Appendix A: Sites

Boone County
Mohler Lumber Co. 68 Well Pad+ (date for purposes of Paragraph 9: Entry of Consent Decree)

Kanawha County
Sammy L. Stewart ETUX 1 Well Pad+ (date for purposes of Paragraph 9: Entry of Consent Decree)

Marshall County
Buzzard Impoundment* (date for purposes of Paragraph 9: December 15, 2010)
Elson (TCO) Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Evick Impoundment* (date for purposes of Paragraph 9: September 8, 2010)
Pleasant Ridge Compressor Station* (date for purposes of Paragraph 9: December 15, 2010)
Ray Baker Well Pad* (date for purposes of Paragraph 9: March 23, 2011)
Villers UIC* (date for purposes of Paragraph 9: December 15, 2010)

Mingo County
Pardee and Curtain Realty 16 WP+ (date for purposes of Paragraph 9: Entry of Consent Decree)

Preston County
Miller 1H (WV) Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)

Upshur County
Coastal Forest Resources Co 3+ (date for purposes of Paragraph 9: September 13, 2013)
Delmar Light Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Edward Gower Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
James (Red) Ogden Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Mike Ross Well Pad*+ (date for purposes of Paragraph 9: July 19, 2011)
Ralph G. Lipps Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Skinner Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Tall Trees Well Pad*+ (date for purposes of Paragraph 9: July 19, 2011)
Thomas Celestine ETUX 1+ (date for purposes of Paragraph 9: Entry of Consent Decree)

Wetzel County
Blake Fork Stream* (date for purposes of Paragraph 9: September 8, 2010)
CHK B / Lynn Camp Run* (date for purposes of Paragraph 9: September 8, 2010)
Durig Impoundment*+ (date for purposes of Paragraph 9: July 20, 2011)
Floyd Johnson Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Hohman Impoundment+ (date for purposes of Paragraph 9: September 13, 2013)
Rine Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Saber Well Pad+ (date for purposes of Paragraph 9: September 13, 2013)
Stansberry Well Pad* (date for purposes of Paragraph 9: March 23, 2011)

*Sites subject to EPA Administrative Order
+Sites disclosed to Plaintiffs by Defendant

Appendix B: Restoration and Mitigation Work Plan

This Work Plan sets forth the procedures applicable to the restoration work to be undertaken by Chesapeake Appalachia, LLC ("Defendant") pursuant to the Consent Decree among the United States of America, the State of West Virginia (by and through the West Virginia Department of Environmental Protection) and Defendant. This Work Plan is incorporated into the Consent Decree.

The sites covered by this Work Plan (collectively, the "Restoration Sites") are those listed in Appendix A to the above-referenced Consent Decree, except for the Restored Sites listed in Appendix C to the Consent Decree.

I. Delineation Reports

a. For each Restoration Site for which a delineation report has not been approved by EPA, Defendant shall submit a predisturbance wetland and stream delineation ("Delineation Report") to the U.S. Environmental Protection Agency ("EPA") for review and approval. Defendant shall utilize a methodology for identifying wetlands and streams in disturbed and undisturbed areas consistent with methods accepted by the EPA and the U.S. Army Corps of Engineers ("Corps").

b. Defendant shall submit Delineation Reports for all Restoration Sites within 120 days of the entry of the Consent Decree. Delineation Reports submitted to and approved by EPA prior to the entry of the Consent Decree will satisfy this requirement.

c. After review of the Delineation Report, EPA will: a) approve the Report, in whole or in part; b) approve the Report upon specified conditions; c) disapprove the Report, in whole or in part; or d) any combination of the above. EPA may disapprove the Delineation Report, in whole or in part, based on EPA's determination that the Report is not in accordance with the objectives of the Consent Decree and the CWA (and the West Virginia WPCA, as applicable).

d. If EPA disapproves all or part of a Delineation Report, Defendant shall, within 60 days of receipt of EPA's disapproval, address the reasons provided for disapproval and resubmit the Delineation Report for approval. If a Delineation Report submitted pursuant to this provision is disapproved in whole or in part three times or more, EPA, in consultation with the Corps and the State, may itself correct the deficiencies in the Report, subject to Defendant's right to invoke Dispute Resolution pursuant to Section VIII of the Consent Decree.

II. Restoration Plans and Mitigation Plans

a. Within 120 days of EPA's approval of each Delineation Report, Defendant shall submit a detailed Restoration Plan for the applicable Restoration Site to EPA for approval. The Restoration Plan must (a) be designed to restore the Restoration Site to approximate pre-disturbance original conditions consistent with the definition of restoration found in 40 C.F.R. § 230.92; (b) include a schedule for implementation; (c) include compensation for impacts to streams and wetlands using the West Virginia Stream and Wetland Valuation Metric

("WVSWVM") to determine the appropriate amount of mitigation needed to offset permanent and temporal losses to aquatic resources; (d) ensure that restored areas are stabilized so as to avoid landslides or slips, (e) utilize only native West Virginia species for planting; (f) incorporate quantitative performance measures; (g) establish a calculation of surplus credits, if any; and (h) include a post-restoration monitoring plan for a period of five years.

