monies collected in connection with the Reclamation Work;

8.3.14 Keep and maintain records of monies expended and received, obligations incurred, credits accrued and contracts entered into in the performance of Reclamation Work hereunder, and provide an annual report of such records to the Parties;

8.3.15 Cooperate with the Reclamation Investment Committee in the conduct of any audits of a Party's compliance with its funding of its Reclamation Share of the Reclamation Funding Curves (and, if applicable, Make-up Funding Curves), and to otherwise carry into effect policies established by the Reclamation Investment Committee and the Reclamation Oversight Committee;

8.3.16 Prepare recommendations covering the matters that may be reviewed and acted upon by the Parties, the Reclamation Investment Committee and the Reclamation Oversight Committee;

8.3.17 Keep the Parties fully and promptly advised of material changes in conditions or other material developments affecting the implementation of this Mine Reclamation Agreement and of any Defaults under this Mine Reclamation Agreement;

8.3.18 Provide the Reclamation Investment Committee and the Reclamation Oversight Committee with all records, information and reports that may be relevant to such committees in the performance of their respective responsibilities;

8.3.19 As provided in Section 10, provide copies of any Default Notice, Notification of Intent or Default Declaration to the representatives on the Reclamation Oversight Committee, the persons identified in Section 28.1, and the Trustee of a defaulting Party's Reclamation Trust;

8.3.20 Enforce the obligations of each Party to fund its Reclamation Share of the Reclamation Funding Curves, make Reclamation Recovery Deposits or Reclamation Correcting Deposits, fund any required Make-up Reclamation Trust Fund, or to pay invoices submitted hereunder to the Parties or to their Trustees;

8.3.21 Perform all other obligations and duties that the Parties or the Reclamation Oversight Committee may from time-to-time delegate to the Reclamation Trust Funds Operating Agent;

8.3.22 Conduct, or cause to be conducted the Surveys and promptly provide Survey results to the Parties; and

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8.3.23 Perform all other obligations and duties that are assigned herein to the Reclamation Trust Funds Operating Agent or that are reasonably necessary in connection with the performance of its obligations and duties hereunder.

8.4 Annual Budgets.

8.4.1 Not fewer than two hundred (200) days prior to the beginning of each calendar year, the Reclamation Trust Funds Operating Agent will provide to the Reclamation Oversight Committee for its review and approval the proposed RSA Annual Operating Plan from SJCC setting forth SJCC's budget for Reclamation Costs for such calendar year. The Reclamation Oversight Committee will vote on the proposed budget for Reclamation Costs not fewer than one hundred (100) days before the beginning of such calendar year. In the event the budget for Reclamation Costs is not approved by the Reclamation Oversight Committee, the Reclamation Trust Funds Operating Agent will not approve the RSA Annual Operating Plan, but will direct SJCC to continue to efficiently and economically perform reclamation services while resolving any dispute over the approval of the RSA Annual Operating Plan pursuant to Section 3.3 of the RSA.

8.4.2 Reclamation Costs will be allocated to Pre-2017YE Reclamation Liability Costs and Post-2017YE Reclamation Liability Costs in accordance with this Mine Reclamation Agreement.

8.4.3 Not fewer than ninety (90) days prior to January 1, 2018, and not fewer than ninety (90) days prior to the beginning of each calendar year thereafter, the Reclamation Trust Funds Operating Agent will provide to the Reclamation Oversight Committee for its review and approval a budget for the performance of Reclamation Work and Reclamation A&G Expenses for such calendar year. The Reclamation Oversight Committee will vote on the budget for Reclamation Work and Reclamation A&G Expenses not fewer than sixty (60) days after its submission. In the event the budget for Reclamation Work and Reclamation A&G Expenses is not approved, the Reclamation Trust Funds Operating Agent will nevertheless continue to perform Reclamation Work in an efficient and economical manner until a budget has been approved and the Parties will continue to pay such costs as invoiced.

8.4.4 Cost of Reclamation Work and Reclamation A&G Expenses will be budgeted based on the ratios of: (i) Pre-2017YE Reclamation Liability Costs to Reclamation Costs and (ii) Post-2017YE Reclamation Liability Costs to Reclamation Costs, or as otherwise provided in this Mine Reclamation Agreement.

8.5 Reimbursement of Costs and Expenses. Beginning January 1, 2018, the Parties will reimburse the Reclamation Trust Funds Operating Agent for all its reasonable costs and expenses incurred in its performance of the Reclamation Work. The Reclamation Trust Funds Operating Agent will invoice the Parties for such costs and expenses, including Reclamation A&G Expenses, by the end of the month following the month in which such costs and expenses

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were incurred, and the Parties will pay such invoices within ten (10) Business Days of receipt of the invoice. Except as provided in Section 5.4, the cost and expenses of Reclamation Work and Reclamation A&G Expenses will be allocated as provided in Section 8.4.4 and will be apportioned to the Parties in accordance with the Reclamation Shares set out in Section 3.3.

8.6 Reclamation Administrative and General Expenses. Beginning January 1, 2018, Reclamation A&G Expenses will include administrative and general expenses directly chargeable to FERC Accounts 920, 921, 923, 926, 930.2, 931 and 935, will include payroll loads for administrative and general expenses, payroll taxes, injuries and damages and pension and benefits, and will be added to the monthly billings in proportion to the dollars of direct labor billed. The Reclamation Trust Funds Operating Agent will prepare, for the approval of the Reclamation Oversight Committee, operating procedures for the accounting of Reclamation A&G Expenses in its performance of the Reclamation Work and will recommend updates thereof no fewer than every three (3) years. An annual true-up of Reclamation A&G Expenses will be made each year once such expenses have been recorded.

8.7 Payment of Reclamation Cost Invoices. To assure timely payment of Reclamation Costs by Parties directly or by Parties' Trustees, the Reclamation Trust Funds Operating Agent will bill the Parties, in writing, for Reclamation Costs invoiced by SJCC at least ten (10) Business Days prior to the date that payment is due SJCC. Parties may begin withdrawing funds from their Reclamation Trusts to pay Reclamation Costs beginning with the billing of January 2018 Reclamation Costs.

8.8 No Fee. The Reclamation Trust Funds Operating Agent will receive no fee or profit hereunder, unless otherwise agreed unanimously by the Parties.

8.9 Liability of Reclamation Trust Funds Operating Agent.

8.9.1 The provisions of this Section 8.9 are intended to address limitations on the liability of the Reclamation Trust Funds Operating Agent acting solely in the capacity of Reclamation Trust Funds Operating Agent; to the extent the actions of the Reclamation Trust Funds Operating Agent are carried out in its capacity as a party to the RSA or a Party, the limitation of liability provisions in this Section 8.9 are not applicable.

8.9.2 Except for any judgment debt for damage resulting from Willful Action, each Party hereby extends to the Reclamation Trust Funds Operating Agent, its employees, officers, directors and agents, its covenant not to execute, levy or otherwise enforce a judgment obtained against the Reclamation Trust Funds Operating Agent, including recording or effecting a judgment lien, for any direct, indirect or consequential damage, claim, cost, charge or expense, whether or not resulting from the negligence of the Reclamation Trust Funds Operating Agent, its employees, officers, directors or agents, or any person or entity whose negligence would be imputed to the Reclamation Trust Funds Operating Agent arising out of its performance or non-performance hereunder. With respect to the Reclamation Trust Funds Operating Agent's liability for

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Willful Action, such liability will in no event exceed (i) a total of ten million dollars (\$10,000,000) per occurrence before the Exit Date; and (ii) a total of fourteen million dollars (\$14,000,000) per occurrence on and after the Exit Date. The Parties extend to the Reclamation Trust Funds Operating Agent, its employees, officers, directors and agents, their covenant not to execute, levy or otherwise enforce a judgment against any of them for any such liability for Willful Action in excess of amounts set out in the previous sentence. In the event that Parties' claims made or judgments obtained against the Reclamation Trust Funds Operating Agent or its employees, officers, directors and agents exceed ten million dollars (\$10,000,000) or fourteen million dollars (\$14,000,000), as applicable, per occurrence, such claims or judgments will be prorated among the successful Parties consistent with the limitation on Willful Action liability established herein.

8.10 Resignation of Reclamation Trust Funds Operating Agent. The Reclamation Trust Funds Operating Agent will serve during the term of this Mine Reclamation Agreement unless it resigns as Reclamation Trust Funds Operating Agent by giving notice to the Parties at least one (1) year in advance of the effective date of the resignation. Upon receipt of such notice, the Reclamation Oversight Committee will convene promptly to address the selection of a replacement Reclamation Trust Funds Operating Agent which may, but need not, be a Party.

8.11 Removal of Reclamation Trust Funds Operating Agent. The Reclamation Trust Funds Operating Agent may be removed by the Parties, if, in the judgment of the Parties, their best interests require such removal. Any Party seeking the removal of the Reclamation Trust Funds Operating Agent will serve a notice on each of the Parties, detailing the reasons why, in the judgment of the initiating Party, the Reclamation Trust Funds Operating Agent should be removed. Within thirty (30) days after receipt by the Reclamation Trust Funds Operating Agent of this written statement, the Reclamation Trust Funds Operating Agent will prepare and serve upon the Parties its response, which will contain a detailed rebuttal of the allegations made in the initiating statement. Within the same thirty (30) day period, any other Party may also serve upon the Reclamation Trust Funds Operating Agent and the Parties a statement responding to the allegations in the initiating statement. Within twenty (20) days after service of all such response statements, the Parties will meet to consider what actions, if any, to take in regard to the removal of the Reclamation Trust Funds Operating Agent. The Reclamation Trust Funds Operating Agent may be removed by the vote of more than a sixty-six and two thirds percent (66 2/3%) majority of the Pre-2017YE Reclamation Shares of the Parties and more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties; provided, however, that the representative of the Reclamation Trust Funds Operating Agent will not be entitled to vote on such removal, and the requisite voting percentages will be based upon the new number of eligible voting Parties and their respective Reclamation Shares. If the Reclamation Trust Funds Operating Agent is removed by vote of the Parties, the Reclamation Oversight Committee will convene promptly to address the selection of a replacement Reclamation Trust Funds Operating Agent which may, but need not, be a Party.

## **9.0 CERTAIN RIGHTS OF PARTIES**

9.1 Participant Representatives. Parties not signatories to the RSA are granted (i) the right to review all materials exchanged in the negotiations and discussions with SJCC concerning reclamation activities, subject to the obligation to execute and abide by a confidentiality agreement protecting the materials exchanged and (ii) the collective right to have two (2) representatives (“Participant Representatives”), one selected by and representing the Exiting Participants and one selected by and representing the Remaining Participants, present at negotiations and discussions with SJCC concerning reclamation activities. The following special procedures will apply to all negotiations or discussion with SJCC concerning reclamation activities.

9.1.1 No Participant Representative will engage in bilateral negotiations or discussions with SJCC regarding reclamation activities for the San Juan Project; provided, however, that nothing herein will be construed to prevent the Operating Agent, the Reclamation Trust Funds Operating Agent, or the Parties that are signatories to the UG-CSA (for as long as such agreement is in effect), or the RSA, in the conduct of its or their day-to-day operational responsibilities, from performing Reclamation Work, engaging in either business contacts and communications with SJCC or the administration of the RSA.

9.1.2 Participant Representatives will be designated in writing to PNM. Participant Representatives may be changed by written notice to PNM.

9.1.3 Participant Representatives will agree in writing to: (i) avoid any conflict of interest with SJCC or providers of reclamation services that would be detrimental to SJCC reclamation activities; and (ii) maintain all proprietary information obtained through such discussions and negotiations in confidence pursuant to the terms of a confidentiality agreement to be prepared by PNM.

9.2 Opt-out Right. For Defaults occurring after December 31, 2017, a Party not wishing to pay for a defaulting Party’s obligations to pay for Reclamation Costs may elect to “opt out” of such payment (each such Party, an “Opt-out Participant”). Opt-out Participants will have no obligation for a defaulting Party’s Reclamation Trust shortfall or for the failure of a Party’s Trustee to pay an invoice for Reclamation Costs for Defaults occurring after December 31, 2017. All Parties except PNM are deemed to be Opt-out Participants unless they deliver written notice of their election to become Opt-in Participants; such notice must be delivered to the Reclamation Trust Funds Operating Agent and to the other Parties, no later than seventy-five (75) days after the Effective Date.

## **10.0 DECLARATION OF DEFAULT**

10.1 Definition of Default. A Party’s failure to perform any of the following obligations is a Default under this Mine Reclamation Agreement: (a) fund its Reclamation Trust under the

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terms of this Mine Reclamation Agreement (including making only Permitted Investments in its Reclamation Trust) and consistent with its Reclamation Trust Agreement; (b) make any required Reclamation Recovery Deposits or Reclamation Correcting Deposits; (c) establish and fund any Make-up Reclamation Trust Fund required by this Mine Reclamation Agreement to be established and funded; (d) cause the payment of its Reclamation Share of the Reimbursement Obligation pursuant to invoices for Reclamation Costs, costs of Reclamation Work and Reclamation A&G Expenses rendered to the Party consistent with this Mine Reclamation Agreement; and (e) carry out all other performances, duties and obligations agreed to be paid or performed by it pursuant to this Mine Reclamation Agreement.

10.2 Default Notice. If the Reclamation Trust Funds Operating Agent (either on its own motion or at the suggestion of a Party or SJCC) deems a Party to be in Default, the Reclamation Trust Funds Operating Agent will serve upon the defaulting Party a written notice of default (the "Default Notice"). The Reclamation Trust Funds Operating Agent will also serve a copy of the Default Notice on: (i) the representatives on the Reclamation Oversight Committee; (ii) all persons entitled to receive notices under Section 28.1; and (iii) the Trustee of the defaulting Party's Reclamation Trust. The Default Notice will specify the existence, nature and extent of the Default.

10.3 Cure of Default. Upon receipt of the Default Notice, the defaulting Party will: (a) pay any monies due under this Mine Reclamation Agreement (including funding of its Reclamation Trust (Principal Reclamation Trust Fund and any Make-up Reclamation Trust Fund(s) and making any required Reclamation Recovery Deposits or Reclamation Correcting Deposits) within fifteen (15) days; or (b) commence within fifteen (15) days the performance of any non-monetary obligation and continue thereafter the diligent completion of such non-monetary obligation.

10.4 Protest of Default. If the defaulting Party disputes a Default Notice, such Party will nonetheless pay the disputed payment or commence performance of the disputed obligation, but may do so under protest (the "Protest"). The Protest will be in writing, will accompany the disputed payment or precede the commencement of performance of the disputed obligation(s), and will specify the reason upon which the Protest is based. Copies of the Protest will be served by the defaulting Party on the Reclamation Trust Funds Operating Agent and also on: (i) the representatives on the Reclamation Oversight Committee; (ii) all persons entitled to receive notices under Section 28.1; and (iii) the Trustee of the defaulting Party's Reclamation Trust. Within seven (7) days after the service of the Protest, authorized representatives of the Parties will meet, in person or by conference call or video conference, to address the Protest and to determine what actions, if any, to take as a result of the Protest.

10.5 Declaration of Default. If the defaulting Party fails to cure the Default pursuant to Section 10.3, or protests the Default Notice pursuant to Section 10.4 but fails to timely pay the disputed payment or commence performance of the disputed obligation, the Reclamation Trust Funds Operating Agent will notify the defaulting Party in writing of the Reclamation Trust Funds Operating Agent's intent to declare the defaulting Party in Default unless there is a prompt cure of the Default ("Notification of Intent"). The Notification of Intent will afford the defaulting Party a minimum of fifteen (15) additional days after the giving of the Notification of Intent to cure the

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Default. The pendency of a Protest will not prevent the Reclamation Trust Funds Operating Agent from issuing a Notification of Intent. If the Default has not been cured within the period of time identified in the Notification of Intent, the Reclamation Trust Funds Operating Agent may give written notice to the defaulting Party declaring that the defaulting Party is in Default (the "Default Declaration"). The Reclamation Trust Funds Operating Agent will serve a copy of the Notification of Intent and of the Default Declaration on: (i) the representatives on the Reclamation Oversight Committee; (ii) all persons entitled to receive notices under Section 28.1; and (iii) the Trustee of the defaulting Party's Reclamation Trust. The pendency of a Protest will not prevent the Reclamation Trust Funds Operating Agent from making a Default Declaration.

10.6 Consequences of Default. Upon delivery of the Default Declaration, the Party in Default under this Mine Reclamation Agreement will lose all its rights but retain its obligations under this Mine Reclamation Agreement, the Decommissioning Agreement (if the Decommissioning Agreement is in effect), and the Restructuring Agreement so long as the Default is in effect. This consequence of Default is in addition to any other remedy to which the Party in Default may be subject, including the loss of the right to vote on the Reclamation Investment Committee and the Reclamation Oversight Committee. If and when the Party in Default remedies the Default, its rights under such agreements will be restored.

10.7 No Stay for Arbitration. A demand for arbitration or other dispute resolution procedure will not stay: (i) the right of the Reclamation Trust Funds Operating Agent to issue a Default Notice, a Notification of Intent or a Default Declaration; or (ii) the suspension of the rights of a defaulting Party.

10.8 Termination of Default. The Default will be terminated, and the full rights of the defaulting Party restored when: (i) the Default has been cured and all costs incurred by the non-defaulting Parties resulting from the Default of the defaulting Party, including monies placed by non-defaulting Parties into Make-up Reclamation Trust Funds and expended by the Trustee, have been reimbursed in full by the defaulting Party, with interest thereon at the Prime Rate plus two percent (2%) per annum or the maximum legal rate of interest, whichever is less, from the date of payment to the date of reimbursement; (ii) other arrangements acceptable to the non-defaulting Parties have been made; or (iii) the defaulting Party prevails in an arbitration or other legal proceeding in which the default status of the defaulting Party is at issue.

10.9 Other Rights. The rights and remedies provided in this Mine Reclamation Agreement will be in addition to any rights and remedies the Reclamation Trust Funds Operating Agent and the non-defaulting Parties have in law or equity.

10.10 No Waiver. The Reclamation Trust Funds Operating Agent will not waive any of its rights with respect to a Default under this Mine Reclamation Agreement without the approval of the Reclamation Oversight Committee.

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## **11.0 FAILURE TO FUND RECLAMATION TRUST THROUGH DECEMBER 31, 2017**

11.1 Shortfall in Trust Funds. If a Participant fails, during the period through December 31, 2017, to fund its Reclamation Trust to the Reclamation Target Funding Amount and such failure results in a Default Declaration, then each non-defaulting Participant will fund a share of the defaulting Participant's shortfall in a Make-up Reclamation Trust Fund within the non-defaulting Participant's Reclamation Trust based upon the relation of the Reclamation Share of each such non-defaulting Participant to the Reclamation Shares of all non-defaulting Participants. The Make-up Reclamation Trust Fund will be funded by each non-defaulting Participant as provided in Sections 4.1, 4.8 and 11.2.

11.2 Make-up Reclamation Trust Funds. Make-up Reclamation Trust Funds are segregated sub-accounts to be funded in a non-defaulting Party's Reclamation Trust in a manner consistent with each Party's Reclamation Trust Agreement. When a Default has resulted in a shortfall in the defaulting Party's Reclamation Trust, the Reclamation Investment Committee will act promptly to develop and provide to the non-defaulting Parties appropriate Make-up Funding Curves for the Make-up Reclamation Trust Funds, as provided in Section 6.4. Within thirty (30) days of receipt of a Make-up Funding Curve from the Reclamation Investment Committee, each non-defaulting Party, if required under Sections 6.4 and 11.1, will fund its Make-up Reclamation Trust Fund to its share of the Make-up Funding Curve target amount for the calendar year in which the Default Declaration was issued. If a defaulting Party cures its Default in accordance with Section 10.8, monies in a non-defaulting Party's Make-up Reclamation Trust Fund may be returned to the non-defaulting Party under Section 4.9 and the terms of that Party's Reclamation Trust Agreement.

11.3 Payment of Defaulting Party's Invoices for Reclamation Costs. Reclamation Costs accrued after December 31, 2017, that are the responsibility of a Party that defaulted under Section 11.1, will be paid by such Party's Trustee until the defaulting Party's Reclamation Trust has been exhausted. Once the defaulting Party's Reclamation Trust has been exhausted, the non-defaulting Parties' Trustees will pay any Reclamation Costs remaining unpaid based upon the relation of the Reclamation Share of each such non-defaulting Party to the Reclamation Shares of all non-defaulting Parties from (i) any Make-up Reclamation Trust Funds established pursuant to Section 11.2; or (ii) any other source of funds outside the Reclamation Trust. Upon the exhaustion of any Opt-out Participant's Make-up Reclamation Trust Fund, the Opt-out Participant's share of the defaulting Party's unpaid Reclamation Cost responsibilities will be allocated pro-rata to the Opt-in Participants.

