

by Sections 1-301 and 9-301 through 9-344, inclusive, and Sections 15-810 through 15-834, inclusive, of the Environment Article of the Annotated Code of Maryland, to implement and enforce the environmental laws, including water pollution control laws and surface mining laws, of the State of Maryland.

2. Sections 9-322 and 9-323 of the Environment Article prohibit the discharge of any pollutant into the waters of the State of Maryland unless authorized by a discharge permit issued by the Department. Waters of the State includes both surface and underground waters. Md. Code Ann. Envir. Art. § 9-101(l).

3. Code of Maryland Regulations (“COMAR”) 26.08.02.09C(1) provides that the discharge of pollutants may not cause groundwater to exceed primary or secondary drinking water standards as provided by COMAR 26.04.01. COMAR 26.04.01.06A establishes the maximum contaminant levels (“MCLs”) for inorganic chemicals in drinking water.

4. Defendant BBSS is the fee simple owner of the Site. The property consists of two separate sand and gravel mining pits, the Turner Pit and the Waugh Chapel Pit, covering 114.5 and 77.8 acres, respectively. Beginning in 1995, pursuant to a contractual agreement between BBSS and Constellation, Defendants used fly ash and bottom ash (hereinafter coal combustion products or “CCP”) generated by coal-fired power plants owned by Constellation to reclaim excavated portions of the mining pits for other uses, including future development. Private wells are located approximately a quarter-mile down gradient from the Waugh Chapel Pit and private wells are located approximately one half to one-mile down gradient from the Turner Pit.

5. Defendant Constellation is the operator of several coal-fired power plants in Maryland, and, pursuant to the contractual agreement with BBSS, provides CCP for the reclamation of the mine and operates reclamation activities at the Site. Constellation is holder of State Discharge

Permit 98-DP-0194, NPDES Permit MD0001503 (the "Discharge Permit"), effective February 1, 2001, issued by the Department pursuant to the provisions of Title 9 of the Environment Article and regulations promulgated there under, and the provisions of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.* and implementing regulations 40 CFR Parts 1122, 123, 124 and 125. The Discharge Permit authorizes the discharge of certain pollutants from the H.A. Wagner and Brandon Shores coal-fired electric power stations located at 1000 Brandon Shores Road in Anne Arundel County (the "Power Plants") to the Patapsco River and Cox Creek, waters of the State, in accordance with special and general conditions set forth in the Discharge Permit.

6. Special Condition R of the Discharge Permit contains the conditions regarding fly ash handling and provides that fly ash removed from the power plants must be stored or disposed in an approved facility. Special Condition R also provides that a separate NPDES permit is not necessary if the permittee demonstrates to the Department that fly ash will be used for "beneficial purposes," which include mine reclamation. Special Condition R contains twelve standards for the operation of a beneficial use facility. Standard #2 provides that fly ash may not be placed in the 100-year floodplain or at an elevation below the maximum seasonal water table or at any other location which could cause continuous contact with surface or groundwater for greater than 24 hours. Standard #8 requires Constellation to install a groundwater monitoring system of wells up-gradient and down-gradient of the beneficial use facility to be used for obtaining samples of the groundwater or any leachate from the mine. Standard #11 requires Constellation to sample the monitoring wells on a quarterly basis, and to submit a summary of the results to the Department.

7. Defendant BBSS is the holder of Surface Mining Permit 94-SP-0468-D (the "Turner Permit"), effective December 22, 1994, and Surface Mining Permit 77-SP-0096-G (the "Waugh Chapel Permit"), effective November 8, 1977, issued by the Department pursuant to the provisions

of Title 15 of the Environment Article, and regulations promulgated thereunder. The permits authorize BBSS to engage in surface mining and CCP reclamation operations at the Turner and Waugh Chapel Pits. The Permits incorporate Department-approved Mining and Reclamation Plans that provide that reclamation may include the use of CCP from Constellation's Power Plants as fill material.