b. At the end of five years, upon EPA's agreement that the measures have been substantially achieved, no further monitoring is required and the Restoration Site is released from further review (except for the Unrestricted AO Sites, as defined below). For any Restoration Site subject to an Administrative Order on the date of the Consent Decree (as indicated on Appendix A) at which Defendant has not secured permanent preservation (an "Unrestricted AO Site"), upon EPA's agreement that the measures have been substantially achieved after five years at such Unrestricted AO Site, Defendant shall conduct post-restoration monitoring in the seventh year following restoration. Upon EPA's agreement that the measures have been substantially achieved after seven years at any Unrestricted AO Site, Defendant shall conduct post-restoration monitoring in the tenth year following restoration. If EPA disagrees that the measures have been substantially achieved after seven years at any Unrestricted AO Site, Defendant shall also conduct monitoring in the eighth, ninth, and tenth years following restoration. For any Restoration Site where EPA has not yet agreed that the measures have been substantially achieved, Defendant shall (i) conduct monitoring annually at such Restoration Site until EPA agrees that the measures have been substantially achieved, for no more than a total of ten years, and (ii) if the measures have never been substantially achieved after a total of ten years, Defendant shall submit to EPA a plan for achieving the performance criteria and further monitoring, and/or propose offsite mitigation in accordance with Section II(f) of Appendix B.

c. After review of the Restoration Plan, EPA will: a) approve the Plan, in whole or in part; b) approve the Plan upon specified conditions; c) disapprove the Plan, in whole or in part; or d) any combination of the above. EPA may disapprove the Restoration Plan, in whole or in part, based on EPA's determination that the Plan is not in accordance with the objectives of the Consent Decree and the CWA (and the West Virginia WPCA, as applicable).

e. If EPA disapproves all or part of a Restoration Plan, Defendant shall, within 60 days of receipt of EPA's disapproval, address the reasons for disapproval and resubmit the Restoration Plan for approval. If a Restoration Plan submitted pursuant to this provision is disapproved in whole or in part three times or more, EPA, in consultation with the Corps and the State, may itself correct the deficiencies in the Plan and require restoration in accordance with the plan developed by EPA, subject to Defendant's right to invoke Dispute Resolution pursuant to Section VIII of the Consent Decree.

f. In the event that the impacted aquatic resources cannot be restored at any Restoration Site in accordance with an approved Restoration Plan due to lack of access after the procedures in Section VI of this Appendix B have been satisfied, Defendant shall notify EPA and develop and submit to EPA a Mitigation Plan. The Mitigation Plan must be submitted to EPA within 60 days of Defendant determining that such Mitigation Plan must be submitted pursuant to this Paragraph. The Mitigation Plan must use WVSWVM to determine the appropriate amount of mitigation needed to compensate for any resources that cannot be restored in accordance with the approved Restoration Plan. Defendant may satisfy any such additional mitigation obligations by

(i) applying excess mitigation credits established at other Sites in accordance with Paragraph 27(d)(ii) of the Consent Decree, (ii) purchasing additional mitigation credits from mitigation banks authorized to sell offsite mitigation credits, (iii) proposing a mitigation project to be completed or funded by Defendant that includes long-term protection for mitigation areas via a conservation easement or a deed restriction, or (iv) otherwise undertaking compensatory mitigation in a manner consistent with 40 C.F.R. §§ 230.91-230.98 (2013). A single Mitigation Plan may be used to compensate for unrestored impacts at multiple sites within an 8-digit HUC watershed; provided, however, that Defendant shall apply the first 7.96 excess stream mitigation credits generated pursuant to Paragraph 27(d)(i) of the Consent Decree to the Miller 1H(WV) Well Pad regardless of the location of the Site from which such excess credits are generated.

g. After review of Defendant's Mitigation Plan, EPA will: a) approve the Plan, in whole or in part; b) approve Plan upon specified conditions; c) disapprove the Plan, in whole or in part, or d) any combination of the above. EPA may disapprove the Mitigation Plan, in whole or in part, based on EPA's determination that the impacted aquatic resources can be fully restored.

h. If EPA disapproves all or part of a Mitigation Plan, Defendant shall, within 60 days of receipt of EPA's disapproval, address the reasons for disapproval and resubmit the Mitigation Plan for approval. If a Mitigation Plan submitted pursuant to this provision is disapproved in whole or in part three times or more, EPA, in consultation with the Corps and the State, may itself correct the deficiencies in the Plan and require mitigation in accordance with a plan developed by EPA, subject to Defendant's right to invoke Dispute Resolution pursuant to Section VIII of the Consent Decree.

III. Restoration and Mitigation

Upon approval of a Restoration Plan (either with or without conditions or modifications by EPA), the Restoration Plan is incorporated into this Appendix B, and Defendant shall implement the Plan as approved or modified by EPA. Upon approval of a Mitigation Plan (either with or without conditions or modifications by EPA), the Mitigation Plan is incorporated into this Appendix B, and Defendant shall implement the Plan as approved or modified by EPA. Restoration and mitigation work at each Restoration Site shall be executed in accordance with the approved schedule.

IV. Communications

All other correspondence related to this Work Plan should be submitted to the EPA representatives to whom communications are to be made pursuant to Paragraph 60 of the Consent Decree.