11.4 Failure to Pay Other Costs. If the Default Declaration arises from the defaulting Party's failure to pay costs hereunder other than Reclamation Costs, such as the costs of the Reclamation Work and Reclamation A&G Expenses, such costs will be borne by the non-defaulting Parties in proportion to their Reclamation Shares, subject to all legal rights of non-defaulting Parties to require repayment of such costs from the defaulting Party.

## **12.0 FAILURE TO FUND RECLAMATION TRUST AFTER DECEMBER 31, 2017**

12.1 Opt-in Participants. If a Party fails, after December 31, 2017, to fund its Reclamation Trust to the post-2017 Reclamation Funding Target Amount and such failure results in a Default Declaration, then each Opt-in Participant will fund a share of the defaulting Party's shortfall in a Make-up Trust Fund within the non-defaulting Party's Reclamation Trust Fund based upon the relation of the Reclamation Share of each such non-defaulting Opt-in Participant to the Reclamation Shares of all non-defaulting Opt-in Participants. The Reclamation Investment Committee will act promptly to develop and provide to the Opt-in Participants appropriate Make-up Funding Curves for the Make-up Reclamation Trust Funds, as provided for in Section 6.4. Upon receipt of a Make-up Funding Curve from the Reclamation Investment Committee, each Opt-in Participant will promptly fund its Make-up Reclamation Trust Fund to its share of the Make-up Funding Curve target amount for the calendar year in which the Default Declaration was issued. If a defaulting Party cures its Default in accordance with Section 10.8, monies in an Opt-in Participant's Make-up Reclamation Trust Fund may be returned to the Opt-in Participant under Section 4.9 and the terms of that Party's Reclamation Trust Agreement.

12.2 Payment of Defaulting Party's Invoices for Reclamation Costs. Reclamation Costs incurred after December 31, 2017, that are the responsibility of a Party that defaulted under Section 12.1, will be paid first by the defaulting Party's Trustee until the defaulting Party's Reclamation Trust has been exhausted; once the defaulting Party's Reclamation Trust has been exhausted, the Opt-in Participants will pay any Reclamation Costs remaining unpaid based upon the relation of the Reclamation Share of each such non-defaulting Opt-in Participant to the Reclamation Shares of all non-defaulting Opt-in Participants from its (i) Make-up Reclamation Trust Funds; or (ii) any other source of funds outside the Reclamation Trust.

12.3 Opt-out Participants. For Defaults occurring after December 31, 2017, Opt-out Participants will have no obligation for a defaulting Party's failure to fund its Reclamation Trust as required herein, including the defaulting Party's failure to make any required Make-up Reclamation Trust Fund payments, Reclamation Recovery Deposits or Reclamation Correcting Deposits or for any unpaid Reclamation Cost responsibilities of a defaulting Party.

12.4 Failure to Pay Other Costs. If the Default Declaration arises from the defaulting Party's failure to pay costs hereunder other than Reclamation Costs, such as the costs of Reclamation Work and Reclamation A&G Expenses, such costs will be borne by the non-defaulting Parties in proportion to their Reclamation Shares, subject to all legal rights of non-defaulting Parties to require repayment of such costs from the defaulting Party.

## **13.0 DISPUTE RESOLUTION**

13.1 Amicable Resolution. If a dispute between or among any of the Parties should arise under this Mine Reclamation Agreement, or in relation to the rights or obligations of the Parties under this Mine Reclamation Agreement, executive representatives of the Parties with authority to resolve the dispute will first seek to resolve the dispute as set forth in this Section 13.1.

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13.1.1 The dispute process will be initiated by the delivery of a written notice by a Party (“Noticing Party”) of the dispute (“Notice of Dispute”) to the Party with which a dispute is claimed. The Notice of Dispute will specify the existence, nature and extent of the dispute. Copies of the Notice of Dispute will be served on all other Parties. The Notice of Dispute will specifically state the sums allegedly due, any non-monetary obligation allegedly not performed, or both if applicable.

13.1.2 Within fifteen (15) Business Days of receipt of the Notice of Dispute, the Party alleged not to be performing may protest in writing any or all of the matters set forth in the Notice of Dispute (“Dispute Protest”), specifying the basis of the Dispute Protest. Copies of the Dispute Protest will be served by the protesting Party (“Protesting Party”) on all other Parties.

13.1.3 Within fifteen (15) Business Days of the giving of a Notice of Dispute under Section 13.1.1 or within ten (10) Business Days after the service of a Dispute Protest under Section 13.1.2, the executive representatives of the Parties involved in the dispute will meet at a mutually agreeable time and place to attempt to negotiate a timely and amicable resolution of the dispute. If an executive of a Party intends to be accompanied by counsel, the other Parties will be given at least five (5) Business Days’ written notice of such intent and may also be accompanied by counsel. All negotiations will be confidential and will be treated as compromise and settlement negotiations under New Mexico Law. If the executive representatives of the Parties are unable to resolve the dispute within sixty (60) days of the Notice of Dispute (or such other period as they may agree to), any Party involved in the dispute may call for submission of the dispute to arbitration, which call will be binding upon all of the other affected Parties except as provided in Section 13.8.

13.2 Call for Arbitration. The Party calling for arbitration will give written notice to all other Parties (“Arbitration Notice”), setting forth in the Arbitration Notice in adequate detail the entity against whom relief is sought, the nature of the dispute, the amount, if any, involved in such dispute, and the remedy sought by such arbitration proceedings, which may include monetary, equitable and declaratory relief. Within twenty (20) Business Days after receipt of the Arbitration Notice, any other Party may submit its own statement of the matter at issue and set forth in adequate detail additional related matters or issues to be arbitrated with copies of such notice provided to all other Parties. Thereafter, the Party calling for arbitration will have ten (10) Business Days in which to submit a written rebuttal statement, copies of which will be provided to all other Parties.

### 13.3 Selection of Arbitrators.

13.3.1 The Parties involved in the arbitration will seek to agree upon a panel of three (3) neutral arbitrators as follows. Within ten (10) days after service of the written rebuttal statement, the Parties representing each side of the dispute will provide to the Parties representing the other side of the dispute a list of up to five (5) suggested

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arbitrators having the qualifications required by Section 13.3.2 and a summary of each such suggested arbitrator's experience and qualifications. Within five (5) Business Days thereafter, the Parties involved in the arbitration will meet and confer by telephone or in person to seek to agree upon a panel of three (3) neutral arbitrators from the lists that have been exchanged. If such agreement is not reached as the result of such meeting, the Parties representing each side of the dispute will provide a second list of suggested arbitrators to one another, and the Parties will meet and confer again within five (5) Business Days thereafter to attempt to reach agreement upon a panel of three (3) neutral arbitrators. If such agreement on arbitrators is reached, the Parties will proceed to arbitration as further set forth in this Section 13.

13.3.2 If the Parties involved in the arbitration are not able to agree upon a complete panel of three (3) neutral arbitrators, such Parties will select the arbitrators upon which agreement has not been reached as follows. The Parties will request from the American Arbitration Association ("AAA") (or similar organization as the arbitrating Parties agree upon) ("Arbitration Organization") a list of seven (7) arbitrators with names and biographical sketches and specific qualifications relating to the case to be heard. All arbitrators will be persons skilled and experienced in the field that gives rise to the dispute, and no person will be eligible for appointment as an arbitrator who is an officer or employee of any of the Parties to the dispute or is otherwise interested in the matter to be arbitrated. The Parties involved in the arbitration will each advise the Arbitration Organization of its order of preference of such arbitrators by numbering from one (1) to seven (7) each name on the list (with one (1) being the most preferred arbitrator) and submitting the numbered lists in writing to the Arbitration Organization. Depending upon the number of arbitrators to be selected, the name or names with the lowest combined numbers will be appointed as the remaining neutral arbitrator(s). In the event more than one name on the list has the same lowest combined score, the tie will be broken by lot. Should the Parties agree that one list of seven (7) is insufficient to obtain a total of three (3) neutral arbitrators with the required qualifications, an additional list of arbitrators may be requested from the Arbitration Organization.

13.4 Arbitration Procedures. Except as otherwise provided in this Section 13 or otherwise agreed by the Parties to the dispute, the Parties will utilize in the arbitration the AAA's Commercial Arbitration Rules and Mediation Procedures including Procedures for Large, Complex Commercial Disputes or similar rules and practices of another Arbitration Organization from time-to-time in force, except that if such rules and practices, as modified herein, conflict with New Mexico Rules of Civil Procedure or any other provisions of New Mexico law then in force which are specifically applicable to arbitration proceedings, such New Mexico Law will govern. The arbitration will be conducted at a location in Albuquerque, New Mexico, unless otherwise agreed by the affected Parties.

13.5 Decision of Arbitrators. The arbitrators will hear evidence submitted by the respective Parties or group or groups of Parties and may call for additional information, which additional information will be furnished by the Parties having such information. The decision of a

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majority of the arbitrators (“Arbitration Award”) will be rendered no later than twenty (20) days after the conclusion of the arbitration hearing and will be binding upon all the Parties and will be based on the provisions of this Mine Reclamation Agreement and applicable New Mexico or federal law. The Arbitration Award must be in writing and must explain in reasonable detail the basis of the award.

13.6 Enforcement of Award. This agreement to arbitrate is specifically enforceable, and the Arbitration Award will be final and binding upon the Parties to the extent provided by the law of the State of New Mexico. Any Arbitration Award may be filed with a court competent jurisdiction in New Mexico, and upon a motion of a party the court shall enter a judgment in conformity therewith as provided by the New Mexico Uniform Arbitration Act. Such judgment shall be enforceable in other States and Territories of the United States under the Full Faith and Credit provisions of the United States Constitution and other Laws.

13.7 Fees and Expenses. The non-prevailing Party will be responsible for reimbursing the prevailing Party for the fees and expenses of the arbitrators, unless the Arbitration Award specifies some other apportionment of such fees and expenses. All other expenses and costs of the arbitration, including attorney fees and expert witness fees, will be borne by the Party incurring the same.

13.8 Legal Remedies. Nothing in this Section 13 will be deemed to prevent a Party from commencing judicial action: (i) to obtain a provisional remedy to protect the effectiveness of the arbitration proceeding; (ii) to confirm, enforce, modify, correct, vacate or challenge an Arbitration Award on grounds provided for in the New Mexico Uniform Arbitration Act; (iii) to obtain relief in instances where the arbitrators are unable or unwilling to act within the time provided for in Section 13.10; (iv) where, as the result of the unreasonable or dilatory conduct of another Party, a Party is not able to obtain a timely valid and enforceable arbitration award; or (v) if a Party is prohibited by Law from participating in binding arbitration.

13.9 Rights of SJCC. No arbitration as between the Parties or the Reclamation Trust Funds Operating Agent will affect the rights of SJCC or the obligations of parties under the CSA or the RSA.

13.10 Prompt Resolution. The Parties acknowledge the importance of prompt dispute resolution. Accordingly, it is agreed that any arbitration proceeding hereunder will be scheduled and conducted in such a manner that the decision of the arbitrators is rendered no later than two hundred and seventy (270) days after an Arbitration Notice is served pursuant to Section 13.2.

## **14.0 POWER AND AUTHORITY**

14.1 Requisite Power and Authority. Each Party represents and warrants to the other Parties that it has the requisite power and authority to execute this Mine Reclamation Agreement and to perform the obligations set out in this Mine Reclamation Agreement. The execution and delivery of this Mine Reclamation Agreement and the performance of the obligations set out

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herein have been duly authorized by all necessary action on the part of each Party. The obligations set out herein will, upon execution hereof by each Party, be valid and binding obligations of such Party, enforceable against such Party in accordance with the terms and conditions hereof, except to the extent that enforceability hereof or thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws generally affecting creditors' rights and by equitable principles, regardless of whether enforcement is sought in equity or at Law.

14.2 No Violation. Each Party, to the best of its knowledge and upon reasonable inquiry, represents and warrants to the other Parties that the execution and delivery of this Mine Reclamation Agreement by such Party, and the performance by such Party of all of its obligations hereunder, will not violate any term, condition or provision of its charter documents; any applicable Law by which the Party is bound; any applicable court or administrative order or decree; or any agreement or contract to which it is a party. Further, each Party represents and warrants to the other Parties that, to the best of its knowledge and upon reasonable inquiry, there is no claim pending or threatened against it which seeks a writ, judgment, order or decree restraining, enjoining or otherwise prohibiting or making illegal any of the transactions contemplated by this Mine Reclamation Agreement or which could result in the filing of any mechanic's or materialman's lien against the SJGS Plant Site.

## **15.0 RELATIONSHIP OF PARTIES**

15.1 Several Obligations. The covenants, obligations and liabilities of the Parties are, except as otherwise specifically provided herein, intended to be several and not joint or collective. Each Party will be individually responsible for its own covenants, obligations and liabilities as herein provided.

15.2 No Joint Venture or Partnership. Nothing in this Mine Reclamation Agreement will be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to any one or more of the Parties. No Party or group of Parties will be under the control of or will be deemed to control any other Party or the Parties as a group. Except as provided in this Mine Reclamation Agreement, the Restructuring Agreement and the Decommissioning Agreement, no Party will be the agent of or have a right or power to bind any other Party without its express written consent.

15.3 Parental Guaranty. As provided in the Restructuring Agreement, PNM Resources, Inc., will guarantee the obligations of PNMR-D under this Mine Reclamation Agreement.

## **16.0 SUCCESSORS AND ASSIGNS**

16.1 Successors and Assigns. This Mine Reclamation Agreement will be binding upon and inure to the benefit of the Parties and their respective authorized successors and assigns.

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16.2 Third Party Beneficiaries. SJCC is an intended third party beneficiary under this Mine Reclamation Agreement; provided, however, that if another party assumes SJCC's reclamation obligations, then SJCC will cease to be a third party beneficiary hereunder. Except as provided in the previous sentence, nothing in this Mine Reclamation Agreement will create or be deemed to create any third party beneficiary rights in any person not a party to this Mine Reclamation Agreement.

16.3 No Right to Mortgage. No Party will have the right to mortgage, create or provide for a security interest in or convey in trust its rights, titles and interests in a Reclamation Trust created pursuant to this Mine Reclamation Agreement, or in funds held in a Reclamation Trust created pursuant to this Mine Reclamation Agreement, to a trustee or trustees under deeds of trust, mortgages or indentures, or to secured parties under a security agreement, as security for their present or future bonds or other obligations or securities, and to any successors or assigns thereof.

16.4 Prior Written Consent. No Party may assign its rights, or delegate its obligations, under this Mine Reclamation Agreement, including as provided for in Section 17, without the prior written consent of the other Parties, which consent will not be unreasonably delayed or denied. Such prior consent of the other Parties will not be required in the event of the transfer or assignment by a Party of its interest in the Project to a duly authorized successor; provided, however, that such successor has agreed in writing with the remaining Parties to fully perform and discharge all of the obligations hereunder of the Assigning Party and the remaining Parties have agreed in writing to the substitution of the successor, in place of the Assigning Party, which consent will not be unreasonably delayed or denied.

## **17.0 OPT-IN/OPT-OUT ELECTION OF SUCCESSORS AND ASSIGNS**

17.1 Protection of Parties' Rights. The Parties acknowledge that an Assigning Party's ("Assigning Party") assignee may not wish to elect the same status, of an Opt-in Participant or an Opt-out Participant, as the Assigning Party. The assignee of an Opt-in Participant (other than PNM) may elect to become an Opt-out Participant; or the assignee of an Opt-out Participant may elect to become an Opt-in Participant. The Parties desire to accommodate such assignee elections in a manner that will: (i) not unduly restrict or interfere with an Assigning Party's ability to transfer or assign its rights, titles and interests in the Project and under this Mine Reclamation Agreement; and (ii) assure that the rights and expectations of the non-assigning Parties, as well as SJCC and PNM, are fully protected by providing for appropriate levels of funding of a Reclamation Trust established by the assignee of the Assigning Party.

17.2 Assignee's Right of Election. An assignee of an Assigning Party will have the right to elect to become an Opt-in Participant or an Opt-out Participant, irrespective of the Assigning Party's status as an Opt-in Participant or an Opt-out Participant, subject to compliance with the provisions of Sections 17.3, 17.4 and 17.5; provided, however, that the assignee of PNM must be an Opt-in Participant. As a condition of the consummation of any transaction in which the Assigning Participant assigns its rights, titles and interests in the Project and under this Mine

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Reclamation Agreement to an assignee (a "Purchase Transaction"), the assignee will execute all legal instruments necessary to become, and to assume the rights, obligations and responsibilities of, an Opt-in Participant or an Opt-out Participant, as applicable. Among the contracts that the assignee must have executed in connection with a Purchase Transaction is a Reclamation Trust Agreement with a financial institution, consistent with the requirements of this Mine Reclamation Agreement. Pursuant to such Reclamation Trust Agreement, the assignee will establish and fund a Reclamation Trust with a Principal Reclamation Trust Fund and one or more Make-up Reclamation Trust Funds, as applicable.

17.3 Assignee's Funding of Principal Reclamation Trust Fund. The assignee will, effective as of the date of the consummation of the Purchase Transaction, fully fund its Principal Reclamation Trust Fund to the appropriate Reclamation Funding Target Amount. If the assignee elects to become an Opt-in Participant, it will satisfy its Reclamation Share of the Reclamation Funding Target Amount set out in Exhibit 1A and Exhibit 1D, as applicable, for December 31 of the year in which the consummation of the Purchase Transaction takes place. If the assignee elects to become an Opt-out Participant, it will satisfy its Reclamation Share of the Reclamation Funding Target Amount set out in Exhibit 1C and/or Exhibit 1F, as applicable, for December 31 of the year in which the consummation of the Purchase Transaction takes place. After the consummation of the Purchase Transaction, the assignee will maintain such Principal Reclamation Trust Fund in the same manner as would have been required of the Assigning Party if the Assigning Participant had originally held the same status as an Opt-in Participant or an Opt-out Participant that the assignee has elected.

17.4 Assignee's Funding of Make-up Reclamation Trust Fund(s). The assignee will establish the same number of Make-up Reclamation Trust Fund(s) as held by the Assigning Party and will fund and maintain such Make-up Reclamation Trust Fund(s) as follows:

17.4.1 For any assignment effective on or before December 31, 2017, by an Assigning Party to an assignee that elects to change or not to change from the Assigning Party's status as an Opt-in Participant or an Opt-out Participant, the assignee will, on the effective date of the Purchase Transaction, fully fund its Make-up Reclamation Trust Fund to the Make-up Funding Curve that would have been applicable to the Assigning Party under the status of an Opt-in Participant or an Opt-out Participant elected by the assignee for December 31 of the year in which the Purchase Transaction is effective; and will maintain such Make-up Reclamation Trust Fund in the same manner as would have been required of the Assigning Party if the Assigning Party had originally held the same status as an Opt-in Participant or an Opt-out Participant that the assignee has elected.

17.4.2 For any assignment effective at any time after December 31, 2017 (i) by an Assigning Party that is an Opt-in Participant to an assignee that elects to become an Opt-in Participant; or (ii) by an Assigning Party to an assignee that elects to change from the Assigning Party's status as either an Opt-in Participant or an Opt-out Participant, the assignee will, on the effective date of the Purchase Transaction, fully fund its Make-up Reclamation Trust Fund to the Make-up Funding Curve that would be applicable to the

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Assigning Party under the status (of an Opt-in Participant or an Opt-out Participant) elected by the assignee for December 31 of the year in which the Purchase Transaction is effective; and will maintain such Make-up Reclamation Trust Fund in the same manner as would have been required of the Assigning Party if the Assigning Party had originally held the same status as an Opt-in Participant or an Opt-out Participant that the assignee has elected.

17.4.3 For any assignment effective at any time after December 31, 2017, by an Assigning Party that is an Opt-out Participant to an assignee that elects to become an Opt-out Participant, the assignee will, on the effective date of the Purchase Transaction, fund its Make-up Reclamation Trust Fund to the level of the Assigning Party's Make-up Reclamation Trust Fund on the effective date of the Purchase Transaction; and will maintain such Make-up Reclamation Trust Fund in the same manner that the Assigning Party was required to maintain such fund.

17.5 Assigning Party's Right of Refund. Upon an assignee's having: (i) executed all legal instruments necessary to become an Opt-in Participant or an Opt-out Participant, as applicable, as provided for in Section 17.2; (ii) fully funded its Principal Reclamation Trust Fund to its Reclamation Share of the applicable Reclamation Funding Target Amount consistent with Section 17.3; and (iii) fully funded its Reclamation Share of any applicable Make-up Reclamation Trust Fund consistent with Section 17.4, the Assigning Party will be: (x) released from further obligations under this Mine Reclamation Agreement; and (y) entitled to a return of all monies remaining in its Principal Reclamation Trust Fund and Make-up Reclamation Trust Fund.