8. Under the terms and conditions of the Turner and Waugh Chapel Permits, Defendant BBSS must comply with a Pollution Prevention Plan (the "P2 Plan") and a Remedial Response Contingency Plan (the "Contingency Plan") approved by the Department and incorporated into the surface mining permits. The P2 Plan requires BBSS to sample a network of monitoring wells located up-gradient and down-gradient of the CCP areas and to analyze the water from the wells for the 15 inorganic chemicals included in COMAR 26.04.01.06, as well as for chloride, sulfate, dissolved solids, and pH. The Contingency Plan (Section 3.0) requires BBSS to re-sample the monitoring wells within 30 days of receipt of laboratory results indicating that groundwater exceeds any of the groundwater "action levels" listed in Table 1 of the Contingency Plan. If the results of the re-sampling indicate an action level exceedence, the quarterly monitoring frequency is to be increased to monthly for a minimum of six months for the well exhibiting the exceedence. During the monitoring period, an evaluation must be performed to identify whether any sources other than the CCP fill may be responsible for the exceedence. In the event that the exceedence cannot be related to a source other than the CCP fill, the Contingency Plan requires remedial action.

9. Groundwater monitoring data collected from September 1999 through 2004 in monitoring wells down gradient of the Turner Pit revealed elevated concentrations of sulfates and heavy metals. To contain the contamination, in 2004 Constellation installed a "Pump and Treat" groundwater recovery system in the Turner Pit. The Pump and Treat system discharges to Towsers

Branch via State Discharge Permit 03-DP-3431 NPDES Permit MD0068993 (the "Pump and Treat Permit"), issued to BBSS by the Department pursuant to the provisions of Title 9 of the Environment Article and regulations promulgated thereunder, and the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq., and implementing regulations 40 CFR Parts 122, 122, 124 and 125.

10. Based on a review of the quarterly monitoring reports for the Turner and Waugh Chapel Pits submitted to the Department, the Department determined that constituent action levels in Table 1 of the Contingency Plan were repeatedly exceeded at perimeter monitoring wells 7, 13, 20, 21, and 22. Defendants conducted resampling and evaluation of the data to determine the cause of the exceedences.

11. Groundwater samples collected in 2006 and 2007 from residential drinking water wells in the vicinity of the Site indicate that, in certain locations, contaminants including heavy metals and sulfates were present at or above the groundwater quality standards.

12. A study dated June, 2007 prepared by Environmental Resources Management for the Maryland Department of Natural Resources Power Plant Research Program evaluated available data and concluded that CCP are a source of certain contaminants in groundwater in the vicinity of the Site.

13. Based on a thorough review of all available data, the Department has concluded that leachate from CCP reclamation activities at the Turner and Waugh Chapel pits has resulted in the discharge of pollutants to waters of the State.

14. The Department acknowledges the ongoing efforts of Defendants to identify the sources and the extent of the contamination at the Site and to neighboring wells, including providing potable bottled water to nearby residences, conducting additional groundwater sampling, and conducting initial remedial activity.

15. The Department has filed a Complaint for Injunctive Relief and Civil Penalties (the "Complaint") against Defendants alleging violations of Title 9, Subtitle 3, and Title 15, Subtitle 8, of the Environment Article and regulations promulgated under those laws as a result of the alleged permit violations and unauthorized discharge of pollutants to waters of the State. The Complaint seeks injunctive relief pursuant to §§ 9-339 and 15-832 (b) of the Environment Article and civil penalties pursuant to §§ 9-342 (a) and 15-832 (a) of the Environment Article.

16. The Defendants deny the factual or legal allegations, conclusions or determinations of the Department recited above.

17. The parties have reached agreement as to appropriate interim and long-term measures to remediate contamination related to the Site and consent to the entry of this Consent Decree.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

APPLICABILITY

18. This Consent Decree shall apply and be binding upon Defendants through their officers, directors, employees, and agents and binding on their successors and assigns. Work performed by each Defendant, its successors and assigns, officers, directors, employees, agents, independent contractors, contractors, subcontractors, and consultants shall be carried out in accordance with the requirements of this Consent Decree, and each Defendant shall be responsible for the failure of its officers, directors, employees, independent contractors, contractors, subcontractors or consultants to do so.

19. The transfer of ownership or operation or other interest in the Site, in whole or in part, to another entity, shall not alter or relieve Defendants of their obligation to comply with all of the terms of this Consent Decree and shall have no effect on the obligation of Defendants for

implementing all of the corrective actions in this Consent Decree. As a condition to any such transfer, the Defendant making the transfer shall reserve all rights necessary to comply with the terms of this Consent Decree. Any transfer of ownership or operation of the Site, in whole or in part, without complying with the terms of this Paragraph constitutes a violation of this Consent Decree.