V. Extensions of the Timeframes Above

Defendant shall perform the actions required by this Work Plan within the time limits set forth herein. EPA recognizes that delineation and restoration activities may be delayed because of unanticipated seasonal and weather conditions, issues relating to landowner access, and leases and other transfers or conveyances of possession of Restoration Sites. Extension requests based on these issues will not be unreasonably denied.

VI. Access to Third-Party Sites

a. If any Site or Restoration Site is owned or controlled by persons other than Defendant, Defendant shall use best efforts to secure from such persons an agreement to provide access to the Site for Defendant, the United States, the State, and their representatives, contractors, and subcontractors, to conduct any activity pursuant to the Consent Decree including, but not limited to, the activities set forth in this Work Plan and Paragraph 40 of the Consent Decree. "Best efforts" for the purposes of this Paragraph VI includes efforts commenced no later than 30 days after EPA's approval of a Restoration Plan or development of a Restoration Plan pursuant to Section III of this Work Plan, or no later than 30 days after entry of the Consent Decree for Sites with previously-approved restoration plans, and, to the extent Defendant's access rights at any Restoration Sites are insufficient to implement the applicable Restoration Plan, includes an offer of reasonable compensation to obtain such additional rights.

b. If, within 90 days of EPA's approval of a Restoration Plan or development of a Restoration Plan pursuant to Section III of this Work Plan, or within 90 days after entry of the Consent Decree for Sites with previously-approved restoration plans, Defendant has not obtained an agreement to provide access as described above, Defendant shall promptly notify Plaintiffs in writing at the addresses set forth in Section XI of the Consent Decree, and shall include in that notification a summary of the steps that Defendant has taken to attempt to comply with this Paragraph VI. The United States may, in its unreviewable discretion, assist Defendant in obtaining access. If Defendant has used best efforts and access is not obtained by Defendant or the United States for any reason, and Defendant is unable to complete its obligations under the Consent Decree, then Defendant shall, consistent with Section II of this Work Plan, provide compensatory mitigation to off-set the loss of any areas that could not be restored due to lack of access.

Appendix C: Restored Sites

Blake Fork Stream
CHK B / Lynn Camp Run

Appendix D: Model Conservation Easement

Prepared by: [AUTHOR]

GRANT OF CONSERVATION EASEMENT

This Grant of Conservation Easement is made this [DATE] day of [MONTH], 201[X], by [GRANTOR], whose address is [ADDRESS], located in [CITY], [COUNTY], [STATE], hereinafter referred to as "Grantor", in favor of the [GRANTEE], hereinafter referred to as "Grantee," with the United States Environmental Protection Agency ("EPA"), the West Virginia Department of Environmental Protection ("WVDEP") and the United States Army Corps of Engineers ("USACE") as Third-Party Beneficiaries with rights as provided in this Conservation Easement, pursuant to the West Virginia Code, Chapter 20, Article 12, Conservation and Preservation Easements Act, § 20-12-2 et. seq.

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property located in the [PROPERTY TITLE] (hereinafter "the Property"), and the Property is also described in a deed of record in the office of the Clerk of the County Commission, [COUNTY] at Deed Book [BOOK], Page [PAGE]; and

WHEREAS, that certain portion of the surface of the Property described on Exhibit A attached hereto (the "Conserved Area") possesses open space and natural values (collectively, "Conservation Values") of great importance to Grantor, the people of [COUNTY], and the people of the State of West Virginia, and all current and future generations of mankind; and

WHEREAS, the Legislature of the State of West Virginia ("Legislature") has recognized the importance and significant public benefit of conservation and preservation easements in its ongoing efforts to protect the natural, historic, agricultural, open-space and scenic resources of the State of West Virginia; and

WHEREAS, Grantee qualifies as a "holder" pursuant to W. Va. Code § 20-12-3; and

WHEREAS, Grantor, having the authority to do so, intends to enter into this Conservation Restriction in order to grant to Grantee a Conservation Easement on the Property to restrict subsequent disturbance and/or development of the Conserved Area in perpetuity; and

WHEREAS, Grantee affirms that this Conservation Easement represents a unique and valuable asset to the quality of life in [COUNTY] and the state of West Virginia and that by the acceptance of this Conservation Easement that it will act in good faith to uphold the conservation

easement and not seek to benefit from its conversion or elimination. Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Conserved Area for the benefit of this generation and the generations to come in the future; and

WHEREAS, preservation of the Conserved Area is consistent with a central objective of a Consent Decree in the matter of [*Case name*], Civil Action No. _____ ("CALLC CD"), Grantor and Grantee agree that USACE, EPA, and WVDEP, and their successor agencies (collectively "Third Parties"), are third-party beneficiaries under this conservation easement, except that nothing herein creates a property interest in the Federal Government of the State of West Virginia with regard to the Conserved Area;

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the facts recited above and the terms, conditions and restrictions contained herein, Grantor hereby agrees that the Conserved Area shall be subject in perpetuity to the following conveyances, covenants and restrictions in favor of Grantee:

1. Grantor hereby conveys, transfers, assigns and grants to Grantee a Conservation Easement with respect to the Conserved Area.

2. This Grant of Conservation Easement shall be a burden upon and shall run with the Conserved Area, and shall bind Grantor, its successors and assigns, in perpetuity.