## **18.0 Audit Rights; Related Disputes**

18.1 Right of Audit. The Reclamation Trust Funds Operating Agent will maintain complete and accurate records of all expenses and transactions for which a Party may have cost responsibility under this Mine Reclamation Agreement. Such records will be maintained from the date an expense is billed to a Party hereunder for a period of the longer of: (i) the expiration of the statute of limitations for actions based on contract; or (ii) the date the records may be destroyed under the Reclamation Trust Funds Operating Agent's document retention policy. Any Party (an "Initiating Party") may, upon reasonable advance written notice to the Reclamation Trust Funds Operating Agent, conduct an audit of all records, invoices, costs, expenses or liabilities charged to the Initiating Party or for which the Initiating Party has or may have cost responsibility. Parties desiring to perform an audit will cooperate with one another so as to minimize the number of audits and any undue burden upon the Reclamation Trust Funds Operating Agent. Each such audit will be carried out by an auditor of the Initiating Party's choosing and at the expense of the Initiating Party, except as provided in Section 18.3. The Reclamation Trust Funds Operating Agent will cooperate with the Initiating Party and the Initiating Party's auditor and will make available its relevant business records at reasonable times and places, upon reasonable advance notice. A copy of the audit report will be provided to all Parties by the Initiating Party within fifteen (15) days of receipt of the audit report.

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18.2 Dispute Resolution. If any Party disagrees with an audit finding from an audit conducted under Section 18.1, the Party may within fifteen (15) Business Days of the receipt of the audit report request in writing that the audit be reviewed by providing such request to all of the Parties. After any such request, the affected Parties will review the expenditure and will endeavor to agree upon whether an over- or under-billing occurred. If, after the review, the affected Parties determine that the expenditure was over- or under-billed, an adjustment to the billing that is the subject of the audit finding will be made to eliminate the over- or under-billing and an adjusted bill will be sent as provided for in Section 18.3. Each Party that receives a payment as a result of under- or over-billing will reimburse the Initiating Party as provided for in Section 18.3. If within thirty (30) Business Days of the date of the mailing of the written request for review the affected Parties are unable to agree in writing on a modification of the expenditure to eliminate the over- or under-billing, the matter will be submitted to dispute resolution pursuant to Section 13.

18.3 Adjusted Billing Procedures. If as the result of an audit and any related dispute resolution procedures under Section 13.1 or Section 13.2 it is determined that there was an under- or over-billing, the Reclamation Trust Funds Operating Agent will issue invoices to correct the under- or over-billing with interest at the Prime Rate (or any successor to that rate). Interest will be calculated from the due date for payments on the prior invoices that included the under- or over-billed amounts to the date of the revised billings. The owing Party will pay any amounts owed on the corrected invoices within twenty (20) Business Days of receipt of the revised billing reflecting the result of the audit report. Each Party (other than an Initiating Party) that receives a payment or credit as a result of an audit report will reimburse the Initiating Party for the cost of the audit based on the amount received by such Party as a percentage of the total amount of payments and credits received by Parties; provided, that if the amount received by a Party is less than the lower of (i) \$5,000 or (ii) ten percent (10%) of the amount of the disputed billing, no reimbursement for the audit costs will be required.

18.4 Audit of Reclamation A&G Expenses. To the extent practicable, any audit of Reclamation A&G Expenses will be coordinated with audits of A&G expenses under any other San Juan Project-related agreements.

18.5 Effectiveness. The provisions of this Section 18 will become effective as of the Exit Date. Matters requiring audit arising before the Exit Date will be addressed in a manner consistent with the audit provisions of the SJPPA.

## **19.0 UNCONTROLLABLE FORCES**

No Party will be considered to be in Default in the performance of any of its obligations hereunder (other than obligations of a Party to pay costs and expenses and to fully fund its Reclamation Trust (Principal Reclamation Trust Fund and any Make-up Reclamation Trust Fund)) if failure of performance is due to uncontrollable forces. The term "Uncontrollable Forces" means any cause beyond the control of the Party affected, including failure of facilities, flood,

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earthquake, storm, fire, lightning, epidemic or pandemic, war, riot, civil disturbance, labor dispute, sabotage or terrorism, restraint by court order or public authority, or failure to obtain approval from a necessary Governmental Authority which by exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by exercise of due diligence it is unable to overcome. Nothing contained herein requires a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any obligation by reason of Uncontrollable Forces will promptly provide notice to the other Parties and will exercise due diligence to remove such inability with all reasonable dispatch.

## **20.0 INVALID PROVISIONS**

If any provision of this Mine Reclamation Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of any Party under this Mine Reclamation Agreement will not be materially and adversely affected thereby, such provision will be fully severable, this Mine Reclamation Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of this Mine Reclamation Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom, and the Parties will negotiate in good faith to attempt to agree upon a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

## **21.0 APPLICABLE LAW AND VENUE**

21.1 Compliance with Law. The Parties will comply with all applicable Law in the performance of their respective obligations under this Mine Reclamation Agreement.

21.2 New Mexico Law. This Mine Reclamation Agreement is made under and will be governed by New Mexico law, without regard to any conflicts of Law or choice of Law principles that would require the application of the Law of a different jurisdiction.

21.3 Venue. Venue with respect to any judicial proceeding arising out of or relating to this Mine Reclamation Agreement will lie exclusively in the state or federal courts in Albuquerque, New Mexico and the Parties irrevocably consent and submit to the exclusive jurisdiction of such courts for such purpose and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. Service of process may be made in any manner recognized by such courts. A final judgment of the state or federal court will be enforceable in other states under applicable Law.

## **22.0 ENTIRE AGREEMENT**

22.1 Entire Agreement. This Mine Reclamation Agreement, together with all schedules and exhibits hereto and the Reclamation Trust Agreements, supersede all prior

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negotiations, agreements and understandings among the Parties with respect to the covenants and obligations agreed upon in this Mine Reclamation Agreement.

22.2 Amendment and Modification. Except as otherwise provided herein, the Parties may, at any time, amend, modify or supplement this Mine Reclamation Agreement in a writing executed by all the Parties.

22.3 Prior Obligations Unaffected. Except as otherwise provided herein, nothing in this Mine Reclamation Agreement will be deemed to relieve the Parties of their obligations in effect prior to the Effective Date and such obligations will continue in full force and effect until satisfied or as otherwise mutually agreed.

### **23.0 WAIVER**

No waiver by the Reclamation Trust Funds Operating Agent or by any Party of any term or condition of this Mine Reclamation Agreement will be effective unless the Reclamation Trust Funds Operating Agent or Party granting such waiver does so in writing, and no such waiver or failure to insist upon strict compliance with any obligation, covenant, agreement or condition will operate as a waiver of, or estoppel with respect to, any other previous or subsequent default or matter. No delay short of the statutory period of limitations in asserting or enforcing any right hereunder will be deemed a waiver of such right.

### **24.0 NO INTERPRETATION AGAINST DRAFTER**

This Mine Reclamation Agreement has been drafted with the full participation by all of the Parties and their counsel of choice, and no provision of this Mine Reclamation Agreement will be construed against any Party on the ground that such Party or its counsel was the author of such provision. All of the provisions of this Mine Reclamation Agreement will be construed in a reasonable manner to give effect to the intentions of the Parties in executing this Mine Reclamation Agreement.

### **25.0 INDEPENDENT COVENANTS**

The covenants and obligations contained in this Mine Reclamation Agreement are independent covenants, not dependent covenants, and the obligation of a Party to perform all of the obligations and covenants to be by it kept and performed is not conditioned on the performance by another Party of all of the covenants and obligations to be kept and performed by it. Nothing in this Section 26 affects the rights of the Parties under the dispute resolution and default provisions of Sections 10.1 through 10.10.

### **26.0 OTHER DOCUMENTS**

Each Party agrees, upon request by another Party, to make, execute and deliver any and all documents reasonably required to carry into effect the terms of this Mine Reclamation Agreement;

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provided that such documents and instruments will not increase or expand the obligations of a Party hereunder.

## 27.0 NOTICES

27.1 Manner of Giving of Notice. Any notice, demand or request provided for in this Mine Reclamation Agreement, or served, given or made in connection with it, will be deemed properly served, given or made (i) when delivered personally or by prepaid overnight courier, with a record of receipt; (ii) on the fourth day after mailing if mailed by certified mail, return receipt requested; or (iii) on the day of transmission, if sent by facsimile or electronic mail during regular business hours or the day after transmission, if sent after regular business hours (provided, however, that such facsimile or electronic mail will be followed on the same day or next Business Day with the sending of a duplicate notice, demand or request by a nationally recognized prepaid overnight courier with record of receipt), to the persons specified below:

27.1.1 Public Service Company of New Mexico  
Attn: Vice President, PNM Generation  
2401 Aztec N.E., Bldg. A  
Albuquerque, NM 87107

With a copy to:

Public Service Company of New Mexico  
c/o Secretary  
414 Silver Ave. S.W.  
Albuquerque, NM 87102

27.1.2 Tucson Electric Power Company  
88 E. Broadway Blvd.  
MS HQE901  
Tucson, AZ 85701  
Attn: Corporate Secretary

27.1.3 City of Farmington  
c/o City Clerk  
800 Municipal Drive  
Farmington, NM 87401

With a copy to:

Farmington Electric Utility System  
Electric Utility Director  
101 North Browning Parkway  
Farmington, NM 87401

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- 27.1.4 M-S-R Public Power Agency  
c/o General Manager  
1231 11<sup>th</sup> Street  
Modesto, CA 95354
- 27.1.5 Southern California Public Power Authority  
c/o Executive Director  
1160 Nicole Court  
Glendora, CA 91740
- 27.1.6 City of Anaheim  
c/o City Clerk  
200 South Anaheim Boulevard  
Anaheim, CA 92805
- with a copy to:
- Public Utilities General Manager  
201 South Anaheim Boulevard  
Suite 1101  
Anaheim, CA 92805
- 27.1.7 Incorporated County of  
Los Alamos, New Mexico  
c/o Utilities Manager  
1000 Central Avenue  
Suite 130  
Los Alamos, NM 87544
- 27.1.8 Utah Associated Municipal Power Systems  
c/o General Manager  
155 North 400 West  
Suite 480  
Salt Lake City, UT 84103
- 27.1.9 Tri-State Generation and Transmission  
Association, Inc.  
c/o Executive Vice President and General Manager  
1100 West 116<sup>th</sup> Avenue  
Westminster, CO 80234  
Or P. O. Box 33695  
Denver, CO 80233

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For purposes of overnight courier service, Tri-State's address will be:

Tri-State Generation and Transmission Association, Inc.  
c/o Executive Vice President and General Manager  
3761 Eureka Way  
Frederick, CO 80516

27.1.10 PNMR Development and Management Corporation  
c/o Corporate Secretary  
PNM Resources  
Corporate Headquarters  
414 Silver Ave. SW  
Albuquerque, NM 87158-1245

27.2 Notices to SJCC. Any notices provided hereunder to be delivered or given to SJCC will be provided to the persons specified below:

27.2.1 San Juan Coal Company  
300 West Arrington, Suite 200  
Farmington, NM 87401  
Attn: President

With a copy addressed as follows:

San Juan Coal Company  
P.O. Box 155  
Fruitland, NM 87416  
Attn: San Juan Mine Manager

27.3 Changes in Designation. A Party or SJCC may, at any time or from time-to-time, by written notice to the other Parties and SJCC, change the designation or address of the person so specified as the one to receive notices pursuant to this Mine Reclamation Agreement.

## **28.0 CAPTIONS AND HEADINGS**

The captions and headings appearing in this Mine Reclamation Agreement are inserted merely to facilitate reference and have no bearing upon the interpretation of the provisions hereof.

## **29.0 EFFECT OF MUNICIPAL LAW**

29.1 Farmington and Los Alamos. Farmington (and the Farmington Electric Utility System) and Los Alamos are governmental entities whose liability is limited by the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 through 41-4-27, and any liability or indemnity assumed by Farmington or the Farmington Electric Utility System or Los Alamos in this Mine

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Reclamation Agreement will be limited by the provisions of the New Mexico Tort Claims Act. Notwithstanding any other provision of this Mine Reclamation Agreement, the payment for all purchases, fees or charges made by Farmington and Los Alamos under this Mine Reclamation Agreement will be made from the legally-available revenues of Farmington's and/or Los Alamos's Electric Utility System. In no event will the obligation to pay under this Mine Reclamation Agreement be considered an obligation against the general faith and credit or general taxing power of Farmington or Los Alamos.

29.2 Anaheim and M-S-R. Anaheim (which includes its Public Utilities Department) and M-S-R are governmental entities whose liability is limited by the California Government Claims Act (Government Code §§ 810 – 998.3) and any liability or indemnity assumed by Anaheim or M-S-R in this Mine Reclamation Agreement will be limited by the provisions of the California Government Claims Act. Nothing in this Mine Reclamation Agreement is intended to create or will be construed or applied to create any obligation, agreement, covenant or promise to indemnify, hold harmless or defend which is against public policy, void and unenforceable. Notwithstanding any other provision of this Mine Reclamation Agreement, the payment for all purchases, fees or charges made by Anaheim or M-S-R under this Mine Reclamation Agreement will be made from the legally-available revenues of M-S-R or the legally-available revenues of the Anaheim Electric System. In no event will the obligation to pay under this Mine Reclamation Agreement be considered an obligation against the general faith and credit or general taxing power of Anaheim or of M-S-R or any of the members of M-S-R.

29.3 Southern California Public Power Authority. SCPPA is a joint exercise of powers agency organized under the laws of the State of California, created to acquire, construct, finance, operate and maintain generation and transmission projects on behalf of its members. In no event will the obligation to pay under this Restructuring Agreement be considered an obligation against the general faith and credit or taxing power of any member of SCPPA.

29.4 Utah Associated Municipal Power Systems. UAMPS is a joint action agency organized under the laws of the State of Utah, created to acquire, construct, finance, operate and maintain generation and transmission projects on behalf of its members. In no event will the obligation to pay under this Restructuring Agreement be considered an obligation against the general faith and credit or taxing power of any member of UAMPS.

### **30.0 PARTIES' COST RESPONSIBILITIES**

Except for costs incurred by the Reclamation Trust Funds Operating Agent in its capacity as Reclamation Trust Funds Operating Agent, each Party will be solely responsible for its own costs and expenses, including fees and costs of counsel, incurred in connection with the negotiation of this Mine Reclamation Agreement and with any actions associated with the implementation of this Mine Reclamation Agreement.

### **31.0 CONFIDENTIALITY**

31.1 Confidentiality of Negotiations. The Parties' discussions and negotiations that led to the development of this Mine Reclamation Agreement, the Restructuring Agreement, the Decommissioning Agreement, the SJPPA Restructuring Amendment and the SJPPA Exit Date Amendment, including discussions taking place in the context of mediation, were conducted in confidence and will remain confidential; provided, that nothing herein will prevent a Party from making disclosures pursuant to a requirement of Law (including Laws related to the inspection of public records and securities), including subpoena or discovery request. If any Party determines that it is legally obligated to make a disclosure, the Party obligated to make such disclosure will make reasonable efforts to notify the other Parties prior to such disclosure and will reasonably cooperate with any other Party in seeking an order of a Governmental Authority preventing such disclosure; provided further, however, that the Party seeking any such order to prevent or limit disclosure will be responsible for all costs for seeking such an order. Prior to making disclosure, a Party will, as available or appropriate, attempt to utilize a confidentiality agreement to protect the confidentiality of the information disclosed.

31.2 Non-confidentiality of Mine Reclamation Agreement. While negotiations were and remain confidential as addressed in Section 32.1, upon the Execution Date, this Mine Reclamation Agreement is not confidential.

### **32.0 ORIGINAL TRUST FUNDS AGREEMENT**

Upon the Effective Date of this Mine Reclamation Agreement, the Original Trust Funds Agreement is superseded by this Mine Reclamation Agreement.

### **33.0 LIMITATIONS ON DAMAGES**

In no event will any Party be liable under any provision of this Mine Reclamation Agreement for any indirect, punitive or incidental damages or costs of any other Party (including loss of revenue, cost of capital and loss of business reputation or opportunity), whether based in contract, tort (including, without limitation, negligence or strict liability), or otherwise, and the Parties hereby waive, release and discharge one another from all such indirect, punitive and incidental damages and costs.

### **34.0 EXECUTION IN COUNTERPARTS**

This Mine Reclamation Agreement may be executed in any number of counterparts, and each executed counterpart will have the same force and effect as an original instrument as if all the Parties to the aggregated counterparts had signed the same instrument. Any signature page of this Mine Reclamation Agreement may be detached from any counterpart thereof without impairing the legal effect of any signatures thereon and may be attached to any other counterpart of this Mine Reclamation Agreement identical in form thereto but having attached to it one or

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more additional pages. Electronic or pdf signatures will have the same effect as an original signature.

**IN WITNESS WHEREOF**, the Parties, by their duly authorized representatives, have caused this Mine Reclamation Agreement to be made as of the date first set forth above.

[Signature pages follow]

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**PUBLIC SERVICE COMPANY OF NEW MEXICO**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**TUCSON ELECTRIC POWER COMPANY**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**THE CITY OF FARMINGTON, NEW MEXICO**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**M-S-R PUBLIC POWER AGENCY**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

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**CITY OF ANAHEIM**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

**PNMR DEVELOPMENT AND MANAGEMENT CORPORATION**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

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**EXHIBIT 1A: RECLAMATION FUNDING CURVES FOR 70%/30% EQUITY/FIXED  
INCOME PORTFOLIO**

Note: Exhibit 1A is subject to adjustment as provided for in this Mine Reclamation Agreement.

<b>Year</b>	<b>Funding Target Curve</b>	<b>Funding Target Floor</b>
<b>2014</b>	<b>\$ 11,150,315</b>	<b>\$ 8,920,252</b>
<b>2015</b>	<b>\$ 21,122,757</b>	<b>\$ 16,898,206</b>
<b>2016</b>	<b>\$ 30,430,895</b>	<b>\$ 24,344,716</b>
<b>2017</b>	<b>\$ 40,517,946</b>	<b>\$ 32,414,357</b>
<b>2018</b>	<b>\$ 51,449,093</b>	<b>\$ 43,217,238</b>
<b>2019</b>	<b>\$ 63,294,968</b>	<b>\$ 55,699,572</b>
<b>2020</b>	<b>\$ 76,132,118</b>	<b>\$ 70,041,549</b>
<b>2021</b>	<b>\$ 90,043,494</b>	<b>\$ 86,441,754</b>
<b>2022</b>	<b>\$ 105,118,988</b>	<b>\$ 105,118,988</b>
<b>2023</b>	<b>\$ 91,366,063</b>	<b>\$ 91,366,063</b>
<b>2024</b>	<b>\$ 75,838,282</b>	<b>\$ 75,838,282</b>
<b>2025</b>	<b>\$ 56,074,220</b>	<b>\$ 56,074,220</b>
<b>2026</b>	<b>\$ 42,109,553</b>	<b>\$ 42,109,553</b>
<b>2027</b>	<b>\$ 26,681,069</b>	<b>\$ 26,681,069</b>
<b>2028</b>	<b>\$ 9,073,047</b>	<b>\$ 9,073,047</b>
<b>2029</b>	<b>\$ 8,609,561</b>	<b>\$ 8,609,561</b>
<b>2030</b>	<b>\$ 8,070,609</b>	<b>\$ 8,070,609</b>
<b>2031</b>	<b>\$ 7,448,774</b>	<b>\$ 7,448,774</b>
<b>2032</b>	<b>\$ 6,735,987</b>	<b>\$ 6,735,987</b>
<b>2033</b>	<b>\$ 5,923,471</b>	<b>\$ 5,923,471</b>
<b>2034</b>	<b>\$ 5,001,676</b>	<b>\$ 5,001,676</b>
<b>2035</b>	<b>\$ 3,960,221</b>	<b>\$ 3,960,221</b>
<b>2036</b>	<b>\$ 2,787,815</b>	<b>\$ 2,787,815</b>
<b>2037</b>	<b>\$ 1,472,188</b>	<b>\$ 1,472,188</b>
<b>2038</b>	<b>\$ (0)</b>	<b>\$ (0)</b>

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### **Exhibit 1B: Reclamation Funding Curves for Fixed Income Portfolio**

Note: Exhibit 1B is subject to adjustment as provided in this Mine Reclamation Agreement.