SCOPE OF THIS CONSENT DECREE

20. The express purpose of the Parties entering into this Consent Decree is for Defendants to take steps necessary to ensure compliance with Title 9, Subtitle 3, and Title 15, Subtitle 8, of the Environment Article of the Annotated Code of Maryland, the regulations promulgated under those laws, and the Waugh Chapel and Turner Permits, the Pump and Treat Permit, the Discharge Permit, and any subsequent renewals of such permits that occur before termination of this Consent Decree. In addition, the following sections of this Consent Decree constitute the injunctive relief and remedial measures that Defendants shall take in order to remediate the groundwater pollution alleged by the Department to have emanated from the Site and achieve the purposes of this Consent Decree.

21. Nothing contained herein shall constitute a waiver of the rights of the Department to proceed in an administrative or civil action for violations of the terms of this Consent Decree, any other terms or conditions of the Turner or Waugh Chapel Permits, the Pump and Treat Permit, the Discharge Permit, or of applicable statutes or regulations. The Department may bring any action authorized by law to enforce the provisions of this Consent Decree, including an action for contempt.

22. This Consent Decree is not and shall not be construed to be a permit or modification of any existing permit issued by the Department pursuant to Title 9, Subtitle 3, or Title 15,

Subtitle 8, of the Environment Article, nor shall it relieve Defendants of their obligations to comply with the requirements of any applicable surface mining permit, discharge permit, permit modification, or other applicable State law or regulation.

23. Defendants voluntarily enter into this Consent Decree to avoid the time and expense of protracted litigation and in doing so, neither admit the Department's allegations of fact or law nor waive any of their defenses or rights, other than those stated expressly in this Consent Decree.

24. Nothing herein shall be construed as relieving Defendants of their duty to comply with Title 9, Subtitle 3, and Title 15, Subtitle 8, of the Environment Article, the regulations promulgated under those statutes, and all applicable permits issued under those statutes and regulations.

CIVIL PENALTIES TO THE STATE OF MARYLAND

25. Within thirty (30) calendar days of the execution of this Consent Decree by the Circuit Court, Defendants, jointly and severally, shall pay to the Department a civil penalty in the amount of one million dollars (\$1,000,000) in settlement of the violations as alleged, or that could have been alleged in connection with the Site, by the Department in its Complaint.

26. Defendants shall make the above-referenced payment by check payable to the Maryland Clean Water Fund, and shall be mailed to the Maryland Department of the Environment, Fiscal Services Division, Cash Receipts/Advances Unit, P.O. Box 2057, Baltimore, Maryland 21203-2057

RESPONSE ACTIVITIES

27. Defendants shall develop and perform corrective activities for the remediation of groundwater pollution, including off-Site impacts, resulting from CCP reclamation activities at the Waugh Chapel and Turner Pits in accordance with the following provisions.

28. Defendants shall conduct the remediation of the Site and the implementation of the corrective actions set forth in this Consent Decree in compliance with all applicable State and county laws and regulations.

29. Defendants shall continue to implement the corrective actions set forth in this Consent Decree until the Department determines that the work set forth in Paragraphs 27 through 52 and paragraph 56 has been achieved. The Defendants will notify the Department in writing when the work has been accomplished and the Department will acknowledge in writing its determination that specific corrective actions have been completed and may cease.

30. All requirements of this Consent Decree become effective upon signing by the Department.

31. Within fifteen (15) days of the signing of this Consent Decree by the Department, Defendants shall submit to the Department a summary status report of the initial Corrective Measures ("Corrective Measures Status Report") that already have been performed or in progress. The Corrective Measures Status Report shall include:

(a) A brief status update addressing the following activities responsive to Waugh Chapel groundwater issues:

- i. Re-sampling private wells.
- ii. Continued provision of alternate water supplies.
- iii. Status of ongoing preparation to provide county water supply to appropriate locations, including Summerfield Road residents.
- iv. Update on study to improve understanding of the cause of the leachate issues and possible remedies.

- v. Status of ongoing investigation into the presence of wet CCP and potential causes for this condition.
- vi. Progress on elimination of identified sources of water infiltration into CCP, such as removal of ponding, and improvement of drainage swales.
- vii. Preliminary investigations into the feasibility of a pump and treat system.
- viii. Enhanced cap inspection activities to ensure timely identification and correction of site erosion and stormwater management issues.

(b) A status update addressing the Turner groundwater issues, including re-sampling of private wells and whether the newly installed larger pump is achieving desired capture of groundwater through the groundwater recovery well RW-1.