3. The following activities are prohibited in the Conserved Area, except as necessary for the control of alien invasive or noxious plant or animal species or as necessary to accomplish restoration and/or mitigation described in Paragraph 9:

    a. Removal, excavation, dredging, or disturbance of the surface;

    b. Dumping of, storage of, or filling with soil, rock, biological material, trash, ashes, garbage, waste, or other materials;

    c. Draining, impounding, or impairing the flow or circulation, or reducing the reach of waters, including wetlands; or any other discharge or activity requiring a permit under applicable clean water or water pollution control laws and regulations, as amended;

    d. Installation of structures;

    e. Placement of pavement or other impervious materials;

    f. Alteration of the existing pattern of vegetation through removal, destruction, or planting of vegetation;

    g. Except to the extent necessary to return the Conserved Area to a use consistent with its use prior to Chesapeake Appalachia, LLC's ("CALLC's") initial entry

onto the Conserved Area, conversion of, or expansion into, any portion of the Conserved Area for use of agricultural, horticultural, aquacultural, silvicultural, livestock production, or grazing activities. This prohibition also includes conversion from one type of these activities to another (e.g., from agricultural to silvicultural);

h. The use of fertilizers, herbicides or pesticides;

i. Removal, clearing, pruning, or mowing of live vegetation, including trees, unless Grantor demonstrates to Grantee that such removal will result in habitat enhancement or to prevent a safety hazard, and Grantor has received written approval of Grantee;

j. The use of the Conserved Area to provide required open space for the development or subdivision of another property or to determine any other permissible residential, commercial or agricultural uses of another property; or any legal or de facto division, subdivision or portioning of the Conserved Area;

k. Any other use of or activity in the Conserved Area that is inconsistent with the purpose of this Grant of Conservation Easement.

4. Grantor shall record this Conservation Easement in the Land Records of the county or counties where the property is located within sixty (60) days of the effective date of this Conservation Easement. Grantor shall provide Grantee, CALLC and Third Parties with proof of recordation and give notice of this Grant of Conservation Easement to current record title holders of easements in the Conserved Area within thirty (30) days of recording by the County Clerk.

5. Notwithstanding any provisions to the contrary, this Grant of Conservation Easement is subject to and subordinate to any existing and duly recorded rights with respect to the Conserved Area. All structures, infrastructure, as well as all pre-existing easements or other duly recorded rights in the Conserved Area identifiable through a title search extending to documents placed of record within twenty (20) years prior to the date of this Grant of Conservation Easement, shall be indicated on Exhibit A, which is attached to this instrument and includes a copy of the most recent property deed for the Property and a legal description sufficient to identify the boundaries of the Conserved Area. Grantor certifies to Grantee and Third Parties that to Grantor's actual knowledge, there are no previously granted easements existing in the Conserved Area that interfere or conflict with the purpose of this Grant of Conservation Easement.

6. All mortgages and deeds of trust granted or entered into after the date hereof affecting the Conserved Area will be subordinate to the rights of Grantee under this Grant of Conservation Easement.

7. Grantee, CALLC and Third Parties shall have the right to:

a. enter upon the Conserved Area for the purpose of inspecting the Conserved Area to determine compliance with the purposes and terms of this Grant of Conservation Easement, or for any other purpose authorized by this easement or by the CALLC CD. When practicable, such entry shall be upon prior reasonable notice to the property owner. This right of entry is in addition to and does not limit any right of entry otherwise granted by Federal or State law;

b. take any and all action within the Conserved Area necessary to address a situation that poses an immediate risk to health, life, property or the environment; and

c. take any and all action within the Conserved Area required by Federal or State law or approved by the Third Parties.

8. In the event of a breach of this Conservation Easement by Grantor or another party, Grantee and/or Third Parties shall notify Grantor of the breach. If Grantor fails to take corrective action within 60 days of such notice, Grantee and/or Third Parties may undertake actions to effect such corrective action, including bringing a judicial action against any person(s) or entity(ies) violating or attempting to violate this Conservation Easement: provided, however, that no violation of this Conservation Easement shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing party shall be entitled to a complete restoration for any violation, as well as any other judicial remedy such as civil penalties. The costs of breach, correction and/or restoration, including Grantee's and/or Third Parties' expenses, court costs, and attorney's fees, shall be paid by Grantor, provided Grantor is determined to be responsible for the breach. Enforcement shall be at the discretion of Grantee and/or Third Parties, and no omissions or delay in acting shall constitute a waiver of any enforcement right. These rights are in addition to, and shall not limit, enforcement rights available under other provisions of law or equity, under any applicable permit or certification, or under the CALLC CD.

9. CALLC and/or its contractors shall have the right to enter upon the Conserved Area for the purpose of performing any work required by a restoration or mitigation plan approved under the Chesapeake CD, including construction, planting, maintenance, monitoring, long-term management, or any other restoration, enhancement, or mitigation work specified therein, provided such work is conducted in accordance with such approved plan.

10. Grantor shall provide Grantee, CALLC and Third Parties written notice of any transfer or change in ownership of, or of the execution of any subsequent easement affecting, any portion of the Conserved Area, including but not limited to the name and address of the new owner at least thirty (30) days prior to the transfer or change in ownership, or execution of such easement.