<b>Year</b>	<b>Funding Target Curve</b>	<b>Funding Target Floor</b>
<b>2014</b>	<b>\$ 22,287,687</b>	<b>\$ 19,613,164</b>
<b>2015</b>	<b>\$ 52,248,092</b>	<b>\$ 48,068,244</b>
<b>2016</b>	<b>\$ 93,217,851</b>	<b>\$ 89,489,137</b>
<b>2017</b>	<b>\$ 135,135,334</b>	<b>\$ 135,135,334</b>
<b>2018</b>	<b>\$ 131,259,095</b>	<b>\$ 131,259,095</b>
<b>2019</b>	<b>\$ 128,320,382</b>	<b>\$ 128,320,382</b>
<b>2020</b>	<b>\$ 128,128,506</b>	<b>\$ 128,128,506</b>
<b>2021</b>	<b>\$ 127,921,529</b>	<b>\$ 127,921,529</b>
<b>2022</b>	<b>\$ 126,823,566</b>	<b>\$ 126,823,566</b>
<b>2023</b>	<b>\$ 107,846,902</b>	<b>\$ 107,846,902</b>
<b>2024</b>	<b>\$ 87,824,949</b>	<b>\$ 87,824,949</b>
<b>2025</b>	<b>\$ 64,486,169</b>	<b>\$ 64,486,169</b>
<b>2026</b>	<b>\$ 47,849,570</b>	<b>\$ 47,849,570</b>
<b>2027</b>	<b>\$ 30,541,256</b>	<b>\$ 30,541,256</b>
<b>2028</b>	<b>\$ 11,969,273</b>	<b>\$ 11,969,273</b>
<b>2029</b>	<b>\$ 11,058,072</b>	<b>\$ 11,058,072</b>
<b>2030</b>	<b>\$ 10,090,150</b>	<b>\$ 10,090,150</b>
<b>2031</b>	<b>\$ 9,063,126</b>	<b>\$ 9,063,126</b>
<b>2032</b>	<b>\$ 7,974,532</b>	<b>\$ 7,974,532</b>
<b>2033</b>	<b>\$ 6,821,809</b>	<b>\$ 6,821,809</b>
<b>2034</b>	<b>\$ 5,602,305</b>	<b>\$ 5,602,305</b>
<b>2035</b>	<b>\$ 4,313,272</b>	<b>\$ 4,313,272</b>
<b>2036</b>	<b>\$ 2,951,862</b>	<b>\$ 2,951,862</b>
<b>2037</b>	<b>\$ 1,515,124</b>	<b>\$ 1,515,124</b>
<b>2038</b>	<b>\$ 0</b>	<b>\$ 0</b>

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### **Exhibit 1C: Fixed Income Portfolio Reclamation Funding Curve with 3% Risk Adjustment**

Note: Exhibit 1C is subject to adjustment as provided in this Mine Reclamation Agreement.

<b>Year</b>	<b>Funding Target Curve</b>	<b>Funding Target Floor</b>
<b>2014</b>	<b>\$ 22,287,687</b>	<b>\$ 19,613,164</b>
<b>2015</b>	<b>\$ 52,248,092</b>	<b>\$ 48,068,244</b>
<b>2016</b>	<b>\$ 93,217,851</b>	<b>\$ 89,489,137</b>
<b>2017</b>	<b>\$ 139,189,394</b>	<b>\$ 139,189,394</b>
<b>2018</b>	<b>\$ 135,196,868</b>	<b>\$ 135,196,868</b>
<b>2019</b>	<b>\$ 132,169,994</b>	<b>\$ 132,169,994</b>
<b>2020</b>	<b>\$ 131,972,361</b>	<b>\$ 131,972,361</b>
<b>2021</b>	<b>\$ 131,759,174</b>	<b>\$ 131,759,174</b>
<b>2022</b>	<b>\$ 130,628,273</b>	<b>\$ 130,628,273</b>
<b>2023</b>	<b>\$ 111,082,309</b>	<b>\$ 111,082,309</b>
<b>2024</b>	<b>\$ 90,459,697</b>	<b>\$ 90,459,697</b>
<b>2025</b>	<b>\$ 66,420,754</b>	<b>\$ 66,420,754</b>
<b>2026</b>	<b>\$ 49,285,057</b>	<b>\$ 49,285,057</b>
<b>2027</b>	<b>\$ 31,457,494</b>	<b>\$ 31,457,494</b>
<b>2028</b>	<b>\$ 12,328,352</b>	<b>\$ 12,328,352</b>
<b>2029</b>	<b>\$ 11,389,814</b>	<b>\$ 11,389,814</b>
<b>2030</b>	<b>\$ 10,392,854</b>	<b>\$ 10,392,854</b>
<b>2031</b>	<b>\$ 9,335,020</b>	<b>\$ 9,335,020</b>
<b>2032</b>	<b>\$ 8,213,768</b>	<b>\$ 8,213,768</b>
<b>2033</b>	<b>\$ 7,026,463</b>	<b>\$ 7,026,463</b>
<b>2034</b>	<b>\$ 5,770,374</b>	<b>\$ 5,770,374</b>
<b>2035</b>	<b>\$ 4,442,670</b>	<b>\$ 4,442,670</b>
<b>2036</b>	<b>\$ 3,040,418</b>	<b>\$ 3,040,418</b>
<b>2037</b>	<b>\$ 1,560,577</b>	<b>\$ 1,560,577</b>
<b>2038</b>	<b>\$ 0</b>	<b>\$ 0</b>

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## EXHIBIT 2

### PERMITTED INVESTMENTS

Consistent with Section 4.2 of the Mine Reclamation Agreement, the following Permitted Investments standards are established for investments in the Parties' Trusts. These standards will apply until such time as they may be amended as provided for in the Mine Reclamation Agreement.

Each Party will invest the funds in its Trust pursuant to its investment objectives, risk tolerance and policies, if any. To the extent the Party exercises discretion in the investment of such funds, the investments must be prudent, reasonably diversified, and must be demonstrably capable of liquidation to provide funds for the payment of Reclamation Costs hereunder. Trust funds will be maintained and invested only in Permitted Investments. Permitted Investments include any of the following:

A. Opt-out Participants' Fund Investments Criteria and Permitted Investments

1. Cash and Cash Equivalents. Cash and cash equivalents will include (i) legal tender of the United States of America and (ii) deposits in federally insured national or state banks that are payable on demand.
2. Acceptable Debt Securities. Acceptable debt securities include:  
Obligations of the United States of America, which are taken into consideration for purposes of determining the public debt limit of the United States of America;
  - a. Obligations issued or guaranteed by a person controlled or supervised by and acting as an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States of America, including, without limitation, obligations of the Federal National Mortgage Association, Federal Intermediate Credit Bank, Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation and Government National Mortgage Association;
  - b. Commercial paper maturing within two hundred seventy (270) days of the highest ranking or of the highest letter and number rating as provided for by at least two Nationally Recognized Statistical Rating Organizations ("NRSRO");
  - c. Deposit accounts (which may be represented by certificates of deposit) payable on demand or maturing within three hundred ninety-seven (397) days, in federally insured national or state banks; provided, however, if the aggregate amount of such deposit accounts in a bank is one million dollars (\$1,000,000) or more, such bank will have combined capital and surplus, as of

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its last report of condition, exceeding two hundred and fifty million dollars (\$250,000,000) and a senior unsecured debt rating of investment grade;

- d. Repurchase agreements, fully secured [and delivery accepted] by any of the foregoing obligations or securities, maturing within ninety-two (92) days with any federally insured national or state bank or any other financial institution that is a nationally recognized dealer that reports to the Market Reports Division of the Federal Reserve Bank of New York; provided, however, if the aggregate face amount of such repurchase agreements with an issuer is one million dollars (\$1,000,000) or more, the issuer will have combined capital and surplus exceeding two hundred and fifty million dollars (\$250,000,000) and a senior unsecured debt rating of investment grade;
  - e. Bonds issued by any state, any possession of the United States of America, the District of Columbia, or any political subdivision thereof, any state agency or any municipal corporation that are rated A2/A/A or better by Moody's Investor Service ("Moody's"), Standard & Poor's Corporation ("S&P"), Fitch Ratings ("Fitch") or other NRSRO or, if not rated by any such service, are given a rating comparable to or better than the aforementioned ratings by the investment manager engaged by a Party to manage the investments of its Trust;
  - f. Bankers acceptances with a maximum maturity of one hundred eighty (180) days issued by qualified banks which have a long term debt rating of A2/A/A or higher by Moody's, S&P or Fitch; and
  - g. Forward delivery agreements (sometimes referred to as guaranteed investment contracts) with a federally-insured national or state bank, and such bank will have combined capital and surplus, as of its last report of condition, exceeding two hundred and fifty million dollars (\$250,000,000) and a senior unsecured debt rating of A2/A/A or higher by Moody's, S&P or Fitch.
3. Pooled Funds. Acceptable pooled funds are funds that are invested in what are otherwise considered Permitted Investments listed above for an Opt-out Participant and that are Securities and Exchange Commission ("SEC")-registered mutual funds, bank commingled funds, or pooled funds of registered investment advisors whose portfolio is designed to track a fixed income market index.
4. Interests in Property. Acceptable interests in property are those debt securities issued by any governmental agency secured by real and/or personal property pledged as collateral.

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5. Other Permitted Investments. Other Permitted Investments are those investments not included in the foregoing paragraphs 1 through 4, above, that the Reclamation Investment Committee will have approved.

B. Opt-in Participants' Fund Investments Criteria and Permitted Investments

In addition to the Permitted Investments in Section A, above, for Opt-out Participants, Opt-in Participants may also be invested in the following:

1. Equity Securities. Equity securities are high-quality equity securities (i.e., common, preferred or preference stock) listed on a major domestic or international stock exchange or traded on a nationally recognized trading network.
2. Corporate Debt Securities. Bonds issued by a private corporation rated A2/A/A or better by Moody's, S&P, Fitch or other NRSRO or, if not rated by any such service, are given a rating comparable to or better than the aforementioned ratings by the investment manager engaged by a Party to manage the investments in its Trust.
3. Derivatives. Derivative instruments, defined as financial instruments whose value is derived, in whole or in part, from the value of any one or more underlying securities or assets, an index of securities or assets, or a risk factor.
  - a. Derivatives include futures contracts, forward contracts, swaps and all forms of options, but will not include a broader range of securities including mortgage backed securities, structured notes, convertible bonds, and exchange traded funds ("ETFs").
  - b. The management of the derivatives instrument(s) must be outside the administrative control of the Party.
  - c. Any counterparty in an "over-the-counter" derivative transaction with the Trust must have a credit rating no lower than A2/A/A from Moody's, S&P or Fitch, respectively. Should the credit rating of a counterparty be downgraded below the aforementioned ratings, the total effective exposure of a derivative position will be excluded from the Trust's liquidation value.
  - d. The use of derivatives will not be used for speculation but with the intent to hedge risk in portfolios or to implement investment strategies more effectively and at a lower cost than would be possible in the cash markets.
  - e. Derivative transactions, which result in the creation of economic leverage, are prohibited. Economic leverage is defined as a net dollar exposure to assets in excess of the dollar amount of invested capital as measured by current market value.
4. Private Real Estate Investments. Trusts may invest in real estate assets, either directly or through a fund-of-funds, limited partnership, joint venture or other pooled investment funds.

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5. Commodities. Trusts are prohibited from investing directly in commodity assets. Trusts may invest in commodity assets through a common or collective fund, ETF, or with the use of derivatives.
  6. Pooled Funds. Pooled Funds are funds that are invested in what are otherwise considered permitted investments and that are SEC-registered mutual funds, bank commingled funds, or pooled funds of registered investment advisors whose portfolio is designed to track an equity or fixed income market index and which may include the use of derivatives.
- C. Exclusions from Permitted Investments. Investments in the following securities are not permitted by either Opt-out Participants or Opt-in Participants:
1. Securities of any nature issued by any Party or any parent or affiliated company of any Party;
  2. Securities of any nature issued by any governmental agency or public or private corporation which is in default on the payment of the principal or interest of any outstanding debt or has discontinued the payment of dividends on any of its outstanding equity securities; and
  3. Securities of any nature issued by any governmental agency or public or private corporation which has been declared bankrupt or which is the subject of a petition for bankruptcy pending in any court.
- D. Restrictions and Prohibitions. Subject to the foregoing, Parties will adhere to the following restrictions and prohibitions in their Trust investments:
1. Transactions with current or prospective related parties (“self dealing”), including individuals employed by a Party, and a parent or affiliated company of a Party, are prohibited. Securities lending will not be considered a “self dealing” transaction.
  2. The average credit quality of a Trust’s fixed income securities will be rated an equivalent “A2/A/A” or higher by Moody’s, S&P, or Fitch respectively. If all three rating agencies rate a security, the middle rating will be used. When two agencies rate a security, the lower rating will be used. If the security is not rated by one of the three rating agencies listed above, the investment manager’s internal rating will be used. The market value of unrated securities cannot exceed 5% of the aggregate market value of a Trust’s fixed income allocation. Cash and cash equivalent securities will be rated an equivalent “Aaa/AAA/AAA” or “P-1, A-1, F1” by Moody’s, S&P, or Fitch respectively.

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3. Securities lending is permitted, provided that the program's collateral investment vehicle complies with the standards for Permitted Investments contained herein.

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### **EXHIBIT 3**

#### **MANDATORY PROVISIONS**

Trust provisions substantially as shown below are considered to be the “Mandatory Provisions” for the individual Party Reclamation Trust Agreements (each a “Trust Agreement”), as required by Section 4.1 of the Amended and Restated Mine Reclamation Agreement among the San Juan Project Participants and PNMR Development and Management Corporation (for purposes of this Exhibit 3, the “Mine Reclamation Agreement”). This language (and the utilized defined terms and section numbers and references) is excerpted from a generic form of Trust Agreement approved by the Parties. For purposes of this Exhibit 3, “Party A” refers to the Party that is a party to a Trust Agreement entered into pursuant to the terms of the Mine Reclamation Agreement.

1.2 Purpose. The purpose of this Agreement is to provide funding for the payment to SJCC of certain coal mine reclamation costs, in accordance with Party A’s obligations as set out in the Mine Reclamation Agreement.

2.1 Identification of Beneficiary. The beneficiary of this Trust (“Beneficiary”) is SJCC.

2.2 Settlor’s Relinquishment of Beneficial Interest. Party A, as settlor of the Trust, retains no beneficial interest in the funds held in trust, except: (i) the right to a return of any funds that may remain in the Principal Trust Fund after the purposes of the Trust have been accomplished; and (ii) the right to a return of any funds remaining in a Make-up Reclamation Trust Fund after the purposes of the Make-up Reclamation Trust Fund have been accomplished.

3.1 Principal Trust Fund. Party A hereby establishes and is funding herewith the Principal Trust Fund in accordance with the Mine Reclamation Agreement. Funds may be disbursed from the Principal Trust Fund for the following and no other purposes: (a) to pay the costs and fees associated with the maintenance of the Trust Account, including the fees and expenses of the Trustee; and (b) to pay Party A’s Reclamation Share (as defined in Section 3.3 of the Mine Reclamation Agreement) of reclamation costs pursuant to invoices rendered to Party A by the Reclamation Trust Funds Operating Agent (as that term is defined in the Mine Reclamation Agreement) and approved for payment by Party A. The Trustee will pay funds out of the Principal Trust Fund in accordance with the following procedures. The Reclamation Trust Funds Operating Agent will bill Party A, in writing, for reclamation costs invoiced by SJCC at least ten (10) Business Days prior to the date that payment is due SJCC. Party A will promptly review such invoice and, upon Party A’s review and approval of such invoice from the Reclamation Trust Funds Operating Agent, will direct the Trustee to pay such invoice by making payment out of the assets of the Principal Trust Fund, in immediately available funds, to SJCC. Upon the making of such payment, the Trustee will provide notice of such payment to Party A

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and to the Reclamation Trust Funds Operating Agent. Party A will provide the Trustee with appropriate wiring instructions for the making of payments in immediately available funds to SJCC. Party A will notify the Trustee of the identity of the Reclamation Trust Funds Operating Agent and of any changes in the Trust Fund Operating Agent. Subject to and in accordance with the terms and conditions hereof, the Trustee agrees that it will receive, hold in trust, invest, reinvest, and release, disburse or distribute the funds in the Trust Account ("Trust Funds"). All interest and other earnings on the Trust Funds will become a part of the Trust Account and the Trust Funds for all purposes, and all losses resulting from the investment or reinvestment thereof from time to time, and all amounts charged thereto to compensate or reimburse the Trustee for amounts owing to it hereunder from time to time, will be set off against the Trust Funds, from the time of such loss or charge, and thereafter no longer will constitute part of the Trust Funds.

3.2 Make-up Reclamation Trust Fund(s). In the event of certain defaults by another Party under the Mine Reclamation Agreement, Party A is required by the Mine Reclamation Agreement to establish a separate segregated portion of the Trust Account (which will be unique for each defaulting Party) under the Mine Reclamation Agreement, to be denominated the "Make-up Reclamation Trust Fund", to provide funding for Party A's Reclamation Share of the shortfall created by such default in the defaulting Party's trust account. Except as herein otherwise provided, the funds in the Make-up Reclamation Trust Fund will be treated identically with funds in the Principal Trust Fund and will be available for payment of reclamation costs by the Trustee to the extent insufficient funds are available in Party A's Principal Trust Fund; provided, however, if the defaulting Party cures its default, and notice thereof is provided to the Trustee and Party A by the Reclamation Trust Funds Operating Agent, then the funds in Party A's Make-up Reclamation Trust Fund will be returned by the Trustee to Party A upon written request to the Trustee from Party A.

3.3 Funding Provisions. Party A will fund the Trust Account (including the Principal Trust Fund and any Make-up Reclamation Trust Fund(s)) according to the terms set forth in the Mine Reclamation Agreement. The Trustee will have no obligation to take any action whatsoever in connection with Participant A's funding of the Trust, or to enforce any obligations that Participant A has, or may have, under the Mine Reclamation Agreement with respect to the funding of the Trust.

4.1 Modifications. A Trust created pursuant to this Agreement is irrevocable and will not be modified by Party A in a manner that (i) is inconsistent with the Mine Reclamation Agreement; or (ii) will adversely affect the interests of the Beneficiary. It will be a condition to any modification of this Agreement that Party A will have certified to the Trustee that such modification is not inconsistent with the Mine Reclamation Agreement and will not adversely affect the interests of the Beneficiary. In no circumstance will this Agreement be modified in a way that impacts the Trustee's rights or duties, without the Trustee's prior written consent.

5.1 Good Faith Duties of Administration. The Trustee will exercise reasonable care, skill and caution in the administration of the Trust and will administer the Trust in good faith, in

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accordance with the terms of this Agreement. The Trustee will take reasonable steps to protect the Trust Property.

5.2 No Conflicts of Interest. The Trust will be administered solely in the interests of the Beneficiary. The Trustee will not permit to exist a conflict of interest between its duties under this Agreement and its personal interests and will keep the Trust property separate from the Trustee's own property.

6.1(k) Trustee Records and Reports. The Trustee will keep or cause to be kept and maintained accurate books and records reflecting all income, principal and expense transactions, which books and records will be open at all reasonable times for inspection by Party A or its duly authorized representatives, upon at least two (2) Business Days' prior written notice to the Trustee. The Trustee will furnish statements to Party A and PNM at least as often as annually, as directed by Party A. The Trustee will promptly respond to requests for information related to the administration of the Trust from Party A. When applicable and required by applicable regulations, the Trustee will issue annual IRS Form 1099.

6.1(l) Scope of Undertaking. The Trustee [, as a fiduciary] [Party A and the Trustee may insert this language or omit it] will be subject to and will perform all duties in accordance with [this Agreement] [all rules of law relating to fiduciaries and trustees] [Party A and the Trustee may insert either of the bracketed phrases.]. The Trustee will perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants, agreements or duties will be read into this Agreement against the Trustee. The Trustee will have no duty to perform, cause the performance of, manage, monitor, evaluate or approve the reclamation work. The Trustee is not a principal, participant, or beneficiary in any transaction underlying this Agreement and will have no duty to inquire beyond the terms and provisions of this Agreement except as specifically provided herein. The Trustee will not be required to deliver the Trust Funds or any part thereof, or take any action with respect to any matters that might arise in connection therewith, other than to receive, hold in trust, invest, reinvest, and release, disburse or distribute the Trust Funds as herein provided. The Trustee will not be required to notify or obtain the consent, approval, authorization or order of any court or governmental body to perform its obligations under this Agreement, except as expressly provided herein. Without limiting the generality of the foregoing, it is hereby expressly agreed and stipulated by the Parties that, unless otherwise provided herein, the Trustee will not be required to exercise any discretion hereunder and will have no investment or management responsibility and, accordingly, will have no duty to, or liability for its failure to, provide investment recommendations or investment advice to Party A. The Trustee will not be liable for any error in judgment, any act or omission, any mistake of law or fact, or for anything it may do or refrain from doing in connection herewith, subject, however, to Section 6.1(m) (if applicable), and its own willful misconduct or [negligence] [gross negligence] [Party A and the Trustee may agree upon either standard]. It is the intention of the Parties that the Trustee will not be required to use, advance or risk its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

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7.1 Termination of Trust and of this Agreement. The Trust and this Agreement will terminate upon satisfaction of Party A's obligations under the Mine Reclamation Agreement; provided, however, that in the event all fees, expenses, costs and other amounts required to be paid to the Trustee hereunder are not fully and finally paid prior to termination, the provisions of Section 9.1 will survive the termination hereof, and provided further, that the provisions of Section 6.1(n) and Section 6.1(p) if applicable) will, in any event, survive the termination hereof. Notice of termination of the Trust and of this Agreement will be provided to the Trustee in the following manner: The Trust Funds Operating Agent will give written notice to Party A, to each of the other Parties, and to the Trustee that Party A's obligations under the Mine Reclamation Agreement have been satisfied.

