



County of Los Alamos

Los Alamos, NM 87544
www.losalamosnm.us

Council Meeting Staff Report

July 28, 2020

Agenda No.:	B.
Indexes (Council Goals):	* 2020 Council Goal - Investing in Infrastructure
Presenters:	Bob Westervelt
Legislative File:	13122-20

Title

Approval of Amendment No. 1 to the Amended and Restated San Juan Generating Station Mine Reclamation Trust Agreement Designating Westmoreland San Juan Mining, LLC as Successor and Assignee of San Juan Coal Company as Beneficiary of the San Juan Mine Reclamation Trust Fund Pursuant to the Amended and Restated San Juan Generating Station Mine Reclamation Trust Funds Agreement

Recommended Action

I move that Council approve Amendment No. 1 to the Amended and Restated San Juan Generating Station Mine Reclamation Trust Agreement

Utilities Manager's Recommendation

The Utilities Manager recommends that Council approve the amendment as presented.

Board, Commission or Committee Recommendation

The Board of Public Utilities recommends that Council approve the amendment as presented.

Body

Under the Terms of the San Juan Generating Station Mine Reclamation and Trust Funds Agreement between the San Juan project participants, each participant was obligated in 2012 to establish a Trust Fund with an approved Trustee to fund that participant's obligations under that agreement. Funding of those trusts was required over a subsequent time period, depending on each participant's election as an "Opt -In" or an "Opt Out" participant. Los Alamos established it's required trust with BOKF, N.A., dba Bank of Albuquerque, in 2012 and funded it appropriately according to our obligation.

In 2016, as part of the San Juan restructuring, an Amended and Restated San Juan Generating Station Mine Reclamation and Trust Funds Agreement between the San Juan project participants was executed, recognizing the new different status of the various participants, and specifying the Trust funding obligations of each. Los Alamos' funding obligations remained unchanged, and our Trust remains fully funded at this time.

This current action is required because Westmoreland Coal Company, successor to San Juan Coal Company and named beneficiary under the trust agreement, filed for bankruptcy on October 9, 2018; and on March 2, 2019 the Bankruptcy Court issued an order approving Westmoreland's Reorganization Plan, which included sale of substantially all of its assets, including rights to the reclamation funds held in Trust on behalf of the Project Participants, to Westmoreland San Juan Mining, LLC. The Reorganization Plan Administrator issued a letter dated April 13, 2020, requesting each Project Participant execute an amended Trust Funds Agreement naming the purchaser as beneficiary under the Trust Agreement. This revised Trust Funds Agreement is required to execute that direction and request.

Alternatives

Should Council elect not to approve this amendment Los Alamos County would be in default under the Amended and restated San Juan Generating Station Mine Reclamation and Trust Funds

Agreement and we would need to enter negotiations with the participants for resolution.

Fiscal and Staff Impact/Planned Item

There is no staff or fiscal impact. This amendment simply provides for the change in Named Beneficiary in accordance with the Bankruptcy Plan Administrator's direction letter.

Attachments

A - Amendment 1 to the Amended and Restated - SJGS Reclamation Trust Agreement