11. Grantor agrees that the terms, conditions, restrictions and purposes of this Conservation Easement will be inserted in any subsequent deed, subdivision deed, lease, sub-lease or other legal instrument by which Grantor divests itself of any interest in any portion of the Conserved Area. Notwithstanding the failure of Grantor to include the terms and

restrictions of this instrument, it shall run with the land and be binding on all heirs, successors and assigns.

12. Any notice, demand, request, consent, approval or communication under this Conservation Easement shall be sent by certified mail, return receipt requested or reliable overnight courier, addressed as follows:

To Grantor:

_____
_____
_____

To Grantee:

_____
_____
_____

To CALLC:

(1) Chief Compliance Officer
Chesapeake Appalachia, LLC
6100 N. Western Ave.
Oklahoma City, OK 73118

(2) Jason B. Hutt
Richard Alonso
Bracewell & Giuliani LLP
2000 K St. NW, Suite 500
Washington, D.C. 20006

To Third Parties:
TO EPA:

(1) Stefania D. Shamet
Senior Assistant Regional Counsel
Water and General Law Branch
Office of Regional Counsel
United States Environmental Protection Agency
Region III
MC 3RC20
1650 Arch St.
Philadelphia, PA 19103-2029

(2) Associate Director, Office of Environmental Programs

Environmental Assessment and Innovation Division
United States Environmental Protection Agency
Region III
MC 3EA40
1650 Arch St.
Philadelphia, PA 19103-2029

TO THE CORPS:

Dana M. Adipietro
Assistant District Counsel
U.S. Army Corps of Engineers
Pittsburgh District
1000 Liberty Ave., 22nd Floor
Pittsburgh, PA 15222

Jon Coleman
Chief, Southern Section, Regulatory Branch
U.S. Army Corps of Engineers
Pittsburgh District
1000 Liberty Ave., 22nd Floor
Pittsburgh, PA 15222

TO WVDEP:

Chief Inspector
Environmental Enforcement
West Virginia Department of Environmental Protection
601 57th St.
Charleston, WV 25304

Chief
Office of Oil and Gas
West Virginia Department of Environmental Protection
601 57th St.
Charleston, WV 25304

13. A party may change the address or person to whom notices to it are required to be given by notice given in the manner above provided.

14. Grantor reserves to itself, its successors or assigns, all rights as owners of the Property, including the right to engage in all uses of the Conserved Area not inconsistent with the purpose and terms of this Conservation Easement and the right to manage the Conserved Area in accordance with the provisions of the West Virginia Conservation and Preservation Easements Act, West Virginia Code 20-12-1, *et seq*.

15. This instrument conveys no additional right of access by the general public to any portion of the Property.

16. Grantor shall be responsible for acts of its own negligence consistent with the provisions of the West Virginia Conservation and Preservation Easements Act, West Virginia Code 20-12-1, *et seq*.

17. This Conservation Easement shall survive any merger of the fee and restriction interest in the Conserved Area.

18. Upon prior written notice to Grantor, CALLC and Third Parties, Grantee may assign its rights under this Grant of Conservation Easement to any qualified holder satisfying the definition set forth in West Virginia Code Chapter 20-12-3. No assignment may be made unless Grantee, as a condition of such assignment, requires the assignee to carry out the conservation purposes and terms of this Grant of Conservation Easement. If any such assignee ceases to exist, ceases to be a qualified holder under West Virginia Code Chapter 20-12-3, or abandons this easement or the rights and duties of enforcement herein set forth, or if proceedings are instituted for condemnation of this Grant of Conservation Easement, the Easement and rights of enforcement shall revert to Grantee. If Grantee shall be dissolved and if the terms of the dissolution fail to provide a successor, then the Court shall appoint a successor using the doctrine of *cy pres*.

19. Taxes, Insurance.

    a. Grantor shall keep Conserved Area free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

    b. Grantor agrees to pay any real estate taxes or other assessments levied on the Conserved Area. If Grantor becomes delinquent in payment of said taxes or assessments, such that a lien against the land is created, Grantee, at its option, shall, after written notice to Grantor, have the right to purchase and acquire Grantor's interest in the Conserved Area or to take such other actions as may be necessary to protect Grantee's interest in the Conserved Area and to assure the continued enforceability of this Conservation Easement.

20. Eminent Domain, Proceeds.

    a. Whenever all or part of the Conserved Area is taken in the exercise of eminent domain so as to substantially abrogate the restrictions imposed by this Conservation Easement, the Grantor and Grantee shall join in appropriate actions at the time of such taking to recover the full value of the taking, and all incidental and direct damages due to the taking.

    b. In the event that all or a portion of this Conserved Area is sold, exchanged, or involuntarily converted following an extinguishment or the exercise of eminent

domain, Grantee shall be entitled to the proceeds of such sale, exchange or conversion. Grantee shall use its share of the proceeds in a manner consistent with the purpose of this Grant of Conservation Easement, and in consultation with Third Parties.