7.2 Distribution of Assets. Until satisfaction of Party A's obligations under the Mine Reclamation Agreement, Party A will have no right of return of any of the Trust Assets; provided, however, that consistent with the provisions and requirements of Section 3.2, the Trustee will, after payment of the fees and expenses of the Trustee, return funds in Party A's Make-up Reclamation Trust Account upon written request of Party A if the default by a Party to the Mine Reclamation Agreement that led to the creation of the Make-up Reclamation Trust Account has been cured. Upon the termination of this Agreement, the Trustee will distribute any remaining assets in the Trust Account to Party A.

11.2 Spendthrift Clause. The interest of the Beneficiary is held subject to a spendthrift trust. No interest in the Trust Funds established pursuant to this Agreement will be transferable or assignable, voluntarily or involuntarily, or be subject to the claims of Party A or its creditors, PNM or its creditors or SJCC or its creditors other than as provided in the Mine Reclamation Agreement.

11.3 Tax Matters. Party A will provide the Trustee with its taxpayer identification number documented by an appropriate Form W8 or W9 (or other appropriate identification information for tax purposes) upon execution of this Agreement. Failure to provide such form may prevent or delay disbursements from the Trust Funds and may also result in the assessment of a penalty and the requirement that the Trustee withhold tax on any interest or other income earned on the Trust Funds. The Parties agree that, for all tax purposes, all interest or other income, gain, or loss from investment of the Trust Funds, as of the end of each calendar year and to the extent required by the Internal Revenue Service or other taxing authority, will be reported as having been earned or lost, as the case may be, by Party A. Any payments of income will be subject to applicable withholding regulations then in force in the United States or any other jurisdiction, as applicable.

11.15 Third Party Beneficiaries. Nothing in this Agreement will entitle any person other than the Parties and SJCC to any claim, cause of action, remedy, or right of any kind, except the rights expressly provided to the persons described in Section 6.1(p) (if applicable).

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## **EXHIBIT 4**

### **ASSUMPTIONS, PROCEDURES AND PRINCIPLES FOR REVISIONS TO EXHIBITS 1A, 1B, 1C, 1D, 1E AND 1F**

1. General Principles and Assumptions for Reclamation Funding Curve Revision Calculations:
  - a. Contributions of principal and all expenses due to Reclamation Costs are assumed to occur annually at mid-year.
  - b. Compounding of Reclamation Trust investment earnings is modeled to occur on a semi-annual basis using the beginning balance for each semi-annual period.
  - c. The starting balance for revised Reclamation Funding Curves will be the Reclamation Funding Target Amount of the respective Reclamation Funding Curves being replaced for the calendar year immediately preceding the year in which the Reclamation Costs Review to which the curve is being revised is approved by the Reclamation Oversight Committee.
  - d. Revised Reclamation Funding Curves will become effective during the calendar year of their approval.
  - e. Any taxes due on Reclamation Trust income were assumed to be paid with funds originating outside of the Trust.
  - f. Exhibits 1A, 1B & 1C will be based on the Pre-2017YE Reclamation Liability Costs
  - g. Exhibits 1D, 1E & 1F will be based on the Post-2017YE Reclamation Liability Costs
  - h. The Reclamation Funding Floor Curves for all Reclamation Funding Curves will be calculated as per §5 of this Exhibit 4.
2. Assumptions Pertaining Only for Purposes of Calculating Opt-in Reclamation Funding Curves:
  - a. Investment returns for Opt-in Reclamation Funding Curves will be modeled using an appropriate return rate for a 70%/30% equity/fixed income portfolio return as evidenced in third party return rate studies as exemplified in Exhibit 5.
  - b. Full Principal Funding Date:
    - i. Revisions to Opt-in Reclamation Funding Curves (Exhibit 1A and Exhibit 1D) for a Reclamation Costs Review that is approved prior to the expiration of the CSA, its successor or replacement agreement, will be calculated with a Full Principal Funding Date equal to the expiration date of the CSA, its successor or replacement agreement, except that, for PNM, prior to January 1, 2018, the Full Principal Funding Date will remain as year-end 2022.

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- ii. Revisions to Opt-in Reclamation Funding Curves (Exhibit 1A and Exhibit 1D) for a Reclamation Costs Review that is approved after the expiration of the CSA, its successor or replacement agreement, will be calculated with a Full Principal Funding Date of December 31 of the calendar year in which the Reclamation Costs Review was approved by the Reclamation Oversight Committee.
  - c. All expenses due to Reclamation Costs that are due prior to the expiration of the CSA, its successor or replacement agreement, are assumed to be paid for by funds originating outside the Reclamation Trust.
- 3. Assumptions Pertaining Only for Purposes of Calculating Opt-out Reclamation Funding Curves
  - a. Investment returns for Opt-out Reclamation Funding Curves will be modeled using an appropriate return rate for long term fixed income investments as evidenced in third party return rate studies as exemplified in Exhibit 5.
  - b. Full Principal Funding Date: Revisions to Opt-out Reclamation Funding Curves made before December 31, 2017 will have a Full Principal Funding Date of December 31, 2017. Revisions to Opt-out Reclamation Funding Curves that are made after December 31, 2017 will have a Full Principal Funding Date of December 31 of the calendar year in which the Reclamation Costs Review upon which the revisions are based was approved.
  - c. For calculating Opt-out Funding Curves, all expenses due to Reclamation Costs that are due prior to December 31, 2017 are assumed to be paid for by funds external to the Reclamation Trust.
  - d. All expenses due to Reclamation Costs that are due after December 31, 2017 are assumed to be paid for by funds originating from the Reclamation Trust.
  - e. A risk adjustment factor of 3% will be added to the Reclamation Funding Target Amounts of the revised Exhibits 1B and 1E for each year after 2016 in order to create revisions to Exhibits 1C and 1F respectively.
- 4. Calculation of Reclamation Funding Curves:
  - a. The revision of Reclamation Funding Curves begins when an updated Reclamation Costs Review has been approved by the Reclamation Oversight Committee. The constant dollar, annual reclamation expenditures that were identified through the Reclamation Costs Review are converted to nominal dollars using escalation/inflation assumptions provided by the Reclamation Investment Committee resulting in a stream of costs for Reclamation Costs through Reclamation Bond Release. This stream of costs forms the basis for calculation of the revised Opt-in or Opt-out Reclamation Funding Target Curves.
  - b. For purposes of calculating revised Reclamation Funding Target Curves, the starting balance will be the respective (Opt-in vs. Opt-out) precedent funding

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curve's Reclamation Funding Target Amount for the calendar year immediately preceding that in which the Reclamation Costs Review was approved. Note that, for revisions of the Opt-out Reclamation Funding Target Curves (Exhibit 1C and Exhibit 1F) the appropriate value for Exhibit 1B and Exhibit 1E must be used for this calculation. This is because the 3% risk adjustment factor is added to the resulting Exhibit 1B or 1E Reclamation Funding Target Amounts that occur on or after the Full Principal Funding Date in order to create Exhibits 1C and 1F respectively.

- c. By definition, the respective Reclamation Funding Target Amounts at the Full Principal Funding Date, for Exhibits 1A, 1B, 1D and 1E, is equal to the net present value (NPV) of all future cash flows associated with the Reclamation Trust when discounted at the appropriate return rate and assuming no additional contributions of principal capital. Once the Reclamation Funding Target Amount of the Full Principal Funding Date has been determined for a given Reclamation Funding Target Curve, a solution for the capital contribution(s) can be determined by assuming one equal capital contribution for each calendar year between the year of the starting balance of the revised Reclamation Funding Target Curve and the Full Principal Funding Date. To calculate a revised Reclamation Funding Target Curve, the beginning balance of each year in the revised Reclamation Funding Target Curve is netted with all cash flows associated with the Reclamation Trust in each respective year, including principal capital contributions; the stream of Reclamation Costs; and Reclamation Trust investment income to determine an ending balance for each year. The resulting respective (Opt-in or Opt-out) schedule of year-end balances for the period in question is the Reclamation Funding Target Curve for Exhibit 1A and 1B (for Pre-2017YE Reclamation Liability Costs) or, Exhibit 1D and 1E (for Post 2017YE Liability Costs). Exhibit 1C is computed by adding 3% to the Reclamation Funding Target Amount of each year of Exhibit 1B after 2016. Exhibit 1F is computed by adding 3% to the Reclamation Funding Target Amount of each year of Exhibit 1E after 2016.

#### 5. Calculation of Reclamation Funding Floor Curves:

The Reclamation Funding Floor Curve is calculated by multiplying each Reclamation Funding Target Amount by the applicable Funding Floor Percentage shown in Table 1 of this Exhibit 4 for each respective year. In general the Reclamation Funding Floor Curve rises to 100% of the Reclamation Funding Target Curve over the five years immediately prior to the Full Principal Funding Date. Prior to the five year period during which the Funding Floor Percentage increases to 100%, the Funding Floor Percentage is equal to 80% of the Reclamation Funding Target Curve. For purposes of clarity, the Funding Floor Percentages are shown in Table 1 of this Exhibit 4:

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<b>Years Before Full Principal Funding</b>	<b>Funding Floor Percentage</b>
<b>&gt;4</b>	<b>80%</b>
<b>4&lt;3</b>	<b>84%</b>
<b>3&lt;2</b>	<b>88%</b>
<b>2&lt;1</b>	<b>92%</b>
<b>1&lt;0</b>	<b>96%</b>
<b>0</b>	<b>100%</b>

**Exhibit 4: Table 1**

As provided on June 1, 2015, to the NMPRC Commissioners,  
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## EXHIBIT 5

### EXAMPLE OF RETURN RATE STUDY

#### Assumptions – Asset Classes

- Asset classes are described by their returns, volatility, and correlation with other asset classes
- Expectations for individual asset classes were developed by the Watson Wyatt Investment Consulting Global Asset Model as of January 2010
- Return assumptions are net of fees assuming passive management (or minimum risk)
- Return distributions incorporate fat tails
- Correlations between return-seeking asset classes increase when fat-tail events occur
- Simulated government yield curves and simulated corporate spreads are used in developing liability discount rates and returns on fixed income

Summary assumptions for January 1, 2010 Watson Wyatt Investment Consulting Asset Model						
	1st Year Returns		10th Year Returns		10 Year Returns	
	Arithmetic Mean	Standard Deviation	Arithmetic Mean	Standard Deviation	Geometric Mean	Standard Deviation
<b>Equity Investments</b>						
Global (unhedged)	9.6%	23.6%	8.9%	16.3%	7.6%	5.8%
Global (hedged)	9.2%	23.0%	8.7%	15.3%	7.5%	5.5%
US Equity	9.2%	24.6%	8.6%	16.3%	7.3%	5.9%
US Large Cap	9.0%	24.8%	8.5%	16.2%	7.1%	6.0%
US Small Cap	10.1%	30.0%	9.2%	21.2%	7.0%	7.5%
International (unhedged)	9.9%	27.8%	9.2%	19.3%	7.4%	6.9%
International (hedged)	9.2%	24.6%	8.7%	16.4%	7.3%	6.0%
International Developed	9.7%	27.4%	9.0%	18.7%	7.2%	6.7%
International Developed (hedged)	8.8%	24.2%	8.4%	15.8%	7.1%	5.8%
Emerging Market Equity	12.3%	40.3%	11.0%	31.4%	6.6%	10.6%
Private Equity	10.8%	37.0%	9.6%	28.0%	6.0%	9.6%
REITs	8.0%	23.0%	7.7%	14.0%	6.7%	4.9%
<b>Fixed Income</b>						
US Investment Grade	2.7%	5.6%	5.3%	4.6%	4.3%	0.7%
International Developed	4.0%	11.0%	5.0%	11.0%	4.3%	3.4%
International Developed (hedged)	3.5%	6.5%	4.5%	6.5%	4.1%	2.1%
High Yield	5.4%	12.1%	7.2%	10.1%	6.4%	3.3%
Inflation-Indexed	3.2%	5.9%	4.7%	5.9%	4.0%	2.0%
Long Government	5.6%	11.0%	5.0%	9.0%	4.6%	1.2%
Long Credit	7.8%	17.3%	6.5%	13.4%	5.7%	1.4%
Long Government/Credit	6.7%	13.4%	5.8%	10.2%	5.3%	1.3%
Bank Loans	4.0%	7.8%	6.2%	6.2%	5.5%	1.6%
Emerging Market Debt	4.8%	12.0%	6.0%	10.0%	5.3%	3.3%
Cash	1.6%	1.3%	4.0%	2.3%	3.6%	1.4%
<b>Alternatives</b>						
Real Estate	6.3%	11.5%	7.2%	10.0%	6.6%	3.2%
Hedge Fund-of-Funds	6.1%	8.4%	6.5%	7.2%	6.3%	2.7%
Inflation	1.5%	1.5%	2.5%	2.5%	2.3%	1.6%

## Investment Beliefs and Capital Market Assumptions

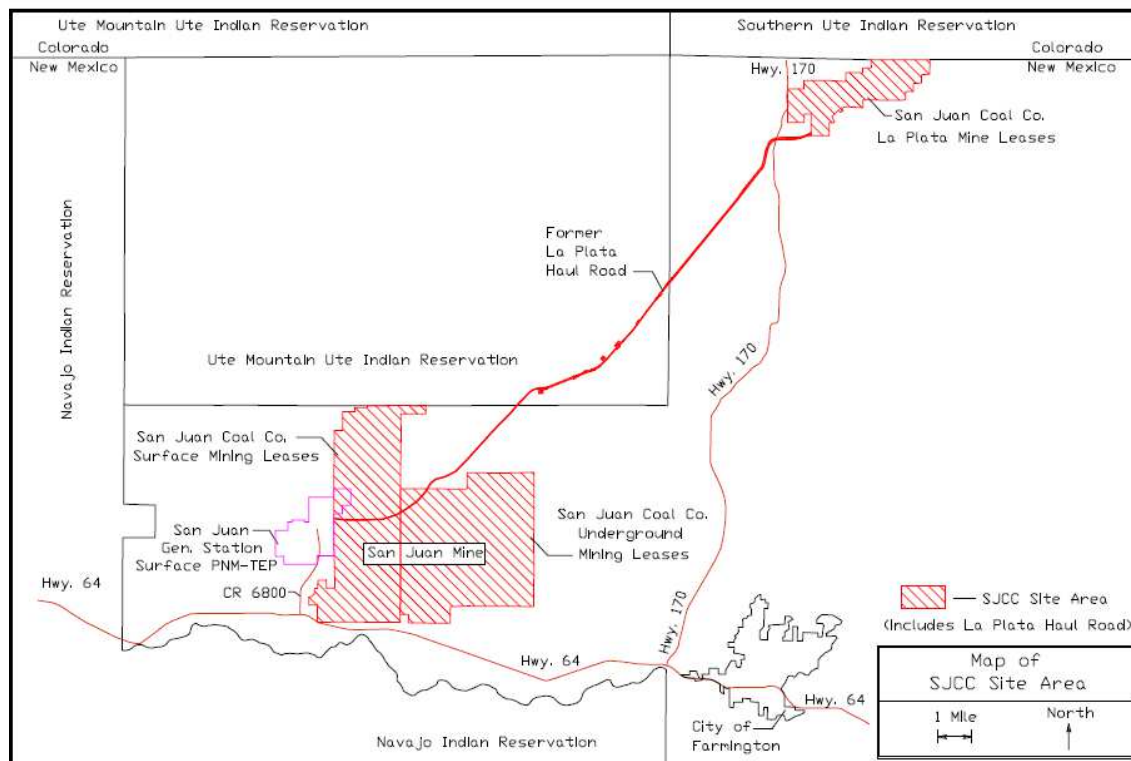
- Economic conditions are highly uncertain over the near-term and do not in our view reflect equilibrium conditions
  - Our capital market assumptions reflect this instability and as a result are highly time-sensitive
  - Advice that is dependent on this set of investment beliefs is thus also time-sensitive
  - Alternative beliefs might well lead to different conclusions; thus it is important that PNM Resources, Inc. consider whether their beliefs and ours are aligned
- Highlight of key changes in our capital market assumptions:
  - Our inflation assumption is 1.5% for the 12 months following January 1, 2010, trending up over 3 years to a 2.5% ultimate rate
  - Our bond assumptions reflect rising short term nominal yields
  - Our short-term equity volatility assumption is 25% for US equities and the short-term volatility period is three years. Our long-term volatility assumption is also maintained at 16%
- The result of these assumptions is to make certain strategies more or less attractive over the short-to mid-term
  - Dollar-duration matching strategies based on a LIBOR underpin will look less attractive than usual
- A natural outcome of our assumptions is to increase the time-dependency of our advice; we suggest that more frequent revisiting of the investment strategy will be necessary

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## EXHIBIT 6

### SJCC SITE AREA

Detailed descriptions are attached<sup>1</sup>



<sup>1</sup> PNM is continuing to validate SJCC Site Area description.

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Site Area Description

**SAN JUAN MINE**

**NMSF 071448 – Federal Coal Lease**

Township 29 North, Range 15 West, NMPM, approx. 40.00 acres  
Section 4: SW $\frac{1}{4}$ NW $\frac{1}{4}$

**NM 045196 – Federal Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 2,409.14 acres  
Section 2: N $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 3: NE $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 9: W $\frac{1}{2}$ NW $\frac{1}{4}$   
Section 10: W $\frac{1}{2}$   
Section 21: All  
Section 28: All  
Section 33: Lots 1 (38.90), 2 (37.51),  
3 (36.11), 4 (34.72), N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
Township 29 North, Range 15 West, NMPM, approx. 154.10 acres  
Section 3: Lots 7 (37.84), 8 (38.15), and 9 (38.11)  
Section 4: SE $\frac{1}{4}$ NE $\frac{1}{4}$

Except a tract of land in the NW $\frac{1}{4}$ NW $\frac{1}{4}$   
Section 21, T30N-R15W identified as the  
**‘PNM Pond’** and more particularly described  
as follows:

Commencing at the Point of Beginning  
from which the northwest corner of said Section 21,  
bears N06°07'47"W, 590.47 feet;  
thence S85°50'42"E, a distance of 397.22 feet;  
thence N52°45'07"E, a distance of 51.53 feet;  
thence S60°41'12"E, a distance of 937.42 feet;  
thence S00°25'43"E, a distance of 315.45 feet;  
thence N87°44'41"W, a distance of 670.35 feet;  
thence N49°57'34"W, a distance of 71.49 feet;  
thence N01°32'04"W, a distance of 381.28 feet;  
thence N83°15'01"W, a distance of 554.64 feet;  
thence N06°26'49"E, a distance of 254.89 feet to  
the Point of Beginning, and

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**NM 045196 – Federal Coal Lease (Con't)**

Except a tract of land in the NW¼ Section  
33, T30N-R15W, identified as the **'Red Clinker  
Area'** and more particularly described as follows:

Tract 1: Beginning at the East 1/4 corner of  
Section 32;

thence N, 1,160 feet to the Point of Beginning;  
thence S90°00'00"E, a distance of 2,200.00 feet;  
thence N00°00'00"E, a distance of 770.00 feet;  
thence N90°00'00"W, a distance of 2,196.92 feet;  
thence S00°13'45"W, a distance of 770.01 feet  
to the Point of Beginning and containing 38.86  
acres, m/l.

Tract 2: Beginning at the Southeast corner of  
Tract 1 above;

thence N00°00'00"E, a distance of 770.00 feet;  
thence S49°26'01"E, a distance of 134.57 feet;  
thence S31°34'17"E, a distance of 287.40 feet;  
thence S25°57'11"E, a distance of 157.99 feet;  
thence S15°16'44"W, a distance of 260.60 feet;  
thence S20°43'35"W, a distance of 370.06 feet;  
thence S48°32'59"W, a distance of 162.71 feet;  
thence S83°09'58"W, a distance of 141.30 feet;  
thence N46°12'10"W, a distance of 106.54 feet;  
thence N05°33'34"W, a distance of 232.04 feet;  
thence N27°18'24"E, a distance of 89.70 feet;  
thence N60°33'23"W, a distance of 85.58 feet;  
thence S90°00'00"E, a distance of 272.80 feet  
to the Point of Beginning and containing 7.45  
acres, m/l.