32. Within fifteen (15) days of the signing of this Consent Decree by the Department, Defendants shall submit to the Department for review and approval a quality assurance and quality control ("QA/QC Plan") describing a comprehensive site inspection plan for both Turner and Waugh Chapel CCP reclamation operations and post closure monitoring and maintenance. This QA/QC Plan shall be designed to identify, correct, and prevent grading problems that could allow stormwater to pond in the vicinity of the CCP reclamation, cause wash outs or erosion rivulets to form, and to identify and correct cap and cover deficiencies. The QA/QC Plan shall include enhanced inspection and documentation protocols. The QA/QC Plan shall be implemented upon approval.

33. Within sixty (60) days of signing this Consent Decree by the Department, Defendants shall submit to the Department for review and approval a plan to provide for initial and ongoing characterization of the extent of groundwater and surface water contamination related to the Site, which shall include any needed additional on-site or off-site monitoring wells.

The plan shall include the location of the monitoring wells, frequency of monitoring, and constituents that will be monitored.

34. Within sixty (60) days of the signing of this Consent Decree by the Department, Defendants shall submit to the Department for review and approval a Waugh Chapel Evaluation Plan for the evaluation of remedial options to both prevent further off-site migration of contaminants into groundwater and to address existing groundwater impacts. The plan shall:

(a) Provide for the identification and evaluation of the feasibility and effectiveness of potential remedial options for Waugh Chapel Pit. This evaluation shall include consideration of both source controls and plume controls. The evaluation shall also perform preliminary engineering of a groundwater collection system to determine the feasibility of treatment and discharge options.

(b) Include a proposed schedule for all tasks, culminating in a Waugh Chapel Proposed Remediation Report that will propose remedial alternative(s) for approval by the Department.

Defendants shall implement the Department approved Waugh Chapel Evaluation Plan according to the schedules contained therein.

35. Within sixty (60) days of the signing of this Consent Decree by the Department, Defendants shall submit to the Department for review and approval a Turner Evaluation Plan for the evaluation of remedial options to both prevent further off-site migration of contaminants into groundwater and to address existing groundwater impacts. The plan shall include:

(a) A description of a quarterly assessment program for the Pump and Treat system to demonstrate its effectiveness in providing hydraulic control to prevent offsite migration of contaminants.

(b) If the evaluation of the larger groundwater pump in RW-1 shows that additional pumping capacity is necessary to capture contaminants in the vicinity of MW-13, the plan shall include a schedule for engineering, permit modifications, and construction to increase groundwater collection and treatment capacity.

(c) Investigation into the potential use of improved source controls at Turner Pit to enhance long term protection of groundwater from the Turner Pit fill area.

(d) A proposed schedule for all tasks culminating in a Turner Proposed Remediation Report that will propose any added remedial alternative(s) for approval by the Department.

Defendants shall implement the Department approved Turner Evaluation Plan according to the schedules contained therein.

36. Both the Waugh Chapel and Turner Evaluation Plans shall be designed to achieve those groundwater quality standards established by COMAR 26.08.02.09C that are set forth in Appendix A. The Proposed Remediation Reports shall address the locations at which compliance with the referenced standards will be measured.

37. Within sixty (60) days of the Department's approval of each of the Proposed Remediation Reports, Defendants shall submit to the Department for review and approval Remediation Plans which shall include a schedule for detailed engineering, construction, start-up and performance monitoring of the selected remedy.

38. Defendants shall implement the approved Remedial Plans consistent with schedules contained therein.

39. Prior to submittal of Plans and Reports, Defendants and the Department shall meet as necessary to share information and to facilitate Defendants' development of submittals.

DRINKING WATER WELLS

40. Within thirty (30) days of the signing of this Consent Decree by the Department, Defendants shall submit to the Department for review and approval a plan and schedule for replacing the following off-site drinking wells: 1181/1183 (shared well), 1184, 1188, 1190 Summerfield Road and 2542 Brickhead Road. This replacement of drinking wells shall be at the expense of Defendants, including payment of the current occupants' water bills for the duration of their occupancy of these residences. The plan shall also describe the following:

(a) connecting the impacted residential drinking wells to the County public water system, followed by the proper abandonment or temporary capping (to allow for periodic sampling) of the wells in accordance with all County and State requirements;

(b) drilling replacement wells that meet potability and construction standards in accordance with State regulations and meet with any required approvals of the Anne Arundel County Health Department ("AACHD"); or

(c) alternative methods approved by the Department, such as installation of a water treatment system.

41. Defendants shall implement the plan and schedule for well replacement set forth in Paragraph 40 as approved by the Department.

