

JUN 31 1990

PURSUANT TO 807 KAR 5:011,

SECTION 9 (1)

BY: *George Sallee*
PUBLIC SERVICE COMMISSION MANAGER

WATER SERVICE CONTRACT

THIS CONTRACT, made this the 15 day of MAY, 1990, by and between WEBSTER COUNTY WATER DISTRICT, hereinafter referred to as "DISTRICT," of Route 2, Box 111A, Sebree, Webster County, Kentucky 42455, party of the first part, and PYRO MINING COMPANY, hereinafter referred to "PYRO," of P.O. Box 267, Sturgis, Union County, Kentucky 42459, party of the second part.

WITNESSETH:

That for and in consideration of the mutual covenants and considerations hereinsetforth, the parties hereto mutually agree as follows:

1. GRANT OF WATER: The DISTRICT agrees to furnish water to PYRO at its Baker Air/Manshaft and William Station Mine Facilities and to such other facilities as later may be constructed by PYRO adjacent to the water distribution system to be constructed from Highway 132 to Highway 270 to William Station Loop to Rock Springs along Highway 2837. All water shall be potable, treated water meeting applicable purity standards of the proper regulatory agency and will be furnished at a reasonably constant pressure in compliance with the requirement of the proper regulatory agencies.

2. QUANTITY OF WATER TO BE FURNISHED: The DISTRICT agrees to furnish PYRO, at its Baker Air/Manshaft Facility, a minimum of 1,000,000 gallons of water per month at a peak flow of 200 gallons per minute.

The DISTRICT agrees to furnish PYRO, at its William Station Mine, a minimum quantity of water equal to the actual average usage of water by PYRO based upon its prior purchases from the Union County Water District.

In the event PYRO constructs additional facilities adjacent to the water distribution system, referred to herein, service of water will be provided by the DISTRICT based upon the availability of water.

Should PYRO demand a quantity of water in excess of that amount, set forth herein, it is specifically agreed by the parties that residential use of water from the DISTRICT shall take priority over use of water by PYRO. In the event the DISTRICT is unable to supply its residential customers with water in accordance to the rules and regulations of the proper regulatory agencies, then the DISTRICT shall have the right to restrict the use of water by PYRO in such amounts and for such periods of time as may be reasonably necessary to satisfactorily supply the residential customers.

In order to assist the DISTRICT to supply water to its residential customers, PYRO agrees to install and utilize a "surge tank" at its Baker Air/Manshaft facility to be used by PYRO during periods of peak use of water.

3. **METERING EQUIPMENT:** The DISTRICT shall furnish, install, and maintain all required metering devices. If any meter fails to register for any period, the DISTRICT will adjust all charges for water consumed by PYRO according to the procedure as approved by the Public Service Commission.

4. **BILLING PROCEDURE:** PYRO shall pay to the DISTRICT, for all water consumed, compensation based upon the rates as approved by the Kentucky Public Service Commission. The DISTRICT agrees to furnish to PYRO at P. O. Box 267; Sturgis, Kentucky 42459, not later than the 5th day of each month with an itemized statement of the amount of water furnished PYRO during the preceeding month. PYRO agrees to pay to the DISTRICT, not later than the 15th day of each month, for water delivered in accordance with the schedule of rates approved by the Kentucky Public Service Commission and failure to make payments by the date due shall cause a penalty to be imposed for late payment of ten (10%) percent of the total amount of the bill.

5. **INDUCEMENT FOR CONSTRUCTION OF WATER DISTRIBUTION LINE:** PYRO, in order to induce the DISTRICT to construct the water distribution line as described herein, agrees to pay to the DISTRICT the sum of ONE HUNDRED TWENTY FIVE THOUSAND (\$125,000.00) DOLLARS plus interest as hereinafter described. The DISTRICT will borrow the sum of ONE HUNDRED TWENTY FIVE THOUSAND (\$125,000.00) DOLLARS and PYRO will pay interest to the DISTRICT in an amount equal to the interest rate being paid by the DISTRICT, but not to exceed 8% per annum, on the \$125,000.00. The \$125,000.00 plus applicable interest will be paid in seventy-two (72) equally monthly payments to be added to the regular charges imposed by the DISTRICT for water service.

PYRO will furnish to the DISTRICT a Performance Bond, in a form satisfactory to the DISTRICT, to guarantee the DISTRICT that the \$125,000.00 plus interest will be paid according to the scheduled setforth herein.

6. **RIGHT-OF-WAY:** PYRO hereby grants to the DISTRICT right-of-ways over and through all lands owned or controlled by PYRO for the purpose of constructing, operating, maintaining and repairing the water line referred to herein.

7. **DATE OF COMMENCEMENT OF WATER SERVICE:** The DISTRICT agrees to proceed with all possible dispatch to construct the subject water line and service will be provided to PYRO as soon as possible and when all lines are in place.

PUBLIC SERVICE COMMISSION
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SECTION 9 (X)

BY: *George L. Sibley*
PUBLIC SERVICE COMMISSION MANAGER

8. **FAILURE TO DELIVER:** The DISTRICT, will at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish PYRO with the quantities of water required by PYRO subject to the restrictions set forth above. It is further agreed that temporary or partial failures to deliver water shall be remedied as quickly as possible with the conditions, circumstances and requirements being considered.

9. **REGULATORY AGENCIES:** This Contract is subject to such rules, regulations, or laws as may be applicable to similiar agreements in the Commonwealth of Kentucky and the DISTRICT and PYRO will collaborate in obtaining such permits, certificates or the like, as may be required to comply therewith.

10. **FURTHER CONDITIONS:** This Contract is subject to the following conditions:

(a) The DISTRICT shall be required, pursuant to the terms of this Contract, to supply water to PYRO along the line indicated only if the hydraulic analysis, to be performed by the engineers for the DISTRICT, shows that such a water distribution system is feasible and that the DISTRICT can supply the water to PYRO according to the rules and regulations of the proper regulatory agencies. In the event the hydraulic analysis should indicate that the DISTRICT can only effectively serve one (1) facility of PYRO, according to the terms of this agreement, then it is agreed that the Baker Air/Manshaft Facility shall have priority for service.

(b) This agreement to supply water to PYRO is based upon an engineers' estimate of the costs of the construction of the distribution system to be \$296,275.00. In the event the actual bids received for the construction of this system exceed this amount, then this Contract shall be void and the parties shall renegotiate its terms.

(c) Emergency failures of pressure or supply due to main supply lines breaks, power failure, flood, fire and the use of water to fight fire, earthquake or other catastrophes shall excuse the DISTRICT from its obligation to supply water service to PYRO during such emergencies.

(d) This Contract is subject to the approval of the Public Service Commission.

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PURSUANT TO KRS 192.010

1990.

This Contract is executed this 15 day of MAY,

WEBSTER COUNTY WATER DISTRICT

Aubrey Mooney
Aubrey Mooney, Chairman

PYRO MINING COMPANY

BY: Steve R. Whitsell
Steve R. Whitsell, Director
Of Surface Support Operations

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

JUN 31 1990

PURSUANT TO SECTION 100.02

BY: Chow
PUBLIC SERVICE COMMISSION