**NM 045197 – Federal Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 2,565.60 acres

Section 15: All

Section 22: All

Section 27: All

Section 34: Lots 1 (42.75), 2 (41.85), 3 (40.95),  
4 (40.05), N½, N½S½

Township 29 North, Range 15 West, NMPM, approx. 77.52 acres

Section 3: Lot 6 (37.52), SE¼NE¼

{Note: There is no surface agreement on the  
SW¼NE¼ Sec. 15, T30N-R15W with surface owner}

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**NM 045217 – Federal Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 1,800.00 acres

Section 3: NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , S $\frac{1}{2}$

Section 4: SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$

Section 9: E $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ , SW $\frac{1}{4}$

Section 10: E $\frac{1}{2}$

**NM 28093 – Federal Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 3,855.60 acres

Section 13: S $\frac{1}{2}$

Section 14: S $\frac{1}{2}$

Section 23: All

Section 24: All

Section 25: All

Section 26: All

Section 35: Lots 1 (44.33), 2 (44.07),  
3 (43.73), 4 (43.37), N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$

{Note: There is no surface agreement on the  
N $\frac{1}{2}$ SW $\frac{1}{4}$  Sec. 13, T30N-R15W with surface owner}

**NM 99144 – Federal Coal Lease**

Township 30 North, Range 14 West, NMPM, approx. 4,483.88 acres

Section 17: All

Section 18: All

Section 19: All

Section 20: All

Section 29: All

Section 30: All

Section 31: Lots 1 (41.70), 2 (41.21),  
3 (40.73), 4 (40.24), N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$

**MC 0037 – State of New Mexico Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 309.04 acres.

Section 32: Lots 1 (34.82), 2 (36.31), 3 (37.91),  
N $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ NE $\frac{1}{4}$

{Note: The State Land Office is in the process of term-  
inating MC 0037 and replacing it by issuing a Surface Use  
Lease due to the tract being mined out and now in the  
reclamation phase.}

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**MC 0083 – State of New Mexico Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 520.00 acres

Section 16: E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
S $\frac{1}{2}$

**MC 0084 – State of New Mexico Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 120.00 acres

Section 16: E $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$

**MC 0087 – State of New Mexico Coal Lease**

Township 30 North, Range 14 West, NMPM, approx. 650.80 acres

Section 32: Lots 1 (43.27), 2 (42.89),  
3 (42.51), 4 (42.13), N $\frac{1}{2}$ ,  
N $\frac{1}{2}$ S $\frac{1}{2}$

**MC 0088 – State of New Mexico Coal Lease**

Township 30 North, Range 15 West, NMPM, approx. 649.20 acres

Section 36: Lots 1 (40.57), 2 (41.73),  
3 (42.87), 4 (44.03), N $\frac{1}{2}$ ,  
N $\frac{1}{2}$ S $\frac{1}{2}$

**Crook, Bonnie V. Kennedy, et al – 8 Fee Coal Leases**

Township 29 North, Range 15 West, NMPM, approx. 237.16 acres

Section 4: Tract A: Lots 3 (40.01), 4 (40.21),  
SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$

Tract B: Lots 1 (39.61), 2 (39.81)  
except the easterly 1/32 of Lot 1

The coal rights under the easterly  
1/32 of Lot 1 are owned by San  
Juan Coal Company, approx. 2.5 acres

**Bannowsky, Mary Irene, et al – 5 Fee Coal Leases**

Township 29 North, Range 15 West, NMPM, approx. 159.97 acres

Section 5: Lots 1 (40.15), 2 (39.82), S $\frac{1}{2}$ NE $\frac{1}{4}$

**Brimhall, Ralph L., et al – Fee Coal Lease**

Township 29 North, Range 15 West, NMPM, approx. 80.00 acres

Section 3: SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$

**Palmer, Barton L., et al – 5 Fee Coal Leases**

Township 29 North, Range 15 West, NMPM, approx. 40.00 acres

Section 3: SW $\frac{1}{4}$ NW $\frac{1}{4}$

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**Walker, Victor H. et al – 6 Fee Coal Leases**

Township 29 North, Range 15 West, NMPM, approx. 15.82 acres

Section 3: All of the E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$  lying North  
of U. S. Highway 64

**Brimhall, Karen, Trustee, et al – 11 Fee Coal Leases**

Township 29 North, Range 15 West, NMPM, approx. 45.36 acres

Section 3: That part of the W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$  and  
NE $\frac{1}{4}$ SW $\frac{1}{4}$  lying North of Highway  
64, excepting a parcel in the  
W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$  desc. in Book 314,  
Page 361;

That parcel in the W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$

desc. In Book 314, Page 361, approx. 1.84 acres

{Note: 50% of the coal rights under B314,

P361 (1.84 acres) are owned by San Juan Coal Company}

**Smouse, Samuel T. and Mollie Frances – Fee Coal Lease**

Township 29 North, Range 15 West, NMPM, approx. 15.40 acres

Section 3: That part of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  lying North  
of Highway 64 desc. as follows:

Beginning at the

West  $\frac{1}{4}$  corner of said Section 3,

thence N89° 44'E 1305.70' along the North line of  
said NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

thence S00° 37'06"E 502 feet;

thence S89° 44'W 1,306 feet, m/l, to the West

side of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

thence N00° 33'01"W 502' to the Point of Beginning.

**NM 80733 (Water Impoundment and Haulroad Right-of-Way)**

Township 30 North, Range 15 West, NMPM, approx. 113.75 acres

Section 4: S $\frac{1}{2}$ S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
E $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$

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**NM 26441 (69 kv Powerline Easement)**

Township 29 North, Range 15 West, NMPM, approx. .86 acres

Section 2: Pt. of Lot 4 described more

particularly as follows:

Beginning at the  
southwest corner of Section 35, T30N, R15W,  
NMPM, being a BLM brass cap marked  
T30N, R15W 35 2 3 34 T29N, R15W 1966;  
thence along the northerly section line of said  
Section 2 S89°10'54"E 345.24 feet to a point  
on the centerline of a 30 foot electrical  
easement and being the "True Point of  
Beginning":  
thence continuing along the centerline  
S20°27'05"E 39.30 feet;  
thence continuing along the centerline  
S20°54'52"E 516.11 feet;  
thence continuing along the centerline  
S51°46'42"W 325.55 feet;  
thence continuing along the centerline  
S55°38'08"W 363.77 feet.

**Plant and Maintenance Facilities Area**

(formerly Ground Lease Agreement - PNM/TEP to SJCC)

Township 30 North, Range 15 West, NMPM, approx. 95.93 acres

Sections 20 and 29:

A tract described as  
commencing at the Point of Beginning from  
which the West ¼ corner of Section 28, T30N,  
R15W, NMPM, bears S00°13'17"W, 1974.83 feet;  
thence N89°41'50"W, a distance of 653.95 feet;  
thence N00°13'44"E, a distance of 632.31 feet;  
thence N86°54'45"W, a distance of 656.83 feet;  
thence N00°06'28"W, a distance of 956.78 feet;  
thence N50°38'05"W, a distance of 266.86 feet;  
thence N63°31'14"W, a distance of 154.86 feet;  
thence N67°51'36"W, a distance of 372.42 feet;  
thence N76°04'25"W, a distance of 527.90 feet;  
thence S61°06'21"W, a distance of 100.19 feet;

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**Plant and Maintenance Facilities Area (Con't)**

thence N10°28'32"W, a distance of 166.18 feet;  
thence S69°25'46"E, a distance of 93.01 feet;  
thence S81°03'35"E, a distance of 894.85 feet to  
a chain link fence corner;  
thence N00°08'08"E, a distance of 242.07 feet  
along the fence to another fence corner;  
thence N81°46'30"E, a distance of 754.68 feet to  
another chain link fence;  
thence S72°57'52"E, 657.05 feet along a fence line;  
thence N01°40'04"E, 90.06 feet along a fence line;  
thence N07°14'12"W, 336.64 feet along a fence line;  
thence N09°34'59"W, 186.57 feet along a fence line;  
thence N89°06'56"E, 120.41 feet along a fence line;  
thence N11°34'22"W, 663.23 feet along a fence line;  
thence N89°39'56"W, 41.21 feet along a fence line;  
thence N10°31'33"W, 70.30 feet along a fence line;  
thence N17°19'55"W, 89.42 feet along a fence line;  
thence N20°23'16"W, 60.02 feet along a fence line;  
thence N23°34'29"W, 522.44 feet along a fence line;  
thence N09°18'43"W, 28.92 feet along a fence line;  
thence N02°15'30"E, 82.24 feet along a fence line;  
thence N48°50'18"E, 179.70 feet along a fence line;  
thence N31°46'05"E, 177.25 feet along a fence line;  
thence N14°04'54"E, 420.06 feet along a fence line;  
thence N56°09'23"E, 130.00 feet along a fence line;  
thence N64°24'31"E, 100.08 feet along a fence line;  
thence S89°52'45"E, 119.13 feet along a fence line;  
thence N06°47'31"E, 355.76 feet along a fence line;  
thence N00°14'57"E, 477.00 feet along a fence line;  
thence N50°13'45"E, 15.25 feet to the northwest  
corner of Section 22, T30N, R15W, NMPM;  
thence S00°15'17"W, 5265.48 feet to the  
southwest corner of said Section 22;  
thence S00°13'17"W, 660.88 feet to the  
Point of Beginning.

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**Gypsum Haulage Easement (PNM/TEP to SJCC)**

Township 30 North, Range 15 West, NMPM, approx. 1.70 acres

Sections 17 and 20: A tract described as

Commencing at the Point of Beginning from  
which the northwest corner of Section 21  
bears S00°15'31"W, 170.63 feet;  
thence S77°04'32"W, 325.26 feet;  
thence S76°27'03"W, 427.17 feet;  
thence S66°38'30"W, 254.62 feet;  
thence N02°22'16"W, 129.69 feet;  
thence N81°24'59"E, 219.70 feet;  
thence N76°09'13"E, 440.11 feet;  
thence N76°12'46"E, 336.91 feet to the  
west line of Section 16;  
thence S00°15'30"W, 74.19 feet along said  
west line to the Point of Beginning.

**Water Pipeline Easement (Raw Water Pipeline – PNM/TEP to SJCC)**

Township 30 North, Range 15 West, NMPM, approx. 1.974 acres

Section 29: Pt. of NE¼ described as follows:

An easement 35 feet wide being 17.5 feet on  
each side of the following described centerline:  
Beginning at raw waterline tapping point,  
coordinates N 2,106,588.74, E 322,801.08,  
whence the one-quarter (¼) corner common to  
Sections 28 and 29, T30N-R15W, NMPM,  
coordinates N 2,105,578.62, E 325,065.37 bears  
S65°57'29"E 2,479.39 feet distant; running thence  
as an easement S73°27'11"E 207.51 feet to an  
angle point, coordinates N 2,106,529.64, E 323,000.00;  
thence S57°48'13"E 984.76 feet to an angle  
point, coordinates N 2,106,004.94, E 323,833.33;  
thence S89°17'22"E 1,230.94 feet to a point in  
the east boundary line of said Section 29,  
coordinates N 2,105,989.68, E325,064.18.

**Easement for Waterline (Underground Waterline – PNM/TEP to SJCC)**

Township 30 North, Range 15 West, NMPM, approx. .775 acres

Section 29: Pt. of NE¼ described as follows:

Beginning at a point on PNM's water pipeline  
from which the East ¼ corner of Section 29,  
T30N-R15W, NMPM bears S50°52'55"E  
2,923.13 ft. Thence, N79°25'46"E  
1,644.52 ft. to the west edge of the PNM

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Ground Lease. Said easement being 20 ft.  
either side of this line.

**LA PLATA MINE**

**NM 0315559 – Federal Coal Lease**

Township 32 North, Range 12 West, NMPM, approx. 1,964.15 acres

Section 7: Lots 1 (44.18), 2 (44.12),  
3 (44.08), SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 8: Lots 5 (34.60), 6 (36.22), 7 (33.60),  
8 (33.52)

Section 17: Lots 3 (38.31), 4 (39.18), 5 (38.70)

Section 18: Lots 1 (39.68), 3 (39.18), SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$

Township 32 North, Range 13 West, NMPM

Section 13: Lots 3 (41.86), 4 (42.21),  
5 (42.34), 6 (41.98), 7 (41.57),  
8 (41.19), 9 (41.34), 10 (41.72),  
11 (42.11), 12 (42.46), S $\frac{1}{2}$ NW $\frac{1}{4}$

Section 14: S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$

Section 15: That portion of the SE $\frac{1}{4}$  lying  
East of State Highway 170

Section 22: E $\frac{1}{2}$ NE $\frac{1}{4}$

Section 23: N $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$

**Chamberlain, Lenore T. Trust, et al Fee Coal Lease**

Township 32 North, Range 12 West, NMPM, approx. 490.90 acres

Section 7: S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 8: Lots 2 (43.58), 3 (43.82), 4 (44.06),  
SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 18: E $\frac{1}{2}$ NW $\frac{1}{4}$ , Lot 2 (39.42), SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
N $\frac{1}{2}$ NE $\frac{1}{4}$

**NM 95280 Right-of-Way (Pits to Stockpile Spoil Area)**

Township 32 North, Range 12 West, NMPM, approx. 234.93 acres

Section 7: Lot 5 (39.82)

Section 17: Lots 2 (35.17), 6 (37.83), 12 (38.31)

Township 32 North, Range 13 West, NMPM

Section 13: Lots 1 (42.08), 2 (41.72)

{Note: Right-of-Way document describes 230 acres  
whereas, GLO lot acreages calculates to 234.93 acres.

NM 95280 is outside the leased area but within the permitted area.}

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**LA PLATA TRANSPORTATION CORRIDOR**

**NM 55331 Right-of-Way Parcel #1 (Facilities Site)**

Township 32 North, Range 13 West, NMPM, approx. 309.19 acres

Sections 23 and 24: A tract of land more  
specifically described as follows:

Beginning  
at a point which is the southeast corner of  
Section 23, thence N00°37'03"W, 573.34 feet  
which is the true point of beginning;

thence N89°04'50"W 2868.91 feet;  
thence N00°18'26"W 605.88 feet;  
thence N00°18'26"W 2776.13 feet;  
thence N89°50'32"W 1103.93 feet;  
thence N00°01'46"W 500.00 feet;  
thence S89°50'32"E 1320.30 feet;  
thence S89°29'38"E 2627.89 feet;  
thence N01°11'54"W 1329.93 feet;  
thence S86°08'05"E 2555.17 feet;  
thence S71°13'08"W 619.48 feet;  
thence S32°25'20"E 407.64 feet;  
thence S34°28'08"E 95.13 feet;  
thence S57°51'16"W 495.49 feet;  
thence N32°21'19"W 500.44 feet;  
thence S44°17'46"W 1525.10 feet;  
thence S27°25'53"E 934.13 feet;  
thence S54°16'49"W 235.52 feet;  
thence N86°39'05"W 669.49 feet;  
thence S00°23'38"E 2079.72 feet to  
the true Point of Beginning.

{Note: Right-of-Way document describes Parcel #1  
as having 309.19 acres, whereas the plat and description  
describes 306.6 acres.}

**NM 55331 Right-of-Way Parcel #2**

Township 32 North, Range 13 West, NMPM, approx. 24.78 acres

Sections 23 and 26: A tract of land in the SW¼  
of Section 23 and the NW¼ Section 26 more  
specifically described as follows:

Beginning  
at a point which is the SW corner of said  
Section 23;  
thence N00°19'53"E, a distance of 8.31 feet  
which is the true Point of Beginning:

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thence N00°19'53"E, a distance of 340.26 feet;  
thence N73°10'58"E, a distance of 106.41 feet;

**NM 55331 Right-of-Way Parcel #2 (con't.)**

thence S60°42'49"E, a distance of 187.74 feet;  
thence N73°19'36"E, a distance of 1,239.90 feet;  
thence N63°59'44"E, a distance of 328.36 feet;  
thence N66°19'35"E, a distance of 354.39 feet;  
thence N58°17'56"E, a distance of 262.08 feet;  
thence N54°26'57"E, a distance of 103.78 feet;  
thence N51°54'04"E, a distance of 96.96 feet;  
thence S00°18'26"E, a distance of 605.88 feet;  
thence N89°04'52"W, a distance of 522.47 feet;  
thence S69°01'24"W, a distance of 154.53 feet;  
thence S77°06'06"W, a distance of 308.34 feet;  
thence S72°04'10"W, a distance of 573.03 feet;  
thence S40°52'01"W, a distance of 119.77 feet;  
thence S73°06'14"W, a distance of 811.96 feet;  
thence N46°58'26"W, a distance of 82.00 feet;  
thence S73°05'57"W, a distance of 35.85 feet to  
the true Point of Beginning.

{Note: Right-of-Way document describes Parcel #1  
as having 24.78 acres, whereas the plat and description  
describes 16.43 acres.}

**NM 55331 Right-of-Way Parcel #3**

Township 32 North, Range 13 West, NMPM, approx. 23.13 acres

Section 33: A tract of land in the NE $\frac{1}{4}$ SW $\frac{1}{4}$

and the W $\frac{1}{2}$ NE $\frac{1}{4}$  which is more specifically  
described as follows:

Beginning at a point  
whence the NW corner of said Section 33  
bears N81°22'47"W a distance of 3,941.63 feet;  
thence S00°47'13"E, a distance of 351.70 feet;  
thence S38°59'10"W, a distance of 1,059.06 feet;  
thence S51°00'50"E, a distance of 160.00 feet;  
thence S38°59'10"W, a distance of 600.00 feet;  
thence N51°00'50"W, a distance of 160.00 feet;  
thence S38°59'10"W, a distance of 596.51 feet to  
a point of tangency with a curve to the left,  
thence 1,328.35 feet along the arc of said curve which  
has a radius of 8,457.18 feet, a central angle of  
08°59'58" and a long chord which bears S34°29'11"W  
a distance of 1,326.98 feet;  
thence S29°59'12"W, a distance of 252.01 feet;  
thence N88°56'54"W, a distance of 257.09 feet;

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**NM 55331 Right-of-Way Parcel #3 (Con't.)**

thence N29°59'12"E, a distance of 376.39 feet to  
a point of tangency with a curve to the right,  
thence 1,363.69 feet along the arc of said curve which  
has a radius of 8,682.18 feet, a central angle of 08°59'58"  
and a long chord which bears N34°29'11"E a distance of  
1,362.29 feet;  
thence N38°59'10"E, a distance of 2,525.88 feet to the  
Point of Beginning.

**NM 55331 Right-of-Way Parcel #4**

Township 31 North, Range 13 West, NMPM, approx. 100.68 acres

Section 7: Pt. SW $\frac{1}{4}$  and N $\frac{1}{2}$ SE $\frac{1}{4}$

Section 8: Pt. NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and NW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 18: Pt. NW $\frac{1}{4}$ NW $\frac{1}{4}$  (Lots 5, 6, and 7)

which is more specifically described as follows:

Beginning at a point on the West boundary of said  
Section 18 whence the Northwest corner of said  
Section 18 bears N00°55'17"E a distance of 794.74 feet;  
thence 460.45 feet along the arc of a curve  
which has a radius of 6,893.89 feet, a central  
angle of 03°49'37" and a long chord which  
bears N49°41'02"E a distance of 460.37 feet  
to a point of tangency with a curve to the left;  
thence 1,527.76 feet along the arc of a curve  
which has a radius of 4,466.65 feet, a central  
angle of 19°35'50" and a long chord which  
bears N41°47'55"E a distance of 1,520.32 feet;  
thence N32°00'00"E a distance of 1,022.45 feet  
to a point of tangency with a curve to the right;  
thence 1,109.66 feet along the arc of said curve  
which has a radius of 2,346.90 feet, a central  
angle of 27°05'26" and a long chord which bears  
N45°32'43" a distance of 1,099.35 feet;  
thence N30°54'34"W a distance of 50.00 feet to  
a non-tangent point of intersection with a curve  
concave to the southeast;  
thence 977.91 feet along the arc of said curve

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**NM 55331 Right-of-Way Parcel #4 (Con't.)**

which has a radius of 2,396.90 feet, a central angle of 23°22'34"E and a long chord which bears N70°46'43"E and a distance of 971.14 feet;  
thence S07°32'00"E, a distance of 50.00 feet;  
thence N82°28'00"E, a distance of 292.16 feet to a point of tangency with a curve to the left;  
thence 1,703.31 feet along the arc of said curve which has a radius of 2,082.99 feet, a central angle of 46°51'07" and a long chord which bears N59°02'27"E a distance of 1,656.25 feet;  
thence N35°36'53"E, a distance of 2,143.56 feet;  
thence S89°29'19"E, a distance of 550.04 feet;  
thence S35°36'53"W, a distance of 2,459.87 feet to a point of tangency with a curve to the right;  
thence 2,071.28 feet along the arc of said curve which has a radius of 2,532.99 feet, a central angle of 46°51'07" and a long chord which bears S59°02'27"W a distance of 2,014.05 feet;  
thence S82°28'00"W a distance of 292.16 feet to a point of tangency with a curve to the left;  
thence 1,670.81 feet along the arc of said curve which has a radius of 1,896.90 feet, a central angle of 50°28'00" and a long chord which bears S57°14'00"W a distance of 1,617.32 feet;  
thence S32°00'00"W a distance of 1,022.45 feet to a point of tangency with a curve to the right;  
thence 1,681.67 feet along the arc of said curve which has a radius of 4,916.65 feet, a central angle of 19°35'50" and a long chord which bears S41°47'55"W a distance of 1,673.49 feet to a point of tangency with a curve to the left;  
thence 866.41 feet along the arc of said curve which has a radius of 6,443.89 feet, a central angle of 07°42'13" and a long chord which bears S47°44'43"W a distance of 865.75 feet;  
thence N00°55'17"E, a distance of 637.03 feet to the Point of Beginning.