21. Miscellaneous.

a. The laws of the State of West Virginia shall govern the interpretation and performance of this Conservation Easement.

b. If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

c. This Conservation Easement sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the easement, all of which are merged herein. No alteration or variation of this Conservation Easement shall be valid or binding unless contained in a writing executed by the parties hereto.

d. Should there be more than one Grantor, the obligations imposed by this Conservation Easement upon each Grantor shall be joint and several.

e. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and all parties having or acquiring any right, title or interest in the Conserved Area, including holders of subdivision deeds, and shall continue as a servitude running in perpetuity with the Conserved Area.

f. The captions in this Conservation Easement have been inserted solely for convenience of reference and are not a part of this Conservation Easement and shall have no effect upon construction or interpretation.

g. Execution of this Conservation Easement does not constitute a waiver of the rights or ownership interest of the State of West Virginia in public trust property.

h. This Conservation Easement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument.

22. Notwithstanding anything contained herein to the contrary, except for de minimis modifications as discussed below, any modification or termination of this Conservation Easement shall require the prior written approval of Grantee, its successors or assigns, and Third Parties. Amendments to this Conservation Easement must be in writing by all parties hereto, and must be consistent with the conservation purposes of this Grant.

Grantor shall record any modification or termination of this Conservation Easement in the Land Records of the county or counties where the Conserved Area is located within sixty (60) days of executing such a modification or termination. Grantor shall provide Grantee, CALLC and Third Parties with proof of recordation within thirty (30) days of recording by the County Clerk. Grantor reserves unto itself the right to undertake de minimis modifications of the Conserved Area that are approved by Grantee. A "de minimis modification" is a modification that results in an increased level of protection of or does not affect the natural resources protected by this Conservation Easement within the Conserved Area.

23. For any modification, transfer, conveyance, or assignment accomplished under paragraphs 10, 18 or 22, Grantor shall amend this instrument by preparing and submitting to Grantee for review and approval:

    a. A revised plan and metes and bounds description for the area to be preserved under the modified Conservation Easement (hereinafter the "Modification Documents"); and

    b. An Amended Conservation Easement that reflects the modifications to the original Conservation Easement, the justification for the modification, and that also includes the deed book and page of the title deed for the property or properties subject to the modified Conservation Easement set forth in the Modification Documents.

24. Grantor shall record the documents listed in paragraph 23, above, in the same manner and place as this original Conservation Easement was recorded.

25. This Grant of Conservation Easement may only be removed pursuant to West Virginia Code 20-12-4 and consistent with this Grant of Conservation Easement.

TO HAVE AND TO HOLD unto [GRANTEE], its successors and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall not only be binding upon Grantor but also upon its agents, personal representatives, executors, assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Conserved Area.

IN WITNESS WHEREOF, Grantor has set its hand and seal on the day and year first above written, and directs that this instrument be recorded in the office of the [RELEVANT COUNTY].

[GRANTOR]

By:_____

United States, et al. v. CALLC (N.D.W. Va.)

Name:_____
Title:_____

United States, et al. v. CALLC (N.D.W. Va.)

STATE OF _____
COUNTY OF _____

Be it remembered that on this ____ day of _____, 20__, before me, the subscriber, a Notary Public, personally appeared: [NAME] and he thereupon acknowledged that he signed the foregoing instrument in such capacity, and that said instrument is the voluntary act of deed of said [NAME].

_____
Printed Name:_____
A Notary Public of _____

My Commission Expires: _____

EXHIBIT A

CONSERVED AREA

EXHIBIT B

CONSENT TO COMPLY WITH GRANT OF CONSERVATION EASEMENT

With respect to its rights in the "Conserved Area," as defined in the Grant of Conservation Easement made on [DATE] by [GRANTOR], whose address is [ADDRESS], located in [CITY], [COUNTY], [STATE], in favor of [GRANTEE], Chesapeake Appalachia, LLC, hereby expressly consents to comply with the restriction of said Grant of Conservation Easement. This Consent is made pursuant to West Virginia Code § 20-12-4(d).

By: Chesapeake Appalachia, LLC _____
Name: _____
Title: _____

Appendix E: Model Deed Restriction

Prepared by: [AUTHOR]

DEED RESTRICTION

THIS DECLARATION OF DEED RESTRICTIONS FOR CONSERVATION ("Declaration") made this _____ day of _____, 2013, by [*Name of Landowner*] ("Grantor"), having an address at _____;

WITNESSETH:

WHEREAS, [GRANTOR] is the owner of certain real property located in the [PROPERTY TITLE] (hereinafter "the Property"), and the Property is also described in a deed of record in the office of the Clerk of the County Commission, [COUNTY] at Deed Book [BOOK], Page [PAGE]; and

WHEREAS, Grantor, having the authority to do so, intends to record this Declaration in order to restrict subsequent disturbance and/or development of that certain portion of the surface of the Property described on Exhibit A attached hereto (the "Conserved Area") in perpetuity;

WHEREAS, the Conserved Area possesses open space and natural values (collectively, "Conservation Values") of great importance to Grantor, the people of [COUNTY], and the people of the State of West Virginia, and all current and future generations of mankind; and