42. Defendants also agree to provide a replacement water supply under the terms set forth in Paragraph 40, above, in the event that such wells are identified by the Department as being contaminated by CCP activities at the Site. The methodology for determining whether additional off-Site drinking water wells are contaminated by CCP activities at the Site shall be proposed by Defendants and submitted within sixty (60) days of the effective date of this Consent Decree to MDE for review and approval. This methodology shall use sulfate as the primary indicator and may include but not be limited to other ash leachate characteristics, review of data including background water quality (temporal and spatial variability), physical location of the well in relationship to the Site, and information from other wells that are being used to track the extent of the contamination. This methodology shall be consistent with the requirements of Paragraph 33.

43. Without any determination of impact on any well and separate from the requirements set forth in Paragraphs 40 through 41, Defendants agree to voluntarily replace or provide treatment for drinking wells at the locations set forth in Appendix B. This activity will be at the expense of Defendants, and shall not apply to locations at which the owner of the property does not accept Defendants' offer to replace or provide treatment for existing wells. A plan shall describe the following and shall be submitted within ninety (90) days to the Department for review and approval:

- (a) connecting the designated drinking wells to the County public water system, followed by the proper abandonment or temporary capping (to allow for periodic sampling for selected wells) of the wells in accordance with all County and State requirements;

- (b) drilling replacement wells that meet potability and construction standards in accordance with State regulations and meet with any required approvals of the Anne Arundel County Health Department; or
- (c) alternative methods approved by the Department, such as installation of a water treatment system.

FUTURE CCP PLACEMENT REQUIREMENTS

44. Upon the signing of this Consent Decree by the Department, Defendants shall cease and desist the use of CCP in any portion of the Site other than as set forth in Paragraph 45 and 46.

45. Within ten (10) days following the signing of this Consent Decree by the Department, Defendants shall submit to the Department for review and approval an updated P2 Plan for any future CCP placement at the Site to add further provisions to ensure the protection of groundwaters of the State. The additional protections shall include the following as a minimum:

- (a) Defendants shall, prior to filling any cell with CCP, install: (i) a six-inch clay liner with 10^{-7} cm/sec permeability covered by a 60-mil synthetic liner that is designed to collect leachate, or an approved alternative lining system designed to provide equal or greater protection; and (ii) other necessary leachate collection, piping and pumping equipment;
- (b) Defendants shall manage the leachate from future lined CCP cells in a manner consistent with applicable environmental laws and regulations; and
- (c) Defendants shall install a 12-inch thick clay cap with 10^{-7} cm/sec permeability or an approved alternative designed to provide equal or better protection on the filled cells.

46. Defendants shall implement the Department-approved plan according to the schedule as approved by the Department.

47. Nothing in this Consent Decree shall be construed to limit the Department's right to seek to amend the Waugh Chapel or Turner Permits to require additional protective measures.

CONTINGENCY PLAN

48. Within thirty (30) days following the signing of this Consent Decree by the Department, Defendants shall submit to the Department for its review and approval a revised Contingency Plan for incorporation into Permits 94-SP-0468-D and 77-SP-0096-G to include the following: (a) revision of groundwater data reporting requirements to make the Plan consistent with Paragraph 51, below; (b) in the event that there are results above levels set forth in Appendix A from re-sampling, monthly monitoring will be conducted until the Department notifies Defendants in writing that it is no longer required; and (c) the action level in Table 1 for sulfate shall be the federal drinking water standard of 250 mg/l as provided by 40 CFR 143.3 and the action level in Table 1 for arsenic shall be the federal drinking water standard of .01 mg/l as provided by 40 CFR 141.62(b)(16).

MONITORING

49. Upon signing of this Consent Decree by the Department and unless more stringent monitoring is required under other terms of this Consent Decree, Defendants shall continue to conduct groundwater monitoring and sampling at the Site pursuant to the terms and conditions of the Turner and Waugh Chapel Permits for surface mining including the P2 Plan and the Contingency Plan and any revisions thereto, and the Discharge Permit.

50. In the event that the Turner and Waugh Chapel Permits for surface mining terminate, Defendants shall continue to conduct ongoing groundwater monitoring and sampling at the Site

according to the provisions of the Permits and as set forth in this Consent Decree. The monitoring and sampling obligations shall continue until the Department determines that the requirements of this Consent Decree have been satisfied.