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**NM 55331 Right-of-Way, there is not a Parcel #5**

**NM 55331 Right-of-Way Parcel #6**

Township 30 North, Range 14 West, NMPM, approx. 69.58 acres

Section 7: A tract of land in the NW $\frac{1}{4}$ SW $\frac{1}{4}$

Township 30 North, Range 15 West, NMPM

Section 12: A tract of land in the SE $\frac{1}{4}$  which

tracts are more specifically described as follows:

Beginning at a point whence the West  $\frac{1}{4}$

Corner of said Section 7, T30N, R14W bears

N89°40'49"W a distance of 75.79 feet;

thence S89°40'49"E, a distance of 1,396.85 feet;

thence S43°51'50"W, a distance of 3,629.37 feet;

thence N89°38'48"W, a distance of 287.20 feet;

thence North a distance of 1,160.56 feet;

thence N43°51'50"E a distance of 2,028.05

feet to the Point of Beginning.

**NM 55331 Right-of-Way Parcel #7**

Township 30 North, Range 15 West, NMPM, approx. 16.37 acres

Section 13: A tract of land in the N $\frac{1}{2}$ NW $\frac{1}{4}$ ,

and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  which is more specifically

described as follows:

Beginning at a point whence the Northwest

Corner of said Section 13 bears N00°25'29"E

A distance of 994.58 feet;

thence 772.26 feet along the arc of a curve which  
has a radius of 2,404.33 feet, a central angle of  
18°24'12" and a long chord which bears

N69°03'46"E a distance of 768.95 feet;

thence N78°15'52"E a distance of 1,064.12 feet  
to a point of tangency with a curve to the left;

thence 1,103.42 feet along the arc of said curve  
which has a radius of 2,752.29 feet, a central  
angle of 22°58'13" and a long chord which bears  
N66°46'46"E a distance of 1,096.04 feet;

thence S89°38'49"E a distance of 365.47 feet  
to a non-tangent point intersection with a curve  
which is concave to the northwest;

thence 1,493.28 feet along the arc of said curve  
which has a radius of 2,977.29 feet, a central angle  
of 28°44'14" and a long chord which bears

S63°53'45"W a distance of 1,477.68 feet;

thence S78°15'52"W a distance of 1,064.12 feet

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**NM 55331 Right-of-Way Parcel #7(Con't.)**

to a point of tangency with a curve to the left;  
thence 835.44 feet along the arch of said curve which  
has a radius of 2,179.33 feet, a central angle of  
21°57'51" and a long chord which bears S67°16'57"W  
a distance of 830.33 feet;  
thence N00°25'30"E a distance of 266.19 feet to the  
Point of Beginning.

**NM 55331 Right-of-Way Parcel #8**

Township 30 North, Range 15 West, NMPM, approx. 27.30 acres

Section 14: Pt. SE $\frac{1}{4}$ SW $\frac{1}{4}$  and W $\frac{1}{2}$ SE $\frac{1}{4}$

Section 23: Pt. NW $\frac{1}{4}$ NW $\frac{1}{4}$  which is more  
specifically described as follows:

Beginning at a point whence the Northwest  
corner of said Section 23 bears N00°20'11"E  
a distance of 948.01 feet;  
thence 613.40 feet along the arc of a curve  
which has a radius of 5,199.51 feet, a central  
angle of 06°45'33" and a long chord which  
bears N59°44'19"E a distance of 613.04 feet;  
thence N56°21'32"E a distance of 1,032.68  
feet to a point of tangency with a curve to the  
left;  
thence 1,969.96 feet along the arc of said curve  
which has a radius of 9,618.05 feet, a central  
angle of 11°44'07" and a long chord which bears  
N50°29'29"E a distance of 1,966.52 feet;  
thence N44°37'25"E a distance of 196.98 feet to  
a point of tangency with a curve to the left;  
thence 1,545.89 feet along the arc of said curve  
which has a radius of 5,617.08 feet, a central angle  
of 15°46'07" and a long chord which bears  
N36°44'22"E a distance of 1,541.02 feet;  
thence S00°24'38" a distance of 444.86 feet to a  
non-tangent point of intersection with a curve  
which is concave to the northwest;  
thence 1,216.37 feet along the arc of said curve  
which has a radius of 5,842.08 feet, a central angle  
of 11°55'46" and a long chord which bears  
S38°39'32"W a distance of 1,214.17 feet;  
thence S44°37'25"W a distance of 196.98 feet  
to a point of tangency with a curve to the right;

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**NM 55331 Right-of-Way Parcel #8 (Con't.)**

thence 2,016.05 feet along the arc of said curve  
which has a radius of 9,843.05 feet, a central angle  
of 11°44'07" and a long chord which bears  
S50°29'29"W a distance of 2,012.52 feet;  
thence S56°21'32"W a distance of 1,032.68 feet  
to a point of tangency with a curve to the right;  
thence 755.04 feet along the arc of said curve  
which has a radius of 5,424.51 feet, a central  
angle of 07°58'30" and a long chord which bears  
S60°20'48"W a distance of 754.44 feet;  
thence N00°20'11"E a distance of 252.30 feet to  
the Point of Beginning.

**NM 55331 Right-of-Way there is not a Parcel #9**

**NM 55331 Right-of-Way Parcel #10**

Township 30 North, Range 15 West, NMPM, approx. 49.99 acres

Section 22: Pt. N½ which is more specifically

described as follows:

Beginning at a point whence the Northwest  
corner of said Section 22 bears N00°09'05"E  
a distance of 1,002.94 feet;  
thence N87°23'54"E a distance of 349.28 feet  
to a point of tangency with a curve to the right;  
thence 685.78 feet along the arc of said curve  
which has a radius of 1,402.66 feet, a central  
angle of 28°00'46" and a long chord which  
bears S78°35'43"E a distance of 678.97 feet;  
thence S64°35'20"E a distance of 767.42 feet  
to a point of tangency with a curve to the left;  
thence 693.64 feet along the arc of said curve  
which has a radius of 1,505.37 feet, a central  
angle of 26°24'02" and a long chord which bears  
S77°47'21"E a distance of 687.52 feet;  
thence N89°00'38"E a distance of 524.24 feet  
to a point of tangency with a curve to the left;  
thence 533.69 feet along the arc of said curve  
which has a radius of 1,733.70 feet, a central  
angle of 17°38'15" and a long chord which bears  
N80°11'31"E a distance of 531.58 feet;  
thence N71°22'23"E a distance of 1,152.22 feet  
to a point of tangency with a curve to the left;

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**NM 55331 Right-of-Way Parcel #10 (Con't.)**

thence 781.60 feet along the arc of said curve  
which has a radius of 5,112.01 feet, a central  
angle of 08°45'37" and a long chord which bears  
N66°59'34"E a distance of 780.84 feet;  
thence S00°20'11"W a distance of 447.43 feet to  
a non-tangent point of intersection with a curve  
which is concave to the southwest;  
thence 634.56 feet along the arc of said curve  
which has a radius of 5,512.01 feet, a central angle  
of 06°35'46" and a long chord which bears S68°04'30"W  
a distance of 634.21 feet; thence S71°22'23"W a distance  
of 1,152.22 feet to a point of tangency with a curve to the right;  
thence 656.82 feet along the arc of said curve  
which has a radius of 2,133.70 feet, a central angle  
of 17°38'15" and a long chord which bears  
S80°11'31"W a distance of 654.23 feet;  
thence S89°00'38"W a distance of 524.24 feet  
to a point of tangency with a curve to the right;  
thence 877.95 feet along the arc of said curve  
which has a radius of 1,905.37 feet, a central angle  
of 26°24'02" and a long chord which bears  
N77°47'21"W a distance of 870.20 feet;  
thence N64°35'20"W a distance of 767.42 feet to  
a point of tangency with a curve to the left;  
thence 490.22 feet along the arc of said curve which  
has a radius of 1,002.66 feet, a central angle of  
28° 00'46" and a long chord which bears  
N78°35'43"W a distance of 485.35 feet;  
thence S87°23'54"W a distance of 368.52 feet;  
thence N00°09'05"E a distance of 400.45 feet to the  
Point of Beginning.

**NM 55331 Right-of-Way Parcel #11**

Township 30 North, Range 15 West, NMPM, approx. 30.02 acres  
Section 21: Pt. NW¼ which is more specifically  
described as follows:

Beginning at a point whence the North ¼  
corner of said Section 21 bears N00°10'14"E  
a distance of 1,179.71 feet;  
thence S82°18'16"W a distance of 319.81 feet  
to a point of tangency with a curve to the right;  
thence 502.06 feet along the arc of said curve  
which has a radius of 624.60 feet, a central angle

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of 46°03'18" and a long chord which bears  
N74°40'07"W a distance of 488.65 feet;

**NM 55331 Right-of-Way Parcel #11 (Con't.)**

thence N51°38'24"W, a distance of 666.92 feet;  
thence S00°13'07"W, a distance of 508.59 feet;  
thence S51°38'30"E, a distance of 536.01 feet;  
thence S51°55'57"W, a distance of 1,779.10 feet;  
thence S89°36'20"E, a distance of 643.11 feet;  
thence N51°55'57"E, a distance of 1,398.79 feet to  
a point of tangency with a curve to the right;  
thence 390.59 feet along the arc of said curve which  
has a radius of 736.84 feet, a central angle of  
30°22'19" and a long chord which bears  
N67°07'07"E a distance of 386.03 feet;  
thence N82°18'16"E a distance of 194.00 feet;  
thence N00°10'14"E a distance of 403.80 feet to the  
Point of Beginning.

**NM 55331 Right-of-Way Parcel #12**

Township 30 North, Range 15 West, NMPM, approx. 2.74 acres  
Section 21: Pt. SW¼NW¼ which is more  
specifically described as follows:

Beginning at a point whence the Northwest  
corner of said Section 21 bears N00°16'00"E a  
distance of 1,318.35 feet;  
thence S89°34'10"E a distance of 147.02 feet;  
thence S05°38'47"W a distance of 927.76 feet;  
thence S00°18'47"W a distance of 394.39 feet;  
thence N89°36'20"W a distance of 59.71 feet;  
thence N00°16'00"E a distance of 1,318.35 feet  
to the Point of Beginning.

**FEE SURFACE LANDS OWNED BY SAN JUAN COAL COMPANY**

**(Transportation 'Haulroad' Corridor)**

Township 32 North, Range 13 West, NMPM, approx. 240.00 acres  
Section 22: Pt. S½SE¼SE¼  
Section 27: Pt. N½NE¼NE¼, NW¼NE¼  
NE¼NW¼, W½NW¼, NW¼SW¼

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**Steward, Chester E., et ux**  
**(Transportation 'Haulroad' Corridor)**

Township 32 North, Range 13 West, NMPM, approx. 13.13 acres

Section 27: Pt. SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 28: Pt. SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 33: Pt. NE $\frac{1}{4}$ NE $\frac{1}{4}$  which is more  
specifically described as follows:

Beginning at a point on the west line of NE $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 33 from which the NW corner of  
said Section 33 bears N81°22'47"W a distance  
of 3,941.63 feet;  
thence N38°59'10"E a distance of 1,956.98 feet  
to a point of tangency with a curve to the left;  
thence 308.66 feet along the arc of said curve  
which has a radius of 456.86 feet, a central angle  
of 38°42'36" and a long chord which bears  
N19°37'52"E a distance of 302.82 feet;  
thence S89°43'26"E a distance of 360.98 feet  
along the North line of SW $\frac{1}{4}$ SW $\frac{1}{4}$  Section 27  
to a point of intersection with the north right-of-way  
of County Road 1191;  
thence S38°39'26"W a distance of 275.58 feet along  
the north right-of-way of County Road 1191 to a non-  
tangent point of intersection with a curve which is  
concave to the southwest;  
thence 240.86 feet along the arc of said curve which has  
a radius of 681.86 feet, a central angle of 20°14'21"  
and a long chord which bears S28°52'02"W a distance  
of 239.61 feet;  
thence S38°59'10"W a distance of 2,227.29 feet to a  
point on the west line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$  Section 33;  
thence N00°47'13"W a distance of 351.70 feet to the  
Point of Beginning.

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**Harris, John E., Trustee, et al**  
**(Transportation 'Haulroad' Corridor)**

Township 32 North, Range 13 West, NMPM, approx. 81.00 acres

Section 33: Pt. SW $\frac{1}{4}$

Township 31 North, Range 13 West, NMPM

Section 4: Pt. NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 5: Pt. NE $\frac{1}{4}$ , S $\frac{1}{2}$  which is more specifically  
described as follows:

Beginning at a point on the  
south line of said Section 5, from which the SW  
corner of said Section 5 bears N88°04'38"W a  
distance of 2,397.63 feet;  
thence N35°36'53"E a distance of 2,884.97 feet  
to a point of tangency with a curve to the left;  
thence 1,176.93 feet along the arc of said curve  
which has a radius of 11,981.46 feet, a central  
angle of 5°37'41" and a long chord which bears  
N32°48'03"E a distance of 1,176.46 feet;  
thence N29°59'12"E a distance of 3,972.34  
feet to the east line of the W $\frac{1}{2}$ SW $\frac{1}{4}$  of the  
aforesaid Section 33;  
thence S00°22'48"E along said east line a  
distance of 176.54 feet to the north line of the  
S $\frac{1}{2}$ SW $\frac{1}{4}$  of said Section 33;  
thence S88°56'54"E along said North line a  
distance of 412.21 feet;  
thence S29°59'12"W a distance of 4,019.46  
feet to a point of tangency with a curve to the  
right;  
thence 1,221.14 feet along the arc of said curve  
which has a radius of 12,431.76 feet, a central  
angle of 5°37'41" and a long chord which bears  
S32°48'03"W a distance of 1,220.65 feet;  
thence S35°36'53"W a distance of 2,568.66 feet  
to the South line of the aforesaid Section 5;  
thence N89°29'19"W along said South line a  
distance of 550.04 feet to the Point of Beginning.

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**Ute Mountain Ute Tribe, Transportation 'Haulroad' Corridor**

Township 31 North, Range 14 West, NMPM, approx. 116.95 acres

A tract of land which is more specifically  
described as follows:

Beginning at a point on the East boundary of said  
Range 14 West whence the Northwest Corner of  
Section 18, T31N, R13W, NMPM bears  
N00°55'17"E a distance of 853 feet;  
thence S00°55'17"W a distance of 412.00 feet  
along said range line;  
thence S40°09'02"W a distance of 2,370.92 feet;  
thence S37°44'32"W a distance of 185.50 feet;  
thence S52°15'28"E a distance of 165.00 feet;  
thence S37°44'32"W a distance of 500.00 feet;  
thence N52°15'28"W a distance of 165.00 feet  
thence S37°44'32"W a distance of 200.00 feet;  
thence S52°15'28"E a distance of 75.00 feet;  
thence S37°44'32"W a distance of 700 feet;  
thence N52°15'28"W a distance of 75.00 feet;  
thence S37°44'32"W a distance of 1,564.50 feet  
to a point of tangency with a curve to the left;  
thence 1,002.04 feet along the arc of said curve  
which has radius of 40,798.56 feet, a central  
angle of 01°24'26" and a long chord which bears  
S37°02'19"W a distance of 1,002.01 feet;  
thence S36°20'06"W a distance of 2,806.94 feet  
to a point of tangency with a curve to the right;  
thence 1,005.56 feet along the arc of said curve  
which has a radius of 9,736.73 feet, a central  
angle of 05°55'02" and a long chord which bears  
S39°17'37"W a distance of 1,005.11 feet;  
thence S42°15'08"W a distance of 1,425.81 feet;  
thence S47°44'52"E a distance of 25.00 feet;  
thence S42°15'08"W a distance of 500.00 feet;  
thence N47°44'52"W a distance of 25.00 feet;  
thence S42°15'08"W a distance of 924.19 feet;  
thence S47°44'52"E a distance of 165.00 feet;  
thence S42°15'08"W a distance of 650.00 feet;  
thence N47°44'52"W a distance of 165.00 feet;  
thence S42°15'08"W a distance of 2,655.18 feet  
to a point of tangency with a curve to the right;  
thence 2,192.00 feet along the arc of said curve

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which has a radius of 5,206.62 feet, a central angle of 24°07'18" and a long chord which bears S54°18'47"W a distance of 2,175.85 feet;  
thence S23°37'47"E a distance of 25.00 feet to a non-tangent point of intersection with a curve which is concave to the Northwest;  
thence 291.66 feet along the arc of said curve which has a radius of 5,231.62, a central angle of 3°11'39" and a long chord which bears S67°58'16"W a distance of 291.62 feet;  
thence S69°34'05"W a distance of 218.11 feet;  
thence N20°25'55"W a distance of 25.00 feet;  
thence S69°34'05"W a distance of 1,168.74 feet;  
thence S68°07'53"W a distance of 1,579.63 feet;  
thence S21°52'07"E a distance of 25.00 feet;  
thence S68°07'53"W a distance of 250.00 feet;  
thence N21°52'07"W a distance of 25.00 feet;  
thence S68°07'53"W a distance of 3,738.70 feet to a point of tangency with a curve to the right;  
thence 855.55 feet along the arc of said curve which has a radius of 4,973.25 feet, a central angle of 09°51'24" and a long chord which bears S73°03'35"W a distance of 854.50 feet;  
thence S12°00'43"E a distance of 165.00 feet to a non-tangent point of intersection with a curve which is concave to the Northwest;  
thence 672.27 feet along the arc of said curve which has a radius of 5,138.25 feet; a central angle 07°29'47" and a long chord which bears S81°44'10"W a distance of 671.79 feet;  
thence N04°30'56"W a distance of 165.00 feet a non-tangent point of intersection with a curve which is concave to the northwest;  
thence 100.01 feet along the arc of said curve which has a radius of 4,973.25 feet, a central angle of 01°09'08" and a long chord which bears S86°03'39"W a distance of 100.01 feet;

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thence S86°38'12"W a distance of 318.57 feet  
to a point of tangency with a curve to the left;  
thence 1,859.59 feet along the arc of said curve  
which has a radius of 2,491.00 feet, a central  
angle of 42°46'21" and a long chord which  
bears S65°15'01"W a distance of 1,816.70 feet;  
thence S43°51'50"W a distance of 1,800.42 feet;  
thence S46°08'10"E a distance of 25.00 feet;  
thence S43°51'50"W a distance of 500.00 feet;  
thence N46°08'10"W a distance of 25.00 feet;  
thence S43°51'50"W a distance of 111.93 feet  
to a point of intersection with the south  
boundary of said Township 31 North;  
thence N89°45'09"W a distance of 172.66 feet  
along said South boundary;  
thence N43°51'50"E a distance of 231.04 feet;  
thence N46°08'10"W a distance of 25.00 feet;  
thence N43°51'50"E a distance of 500.00 feet;  
thence S46°08'10"E a distance of 25.00 feet;  
thence N43°51'50"E a distance of 1,800.42 feet  
to a tangency with a curve to the right;  
thence 1,952.90 feet along the arc of said curve  
which has a radius of 2,616.00 feet, a central  
angle of 42°46'21" and a long chord which  
bears N65°15'01"E a distance of 1,907.87 feet;  
thence N86°38'12"E a distance of 318.57 feet  
to a point of tangency with a curve to the left;  
thence 1,565.88 feet along the arc of said curve  
which has a radius of 4,848.25 feet, a central  
angle of 18°30'19" and a long chord which  
bears N77°23'02"E a distance of 1,559.08 feet;  
thence N68°07'53"E a distance of 3,708.70 feet;  
thence N21°52'07"W a distance of 100.00 feet;  
thence N68°07'53"E a distance of 250.00 feet;  
thence S21°52'07"E a distance of 100.00 feet;  
thence N68°07'53"E a distance of 1,611.10 feet;  
thence N20°25'55"W a distance of 165.00 feet;