WHEREAS, preservation of the Conserved Area is consistent with a central objective of a Consent Decree in the matter of [*Case name*], Civil Action No. _____ ("CALLC CD"), Grantor agrees that USACE, EPA, and WVDEP, and their successor agencies (collectively "Third Parties"), are third-party beneficiaries under this Declaration, except that nothing herein creates a property interest in the Federal Government or the State of West Virginia with regard to the Conserved Area;

NOW THEREFORE, Grantor hereby agrees that the Conserved Area shall be subject in perpetuity to the following conveyances, covenants and restrictions:

1. This Declaration shall be a burden upon and shall run with the Conserved Area, and shall bind Grantor, its successors and assigns, in perpetuity. Grantor shall record this Declaration in the Land Records of the county or counties where the Property is located within sixty (60) days of the effective date of this Declaration. Grantor shall provide CALLC and Third Parties with proof of recordation and give notice of this Declaration to current record title holders of easements in the Conserved Area within thirty (30) days of recording by the County Clerk.

2. The following activities are prohibited in the Conserved Area, except as necessary for the control of alien invasive or noxious plant or animal species or as necessary to accomplish restoration and/or mitigation described in Paragraph 7:

   a. Removal, excavation, dredging, or disturbance of the surface;

   b. Dumping of, storage of, or filling with soil, rock, biological material, trash, ashes, garbage, waste, or other materials;

   c. Draining, impounding, or impairing the flow or circulation, or reducing the reach of waters, including wetlands; or any other discharge or activity requiring a permit under applicable clean water or water pollution control laws and regulations, as amended;

   d. Installation of structures;

   e. Placement of pavement or other impervious materials;

   f. Alteration of the existing pattern of vegetation through removal, destruction, or planting of vegetation;

   g. Except to the extent necessary to return the Conserved Area to a use consistent with its use prior to Chesapeake Appalachia, LLC's ("CALLC's") initial entry onto the Conserved Area, conversion of, or expansion into, any portion of the Conserved Area for use of agricultural, horticultural, aquacultural, silvicultural, livestock production, or grazing activities. This prohibition also includes conversion from one type of these activities to another (e.g., from agricultural to silvicultural);

   h. The use of fertilizers, herbicides or pesticides;

   i. Removal, clearing, pruning, or mowing of live vegetation, including trees, unless Grantor demonstrates that such removal will result in habitat enhancement or to prevent a safety hazard, and Grantor has received written approval of the West Virginia Department of Environmental Protection;

   j. The use of the Conserved Area to provide required open space for the development or subdivision of another property or to determine any other permissible residential, commercial or agricultural uses of another property; or any legal or de facto division, subdivision or portioning of the Conserved Area;

   k. Any other use of or activity in the Conserved Area that is inconsistent with the purpose of this Declaration.

3. It is the purpose of the Declaration to assure that the Conserved Area will be maintained as such and to prevent any unauthorized disturbance and/or development to the Conserved Area.

4. Notwithstanding any provisions to the contrary, this Declaration is subject to and subordinate to any existing and duly recorded rights with respect to the Conserved Area. All structures, infrastructure, as well as all pre-existing easements or other duly recorded rights in the Conserved Area identifiable through a title search extending to documents placed of record within twenty (20) years prior to the date of this Declaration, shall be indicated on Exhibit A, which is attached to this instrument and includes a copy of the most recent property deed for the Property and a legal description sufficient to identify the boundaries of the Conserved Area. Grantor certifies that to Grantor's actual knowledge, there are no previously granted easements existing in the Conserved Area that interfere or conflict with the purpose of this Declaration.

5. All mortgages and deeds of trust granted or entered into after the date hereof affecting the Conserved Area will be subordinate to this Declaration.

6. The Conserved Area is subject to the CALLC CD. Each deed, title or other instrument conveying an interest in the Conserved Area shall contain a notice stating that the Property is subject to the CALLC CD and shall reference the recorded location of the CALLC CD and any restrictions applicable to the Property under the CALLC CD.

7. CALLC and Third Parties shall have the right to:

   a. enter upon the Conserved Area for the purpose of inspecting the Conserved Area to determine compliance with the purposes and terms of this Declaration, or for any other purpose authorized by this Declaration or by the CALLC CD. When practicable, such entry shall be upon prior reasonable notice to the property owner. This right of entry is in addition to and does not limit any right of entry otherwise granted by Federal or State law;

   b. take any and all action within the Conserved Area necessary to address a situation that poses an immediate risk to health, life, property or the environment; and

   c. take any and all action within the Conserved Area required by Federal or State law or approved by the Third Parties.

8. Grantor grants to Third Parties a discretionary right to enforce this Declaration. In the event of a breach of this Declaration by Grantor or another party, Third Parties shall notify Grantor of the breach. If Grantor fails to take corrective action within 60 days of such notice, Third Parties may undertake actions to effect such corrective action, including bringing a judicial action against any person(s) or entity(ies) violating or attempting to violate this Declaration: provided, however, that no violation of this Declaration shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing party shall be entitled to a complete restoration for any violation, as well as any

other judicial remedy such as civil penalties. The costs of breach, correction and/or restoration, including Third Parties' expenses, court costs, and attorney's fees, shall be paid by Grantor, provided Grantor is determined to be responsible for the breach. Enforcement shall be at the discretion of Third Parties, and no omissions or delay in acting shall constitute a waiver of any enforcement right. These rights are in addition to, and shall not limit, enforcement rights available under other provisions of law or equity, under any applicable permit or certification, or under the CALLC CD.