REPORTING

51. Upon signing of this Consent Decree by the Department, Defendants shall submit to the Department on a quarterly basis the results of all groundwater monitoring that was required to be performed pursuant to Paragraphs 33, 49 and 50, above. Defendants' quarterly reports shall highlight all data above levels indicated in Appendix A. In addition, Defendants shall notify the Department within five days of receiving any sample results from an actively utilized drinking well that are above levels indicated in Appendix A. The sampling results obtained during each calendar quarter shall be submitted to the Department no later than January 31st, April 30th, July 31st, and October 31st of each calendar year, except that the first submittal shall be due on January 31, 2008. The April 30th quarterly report for each year shall include a long term trend analysis, and a summary of the status and effectiveness of the treatment systems in meeting the remediation goals of the Consent Decree.

52. Upon signing of this Consent Decree by the Department, Defendants shall submit to the Department on a quarterly basis a report on the progress of compliance with the tasks required under this Consent Decree. The quarterly reports shall be due to the Department on the dates provided in Paragraph 51.

53. The monitoring and reporting obligations of Paragraphs 49 through 52 shall continue until the Department determines that requirements of this Consent Decree have been satisfied.

FUTURE LONG TERM CCP RE-USE

54. Constellation shall not beneficially re-use future CCP generated at its power plants through land filling or mine reclamation at any new sites in the State of Maryland without written approval from the Department.

RIGHT OF ENTRY

55. MDE and any authorized representatives of MDE, including contractors, are authorized to enter and freely move about the Site, subject to the rights of quiet enjoyment held by any tenants on the Site, at all reasonable times for the purposes of, *inter alia*, interviewing each Party's personnel or contractors performing work under this Consent Decree, inspecting non-privileged records related to work performed hereunder, reviewing the progress of the Parties in carrying out the terms of this Consent Decree, conducting such tests, sampling or monitoring as MDE deems necessary, using a camera, sound recording or other documentary-type equipment, and verifying reports and data submitted to MDE by any Party. Upon reasonable notice, the Parties shall permit such representatives of MDE to inspect and copy non-privileged records, files, photographs, documents, and other writings, including sampling and monitoring data, that pertain to the work undertaken pursuant to this Consent Decree. Nothing herein shall be interpreted as limiting the inspection authority of MDE under Maryland law. MDE agrees that it and its representatives will comply with all applicable laws, regulations, ordinances, or procedures related to access to the Site, including, but not limited to, all security laws, regulations, and procedures, and any Site-related health and safety protocols and procedures established by the Parties while on the Site.

EASEMENTS/DEED RESTRICTIONS

56. On August 7, 2007, BBSS entered into an easement agreement with Constellation granting Constellation access to conduct sampling, monitoring, and placement of CCP. The easement agreement was recorded with the Land Records of Anne Arundel County on or about August 24, 2007. Within ninety (90) days of signing of this Consent Decree by the Department, Defendants shall submit to the Department for review and approval:

(a) An easement to allow access by representatives of the Department and Defendants to the Site in order to ensure compliance with this Consent Decree; and

(b) Long-term deed restrictions on any reclaimed portion of the Site in order to ensure that future development will provide for a continuous impervious cover (subject to temporary removal and replacement under controlled conditions during construction activities associated with the development of the Site) at least as protective as 10^{-7} cm/sec permeability. This provision applies to all reclaimed areas that contain CCP, which will be identified in an exhibit to the deed restriction. That exhibit will be amended in the future in the event of future CCP placement.

Within 60 days of approval by the Department the easement and deed restriction shall be recorded with the Land Records of Anne Arundel County.

DELAY

57. If any event occurs which causes or which Defendants reasonably expect to cause a delay in the achievement of any requirement imposed by this Consent Decree, Defendants shall notify the Department, in writing, within ten (10) working days of obtaining knowledge of the occurrence of such event and of its impact on timely compliance. The notice shall identify the cause of the delay, an estimate of the anticipated length of delay, the measures taken and to be taken by Defendants to prevent or minimize the delay and an estimate of the date by which such measures

will be completed. Defendants shall promptly implement all reasonable measures to prevent or minimize any such delay and to comply with all requirements of the Consent Decree as soon as reasonably possible. Defendants may request, in writing, an extension of any deadline as soon as practical upon learning about the likelihood of a delay. The Department may, at its sole discretion, grant an extension upon such a request. If such an extension is granted, any stipulated penalty, if applicable, shall not accrue.