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thence N69°34'05"E a distance of 500.00 feet;  
thence S20°25'55"E a distance of 165.00 feet;  
thence N69°34'05"E a distance of 670.47 feet;  
thence N20°25'55"W a distance of 25.00 feet;  
thence N69°34'05"E a distance of 218.11 feet  
to a point of tangency with a curve to the left;  
thence 281.90 feet along the arc of said curve  
which has a radius of 5,056.62 feet, a central  
angle of 3°11'39" and a long chord which bears  
N67°58'16"E a distance of 281.86 feet;  
thence S23°37'47"E a distance of 25.00 feet;  
thence 2,139.38 feet along the arc of said curve  
which has a radius of 5,081.62 feet, a central  
angle of 24°07'18" and a long chord which  
bears N54°18'47"E a distance of 2,123.61 feet;  
thence N42°15'08"E a distance of 4,229.37 feet;  
thence N47°44'52"W a distance of 25.00 feet;  
thence N42°15'08"E a distance of 500.00 feet;  
thence S47°44'52"E a distance of 25.00 feet;  
thence N42°15'08"E a distance of 1,425.81 feet  
to a point of tangency with a curve to the left;  
thence 992.66 feet along the arc of said curve  
which has a radius of 9,611.78 feet, a central  
angle of 05°55'02" and a long chord which  
bears N39°17'37"E a distance of 992.22 feet;  
thence N36°20'06"E a distance of 575.02 feet;  
thence N53°39'54"W a distance of 165.00 feet;  
thence N36°20'06"E a distance of 650.00 feet;  
thence S53°39'54"E a distance of 165.00 feet;  
thence N36°20'06"E a distance of 1,581.92 feet  
to a point of tangency with a curve to the right;  
thence 252.56 feet along the arc of said curve  
which has a radius of 40,923.56 feet, a central  
angle of 00°21'13" and a long chord which  
bears N36°30'43"E a distance of 252.57 feet;  
thence N53°18'41"W a distance of 25.00 feet  
to a non-tangent point of intersection with a

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curve which is concave to the southeast;  
thence 500.28 feet along the arc of said curve  
which has a radius of 40,948.56 feet, a central  
angle of 00°42'00" and a long chord which  
bears N37°02'19"E a distance of 500.28 feet;  
thence S52°36'41"E a distance of 25.00 feet  
to a non-tangent point of intersection with a  
curve which is concave to the southeast;  
thence 252.56 feet along the arc of said curve  
which has a radius of 40,923.56 feet, a central  
angle of 00°21'13" and a long chord which  
bears N37°33'56"E a distance of 252.57 feet;  
thence N37°44'32"E a distance of 1,464.50 feet;  
thence N52°15'28"W a distance of 50.00 feet;  
thence N37°44'32"E a distance of 650.00 feet;  
thence S52°15'28"E a distance of 50.00 feet;  
thence N37°44'32"E a distance of 450.00 feet;  
thence N52°15'28"W a distance of 80.00 feet;  
thence N37°44'32"E a distance of 400.00 feet;  
thence S52°15'28"E a distance of 80.00 feet;  
thence N37°44'32"E a distance of 185.50 feet;  
thence N33°05'30"E a distance of 1,541.72 feet;  
thence N42°47'37"E a distance of 1,166.53 feet  
to the Point of Beginning.

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**Ute Mountain Ute Tribe, Borrow Area No. 6**

Township 31 North, Range 14 West, NMPM, approx. 8.02 acres

Section 33: Pt. SW $\frac{1}{4}$ , which is more particularly  
described as follows:

Beginning S75°25'58"E  
522.87 feet from the West Quarter Corner of  
said Section 33, said point of beginning being a  
point on the Southerly right-of-way line of the  
proposed San Juan Coal Company Haul Road;  
thence N85°44'05"E 78.12 feet (chord  
distance) along said right-of-way;  
thence N86°38'12"E 318.57 feet along said  
right-of-way;  
thence N86°03'39"E 100.01 feet (chord  
distance) along said right-of-way;  
thence S04°30'56"E 165.00 feet;  
thence S03°21'48"E, 535.00 feet;  
thence S86°38'12"W 500.00 feet;  
thence N03°21'48"W 697.74 feet to the  
Point of Beginning.

**Ute Mountain Ute Tribe, Borrow Area No. 7**

Township 31 North, Range 14 West, NMPM, approx. 9.64 acres

Section 26: Pt. SW $\frac{1}{4}$

Section 27: Pt. SE $\frac{1}{4}$ , said tracts being more  
particularly described as follows:

Beginning S15°28'16"W 208.17 feet from the East  
Quarter Corner of said Section 27;  
thence S47°44'52"E 700.00 feet to a point  
on the Westerly right-of-way line of proposed  
San Juan Coal Company Haul Road;  
thence S42°15'08"W 400.01 feet along said  
right-of-way;  
thence S43°21'33"W 200.04 feet along said  
right-of-way;  
thence N47°44'52"W 696.14 feet;  
thence N42°15'08"E 600.00 feet to the  
Point of Beginning.

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**Ute Mountain Ute Tribe, Borrow Area No. 8**

Township 31 North, Range 14 West, NMPM, approx. 10.33 acres

Section 26: N½, more particularly described  
as follows:

Beginning S08°01'26"E 257.69  
feet from the North Quarter Corner of said  
Section 26;  
thence S47°44'52"E 450.00 feet to a point  
on the Westerly right-of-way line of the  
proposed San Juan Coal Company Haul Road;  
thence S42°15'08"W 1,000.00 feet along  
said right-of-way;  
thence N47°44'52"W 450.00 feet;  
thence N42°15'08"E 1,000.00 feet to the  
Point of Beginning.

**Ute Mountain Ute Tribe, Drainage Control Right-of-Way**

Township 31 North, Range 14 West, NMPM, approx. 31.27 acres

A tract of land which is more specifically  
described as follows:

Using the bearing  
North between the West Quarter Corner and  
the NW corner of Section 33, T31N, R14W,  
NMPM, as the basis of bearing and beginning  
at a point from which the West Quarter Corner  
of said Section 33 bears S53°01'21"E a distance  
of 1,318.25 feet;  
thence S86°38'12"W a distance of 500.00 feet;  
thence N03°21'48"W a distance of 697.74 feet  
tangency with a curve to the left;  
thence 100.14 feet along the arc of said curve  
which has a radius of 2,490.98 feet, an angle  
of 2-18-12 and a long chord which bears  
S83°41'27"W a distance of 100.13 feet;  
thence S03°21'48"E a distance of 789.84 feet;  
thence N86°38'12"E a distance of 708.14 feet;  
thence N03°21'48"W a distance of 535.00 feet  
to a non-tangent point of intersection with a  
curve which is concave to the northwest;

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**Ute Mountain Ute Tribe, Drainage Control Right-of-Way (Con't.)**

thence 685.36 feet along the arc of said curve  
which has a radius of 5,238.25 feet, an angle  
of 07°29'47" and a long chord which bears  
N80°34'24"E a distance of 684.86 feet;  
thence N13°09'50"W a distance of 165.40 feet  
to a non-tangent point of intersection with a  
curve which is concave to the northwest;  
thence 769.76 feet along the arc of said curve  
which has a radius of 5,073.25 feet, a central  
angle of 08°41'37" and a long chord which  
bears N72°28'42"E a distance of 769.04 feet;  
thence N68°07'53"E a distance of 3,638.70 feet;  
thence S21°52'07"E a distance of 175.00 feet;  
thence N68°07'53"E a distance of 450.00 feet;  
thence N21°52'07"W a distance of 175.00 feet;  
thence N68°07'53"E a distance of 1,484.96 feet;  
thence N69°34'30"E a distance of 1,053.97 feet;  
thence S20°25'30"E a distance of 25.00 feet;  
thence N69°34'30"E a distance of 325.00 feet to  
a non-tangent point of intersection with a curve  
which is concave to the northeast;  
thence 399.15 feet along the arc of said curve  
which has a radius of 5,331.62 feet, a central  
angle of 04°17'22" and a long chord which bears  
N67°25'24"E a distance of 399.06 feet;  
thence N24°43'17"W a distance of 25.00 feet to  
a non-tangent point of intersection with a curve  
which is concave to the northeast;  
thence 1,080.36 feet along the arc of said curve  
which has a radius of 5,306.62 feet, a central  
angle of 11°39'53" and a long chord which  
bears N59°26'47"E a distance of 1,078.88 feet;  
thence N36°23'10"W a distance of 100.36 feet  
to a non-tangent point of intersection with a  
curve which is concave to the northwest;  
thence 1,159.54 feet along the arc of said curve  
which has a radius of 5,206.62 feet, a central  
angle of 12°45'36" and a long chord which  
bears S59°59'38"W a distance of 1,157.14 feet;

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**Ute Mountain Ute Tribe, Drainage Control Right-of-Way (Con't.)**

thence S23°37'47"E a distance of 25.00 feet to  
a non-tangent point of intersection with a curve  
which is concave to the northwest;  
thence 291.66 feet along the arc of said curve  
which has a radius of 5,231.62 feet, a central  
angle of 03°11'39" and a long chord which  
bears S67°58'16"W a distance of 291.62 feet;  
thence S69°34'05"W a distance of 218.11 feet;  
thence N20°25'55"W a distance of 25.00 feet;  
thence S69°34'05"W a distance of 1,168.74 feet;  
thence S68°07'53"W a distance of 1,579.63 feet;  
thence S21°52'07"E a distance of 25.00 feet;  
thence S68°07'53"W a distance of 250.00 feet;  
thence N21°52'07"W a distance of 25.00 feet;  
thence S68°07'53"W a distance of 3,738.70 feet  
to a point of tangency with a curve to the right;  
thence 855.55 feet along the arc of said curve  
which has a radius of 4,973.25 feet, a central  
angle of 09°51'24" and a long chord which  
bears S73°03'35"W a distance of 854.50 feet;  
thence S12°00'43"E a distance of 165.00 feet  
to a non-tangent point of intersection with a  
curve which is concave to the northwest;  
thence 672.27 feet along the arc of said curve  
which has a radius of 5,138.25 feet, a central  
angle of 07°29'47" and a long chord which  
bears S81°44'10"W a distance of 671.79 feet;  
thence S03°22'21"E a distance of 535.00 feet.

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**Foutz, Joel W., et al (now Wagon Rod Ranch)**  
**(Transportation 'Haulroad' Corridor)**

Township 30 North, Range 14 West, NMPM, approx. 56.34 acres

Section 5: Pt. of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$

Section 6: Pt. of the SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 7: Pt. of the N $\frac{1}{2}$ . Said easement shall be  
225 feet wide, lying 112.5 feet on each side of  
a center line more particularly described as follows:

Beginning at a point from which the  
southwest corner of Section 7 bears  
S05°18'19"W 2,641.32 ft;  
thence from said Point of Beginning  
N43°51'58"E 10,908.22 ft, more or less,  
to the North line of Section 5.

**Mangis, Robert A., et al**  
**(Transportation 'Haulroad' Corridor)**

Township 30 North, Range 15 West, NMPM, approx. 7.27 acres

Section 12: Pt. SW $\frac{1}{4}$ SE $\frac{1}{4}$  more particularly  
described as follows:

Beginning at a point on  
the West line of the E $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section  
12 whence the Southeast Corner of said  
Section 12 bears S57°20'00"E a distance of  
1,563.64 feet;  
thence S43°51'51"W a distance of 872.48 feet  
to a point of tangency with a curve to the right;  
thence 294.29 ft, more or less, along the arc of  
said curve which has a radius of 2977.29 feet, a  
central angle of 05°39'48" and a long chord  
which bears S46°41'44"W a distance of 294.17  
feet to the South line of said Section 12;  
thence N89°38'49"W along said South line of  
Section 12, a distance of 365.47 feet to a non-  
tangent point of intersection with a curve which  
is concave to the Northwest;  
thence 549.07 feet along the arc of said curve which  
has a radius of 2,752.29 feet, a central angle of  
11°25'49" and a long chord which bears  
N49°34'45"E a distance of 548.16 feet;  
thence N43°51'50"E a distance of 1,106.59 feet,  
more or less, to the West line of the E $\frac{1}{2}$ SE $\frac{1}{4}$  of said  
Section 12;  
thence S00°00'00"E along said West line of the

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E $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section 12, a distance of 324.70 feet,  
more or less, to the Point of Beginning.

**Wagon Rod Ranch Limited Liability Co.  
(Transportation 'Haulroad' Corridor)**

Township 30 North, Range 15 West, NMPM, approx. 11.74 acres

Section 14: Pt. E $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$

more particularly described as follows:

Beginning at a point on the East line of said Section 14  
from which the Northeast corner of said  
Section 14 bears N00°25'30"E a distance of  
994.58 feet;  
thence S00°25'30"W a distance of 266.19 feet  
to a non-tangent point of intersection with a  
curve which is concave to the southeast;  
thence 1,060.43 feet along the arc of said curve  
which has a radius of 2,179.33 feet, a central  
angle of 27°52'46" and a long chord which  
bears S42°21'39"W a distance of 1,050.00 feet;  
thence S28°25'16"W a distance of 839.51 feet  
to a point of tangency with a curve to the right;  
thence 435.70 feet, more or less, along the  
arc of said curve which has a radius of 5,842.08  
feet, a central angle of 04°16'23" and a long  
chord which bears S30°33'28"W a distance of  
435.60 feet, to the West line of the E $\frac{1}{2}$ SE $\frac{1}{4}$  of  
said Section 14;  
thence N00°24'38"E along the West line of the  
E $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section 14, a distance of 444.86  
feet to a non-tangent point of intersection with a  
curve which is concave to the northwest;  
thence 42.55 feet along the arc of said curve which  
has a radius of 5,617.08 feet, a central angle of  
00°26'02" and a long chord which bears  
N28°38'18"E a distance of 42.54 feet;  
thence N28°25'17"E a distance of 839.51 feet to a  
point of tangency with a curve to the right;  
thence 1,319.34 feet, more or less, along the arc  
of said curve which has a radius of 2,404.33 feet, a  
central angle of 31°26'25" and a long chord which  
bears N44°08'29"E a distance of 1,302.85 ft, to the  
Point of Beginning.

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## **EXHIBIT 7**

### **DISTURBANCE/RECLAMATION SURVEYS OF THE SJCC SITE AREA**

Capitalized terms not otherwise defined herein shall have the meanings assigned in this Mine Reclamation Agreement.

Surveys 1, 2 and 3 will be conducted of the SJCC Site Area at specific points in time as hereinafter set forth to identify and catalog Disturbances (see description below) and to categorize and to establish baselines for each Disturbance Area. Additional Surveys may be performed as directed by the Reclamation Oversight Committee. Surveys 1, 2 and 3 will include all Disturbances.

Surveys 1, 2 and 3 will be conducted as close to the following dates as practicable: Survey 1, which is intended to be high-level, will be conducted as of the Effective Date; Survey 2 will be conducted as of December 31, 2017 and will define each Disturbance Area; Survey 3 will be conducted as of the date CCR disposal ceases in the SJCC Site Area. The reports for Surveys 2 and 3 will identify each Disturbance Area and propose a classification as a Pre-2017YE Reclamation Liability or a Post-2017YE Reclamation Liability. For example, the Juniper Pit in the SJCC Site Area is considered a Disturbance Area, as it is a discrete area, the nature of the Disturbance throughout the area is similar, and the Disturbance Area can be classified a Pre-2017YE Reclamation Liability as of Survey 1. The scope and timing of other Surveys will be as directed by the Reclamation Oversight Committee.

The Surveys will be conducted by an independent contractor (the "Surveyor") in coordination with the Reclamation Trust Funds Operating Agent and SJCC under the RSA. The Surveyor will be independent of the Parties and will have appropriate expertise in coal mining operations and mined land reclamation in arid climates, and be knowledgeable in legal, regulatory and permitting requirements for coal mining operations in New Mexico. The Reclamation Trust Funds Operating Agent will propose a Surveyor, and scope of work for each Survey, which will be voted on by the Reclamation Oversight Committee. Upon completion of each Survey, the Reclamation Trust Funds Operating Agent will present each Survey report to the Reclamation Oversight Committee for its approval. If a Survey report is not approved, the Survey and classifications may be subject to dispute resolution under the terms of this Mine Reclamation Agreement.

#### **Survey 1**

The Surveyor will identify and document with aerial photography or other means all of the Disturbances within the SJCC Site Area. Each significant instance of Disturbance will be

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catalogued and given a Catalogue ID along with its location, and the nature of the Disturbance, including current status of reclamation, and the area (acreage) affected.

### **Surveys 2 and 3**

The Surveyor will identify all significant instances of Disturbance within the SJCC Site Area. Each significant instance of Disturbance will be catalogued with a Catalogue ID and (i) its location; (ii) the nature of the disturbance and the area (acreage) affected; (iii) the status of any reclamation activities previously conducted or being conducted at each Disturbance Area; (iv) the bond release status of each Disturbance Area; and (v) whether such Disturbance Area results in a Pre-2017YE Reclamation Liability or a Post-2017YE Reclamation Liability.

The Surveyor will develop a listing of all Disturbance Areas. The Surveyor will be advised by the Reclamation Trust Funds Operating Agent that certain Disturbance Areas may have to be reclassified or subdivided based on activities that have taken place between Surveys. Certain Disturbance Areas may require allocation between Pre-2017YE Reclamation Liability and Post-2017YE Reclamation Liability. In such event, the Surveyor will recommend a percentage allocation, including a description of the rationale and basis regarding methodologies or processes for making such allocations. For example, if a particular Disturbance Area is modified in some way between Surveys to facilitate post-2017 coal supply activities in a manner that increases its reclamation cost, the increase will be allocated as a Post-2017YE Reclamation Liability.

### **Final Reports**

In addition to providing the detail described above, the Surveyor will provide maps showing the location and areal extent of each Disturbance Area, and such other information as may be useful or informative.

Copies of the written survey report will be provided to the Parties and SJCC in electronic and hard copy formats.

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## EXHIBIT 8

### COMPOSITE RECLAMATION SHARES

For purposes of committee voting as set forth in Sections 6.5 and 7.4 and for the Review Cost allocation set forth in Section 5.4 of the Mine Reclamation Agreement, the Composite Reclamation Shares of the Parties will be determined as set out below.

Upon the approval of any new Reclamation Costs Review, the Parties' Composite Reclamation Shares will be determined by prorating a Party's Reclamation Shares (both Pre-2017YE Reclamation Share and Post-2017YE Reclamation Share) by the weighting of the total unescalated cost estimates for the Pre-2017 YE Reclamation Liability Costs and the Post-2017 YE Reclamation Liability Costs. An example follows:

Assume a new Reclamation Costs Review results in constant year dollar estimates of \$90 of Pre-2017YE Reclamation Liability Costs (or 90% of the total estimate) and \$10 of Post-2017YE Reclamation Liability Costs (or 10% of the total estimate). The Composite Reclamation Shares will be determined per the methodology set out in the following table:

Column	A	B	C = A x B	D	E	F = D x E	G = C + F
Owner	Pre-2017YE Reclamation Shares	Pre-2017YE Cost Estimate Percentage	Pre-2017YE Weighting	Post- 2017YE Reclamation Shares	Post- 2017YE Cost Estimate Percentage	Post- 2017YE Weighting	Total Weighting
PNM	46.297	0.90	41.6673	58.671	0.10	5.8671	47.5344
PNMR-D	0.000	0.90	0.0000	7.673	0.10	0.7673	0.7673
TEP	19.800	0.90	17.8200	20.068	0.10	2.0068	19.8268
M-S-R	8.700	0.90	7.8300	0.000	0.10	0.0000	7.8300
Farmington	2.559	0.90	2.3031	5.076	0.10	0.5076	2.8107
Tri-State	2.490	0.90	2.2410	0.000	0.10	0.0000	2.2410
Los Alamos	2.175	0.90	1.9575	4.309	0.10	0.4309	2.3884
SCPPA	12.710	0.90	11.4390	0.000	0.10	0.0000	11.4390
Anaheim	3.100	0.90	2.7900	0.000	0.10	0.0000	2.7900
UAMPS	2.169	0.90	1.9521	4.203	0.10	0.4203	2.3724
	100.000		90.0000	100.000		10.0000	100.0000

Column G would show the Composite Reclamation Shares of each Party in the example. From the time of the Effective Date of the Mine Reclamation Agreement until the next Reclamation Costs Review is approved, each Party's Composite Reclamation Share will be taken from column A above.