FORCE MAJEURE

58. Defendants shall perform the requirements of this Consent Decree in the manner and within the time limits set herein, unless the performance is prevented or delayed by events that constitute a force majeure. Defendants shall have the burden of proving such a force majeure. A force majeure is defined by any event or circumstance arising from causes not reasonably foreseeable and beyond the control of Defendants, which cannot be avoided or overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Decree.

59. Circumstances beyond the control of Defendants include earthquake, flood or other act of God, war, riot, injunction, fire, freight embargo, or strike. Such circumstances do not include increased costs of performance, changed economic circumstances, normal inclement weather, or failure to obtain federal, state or local permits unless Defendants have made timely and complete application for such permits.

60. Within ten (10) working days after becoming aware of any event that Defendants believe constitutes a force majeure, Defendants shall notify the Department of such event in accordance with Section XII herein. Failure to comply with the notice provision of this section shall constitute a waiver of Defendants' rights to assert a force majeure claim.

61. If the Department determines that the event or anticipated event that has caused or will cause the delay constitutes a force majeure, the Department may extend in writing the time for performance for an appropriate period of time as determined by the Department.

STIPULATED PENALTIES

62. Beginning on the day that this Consent Decree is signed by the Department and continuing until all obligations under Paragraphs 27 through 52 and Paragraph 56 and have been completed, upon written demand by the Department, Defendants, jointly and severally, shall pay, no later than 20 calendar days after such demand, a stipulated penalty for each day there is a failure, within the time limits specified in Paragraphs 27 through 52 and Paragraph 56, to (i) submit to the Department sampling results, summaries or status reports required by this Consent Decree; (ii) adhere to a milestone date or schedule required by this Consent Decree; or (iii) implement any of the corrective actions required by this Consent Decree. The stipulated penalties shall be calculated as follows:

- For the first 30 days of such failure, \$500 per day;
- For the 31st day through the 60th day of such failure, \$750 per day;
- After the 60th day of such failure, \$1,000 per day.

The above-stipulated penalties shall accrue automatically for Defendants' failure to perform the sampling and reporting obligations referenced in this Paragraph in a timely manner. However, before stipulated penalties shall accrue for performance that the Department alleges is insufficient to fulfill the relevant requirement of this Consent Decree, the Department must notify Defendants of this alleged insufficiency. Defendants may petition the Department to waive the assessment of a stipulated penalty for good cause shown (which may include reasons other than an alleged force

majeure event). The Department in its sole and unreviewable discretion may waive any stipulated penalties that have accrued against Defendants pursuant to this Consent Decree.

63. Except as otherwise expressly set forth in this Consent Decree, payment of any stipulated penalty shall neither relieve Defendants from the obligations imposed by this Consent Decree or any permit that may be issued or any other statute or regulation, nor limit the right of the Department to seek enforcement of the terms of this Consent Decree or any other statute or regulation.

64. Defendants shall make any payment of a stipulated penalty by check payable to the Maryland Clean Water Fund, and shall be mailed to the Maryland Department of the Environment, Fiscal Services Division, Cash Receipts/Advances Unit, P.O. Box 2057, Baltimore, Maryland 21203-2057.

NOTIFICATION

65. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices or other submissions relating to or required by this Consent Decree shall be in writing and shall be sent to the following:

For the Department: Director
Water Management Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Principal Counsel
Maryland Department of the Environment
1800 Washington Boulevard, Suite 6048
Baltimore, Maryland 21230

For Constellation: Director, Asset Operations (Baltimore Coal Facilities)
Constellation Power Source Generation, Inc.
1005 Brandon Shores Rd
Baltimore, MD 21226

Chief Environmental Counsel
Constellation Energy Group
750 E. Pratt Street, 17th Floor
Baltimore, MD 21201

For BBSS: President, BBSS, Inc.
1 Church View Road
Millersville, Maryland 21108

In the event the point of contact changes for any party, that party shall provide notification of the new point of contact.

SUBSEQUENT MODIFICATION

66. This Consent Decree contains the entire agreement of the Parties and shall not be modified by any prior oral or written agreement, representation, or understanding. This Consent Decree may not be modified except by written agreement of the Department, BBSS and Constellation and shall be effective upon signature by the Department. A Party shall not petition the Court for modification without having first made a good faith effort to reach agreement with the other party on such modification.

67. At the Department's discretion and upon Defendants' request, the requirement to achieve the standards set forth in Appendix A may be modified by the Department to take into consideration the natural geology, background water quality, identification of potential receptors, or factors related to the technical feasibility and implementability of the remedial activity, and, if determined by the Department to be relevant, the action levels that were in the Turner and Waugh Chapel Permits at the time of CCP placement.

SEVERABILITY

68. If any provision or authority of this Consent Decree or the application of this Consent Decree to any party or circumstance is held by any judicial or administrative authority to be invalid,

the application of such provision or authority to other parties or circumstances and the remainder of this Consent Decree shall not be affected thereby and shall remain in full force.

COMMUNITY RELATIONS

69. Defendants agree to develop and implement a community relations plan to inform the public of the progress of implementation of this Consent Decree.

CONTINUING JURISDICTION

70. This Court shall have jurisdiction to enforce the terms and conditions of this Consent Decree, to modify the Consent Decree upon petition of either party, and to resolve disputes arising under this Consent Decree.

TERMINATION

71. This Consent Decree shall remain in force and effect until all obligations and terms referred to in Paragraphs 27 through 52 and 56 and payment of all required penalties have been completed or satisfied.

EFFECTIVE DATE

72. The effective date of this Consent Decree shall be the date upon which the Department signs the Decree.

APPENDICES

73. The following appendices are attached to and incorporated into this Consent Decree:

Appendix A - Groundwater Remediation Goals

Appendix B- Voluntary Water Supply Replacement or Treatment List

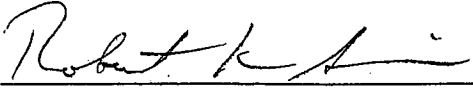
IT IS SO DECREED this _____ day of _____, 2007:

Judge, Circuit Court for Anne Arundel County

IT IS SO AGREED AND CONSENTED TO:

BBSS, INC.

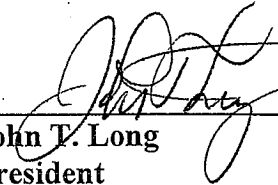
9-28-07
Date


Robert K. Scrivener
President, BBSS, Inc.

IT IS SO AGREED AND CONSENTED TO:

CONSTELLATION POWER SOURCE
GENERATION, INC.

9/28/07
Date



John T. Long
President

IT IS SO AGREED AND CONSENTED TO:

STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT

10/1/07
Date

Jay G. Sakai
Jay G. Sakai, Director
Water Management Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

10/1/07
Date

Jacqueline Russell
Jacqueline Russell
Assistant Attorney General

Appendix A
Remedial Goals for Groundwater Downgradient

Parameter	Limit (mg/l)
Antimony	0.006
Arsenic	0.01
Barium	2
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Cyanide	0.2
Fluoride	4
Mercury	0.002
Nitrate as Nitrogen	10
Nitrite as Nitrogen	1
Total Nitrate + Nitrite	10
Selenium	0.05
Thallium	0.002
Sulfate	250

Appendix "B"^{1,2}

Drinking Wells Down Gradient of Waugh Chapel Pit	
1	1179 Summerfield Rd
2	2530 Brickhead Rd
3	2542 Brickhead Rd
Drinking Wells Adjacent to Summerfield and Brick Head Roads	
4	1210 Waugh Chapel Rd
5	1212 Waugh Chapel Rd
6	1214 Waugh Chapel Rd
7	1224 Waugh Chapel Rd
8	1230 Waugh Chapel Rd
Drinking Wells Down Gradient of Turner Pit	
9	2482 Lee St
10	2487 Lee St
11	2490 Lee St
12	2491 Lee St
13	2400 Queen Mitchell
14	2401 Queen Mitchell
15	2404 Queen Mitchell
16	1068 MD Rt 3 South
17	1074 MD Rt 3 South
18	1082 MD Rt 3 South
19	1114 MD Rt 3 South
20	1058 MD Rt 3 North
21	1064 MD Rt 3 North
22	1070 MD Rt 3 North
23	1079A MD Rt 3 North
24	1085 MD Rt 3 North
25	1107 MD Rt. 3 North
26	1109 MD Rt. 3 North
27	2566 Shorter Rd
28	2568 Shorter Rd
29	2645 Carver Rd
30	2647 Carver Rd
31	2650 Carver Rd
32	2658 Carver Rd
33	2661 Carver Rd
34	2663 Carver Rd

1 - This list was developed from MDE's well inventory (as of 9/28/07) and Anne Arundel County's Health Department list of drinking wells sampled as part of the Gambrills Well Investigation.

2 - The owners of the wells listed may not been contacted by the Defendants as of 10/1/07 but will be contacted in the near future to discuss the plan and obtain necessary consent.