9. CALLC and/or its contractors shall have the right to enter upon the Conserved Area for the purpose of performing any work required by a restoration or mitigation plan approved under the CALLC CD, including construction, planting, maintenance, monitoring, long-term management, or any other restoration, enhancement, or mitigation work specified therein, provided such work is conducted in accordance with such approved plan.

10. Grantor reserves to itself, its successors or assigns, all rights as owners of the Property, including the right to engage in all uses of the Conserved Area not inconsistent with the purpose and terms of this Declaration.

11. Grantor shall provide CALLC and Third Parties written notice of any transfer or change in ownership of, or of the execution of any subsequent easement affecting, any portion of the Conserved Area, including but not limited to the name and address of the new owner at least thirty (30) days prior to the transfer or change in ownership, or execution of such easement.

12. Grantor agrees that the terms, conditions, restrictions and purposes of this Declaration will be inserted in any subsequent deed, subdivision deed, lease, sub-lease or other legal instrument by which Grantor divests itself of any interest in any portion of the Conserved Area. Notwithstanding the failure of Grantor to include the terms and restrictions of this instrument, it shall run with the land and be binding on all heirs, successors and assigns.

13. Notwithstanding anything contained herein to the contrary, any modification or termination of this Declaration shall require the prior written approval of Third Parties. Amendments to this Declaration must be in writing, and must be consistent with the conservation purposes of this Declaration. Grantor shall record any modification or termination of this Declaration in the Land Records of the county or counties where the Conserved Area is located within sixty (60) days of executing such a modification or termination. Grantor shall provide CALLC and Third Parties with proof of recordation within thirty (30) days of recording by the County Clerk.

14. For any modification, transfer, conveyance, or assignment accomplished under paragraphs 10 or 11, Grantor shall amend this instrument by preparing and submitting:

    a. A revised plan and metes and bounds description for the area to be preserved under the Declaration (hereinafter the "Modification Documents"); and

b. An Amended Declaration of Deed Restrictions that reflects the modifications to the original Declaration, the justification for the modification, and that also includes the deed book and page of the title deed for the property or properties subject to the modified Declaration set forth in the Modification Documents.

15. Grantor shall record the documents listed in paragraph 12, above, in the same manner and place as this original Declaration was recorded.

16. Miscellaneous.

a. The laws of the State of West Virginia shall govern the interpretation and performance of this Declaration.

b. If any provision of this Declaration or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Declaration, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

c. Should there be more than one Grantor, the obligations imposed by this Declaration upon each Grantor shall be joint and several.

d. The covenants, terms, conditions and restrictions of this Declaration shall continue as a servitude running in perpetuity with the Conserved Area.

e. The captions in this Declaration have been inserted solely for convenience of reference and are not a part of this Declaration and shall have no effect upon construction or interpretation.

f. The covenants, terms, conditions, restrictions and purposes imposed with this Declaration shall not only be binding upon Grantor but also upon its agents, personal representatives, executors, assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Conserved Area.

17. Any notice, demand, request, consent, approval or communication under this Declaration shall be sent by certified mail, return receipt requested or reliable overnight courier, addressed as follows:

To Grantor:

_____

_____

_____

To CALLC:

(3) Chief Compliance Officer
Chesapeake Appalachia, LLC
6100 N. Western Ave.
Oklahoma City, OK 73118

(4) Jason B. Hutt
Richard Alonso
Bracewell & Giuliani LLP
2000 K St. NW, Suite 500
Washington, D.C. 20006

To Third Parties:
TO EPA:

(1) Stefania D. Shamet
Senior Assistant Regional Counsel
Water and General Law Branch
Office of Regional Counsel
United States Environmental Protection Agency
Region III
MC 3RC20
1650 Arch St.
Philadelphia, PA 19103-2029

(2) Associate Director, Office of Environmental Programs
Environmental Assessment and Innovation Division
United States Environmental Protection Agency
Region III
MC 3EA40
1650 Arch St.
Philadelphia, PA 19103-2029

TO THE CORPS:

Dana M. Adipietro
Assistant District Counsel
U.S. Army Corps of Engineers
Pittsburgh District
1000 Liberty Ave., 22nd Floor
Pittsburgh, PA 15222

Jon Coleman
Chief, Southern Section, Regulatory Branch
U.S. Army Corps of Engineers
Pittsburgh District

1000 Liberty Ave., 22nd Floor
Pittsburgh, PA 15222

TO WVDEP:

Chief Inspector
Environmental Enforcement
West Virginia Department of Environmental Protection
601 57th St.
Charleston, WV 25304

Chief
Office of Oil and Gas
West Virginia Department of Environmental Protection
601 57th St.
Charleston, WV 25304

18. A party may change the address or person to whom notices to it are required to be given by notice given in the manner above provided.

IN WITNESS WHEREOF, Grantor has set its hand and seal on the day and year first above written, and directs that this instrument be recorded in the office of the [RELEVANT COUNTY].

[GRANTOR]

By:_____
Name:_____
Title:_____

United States, et al. v. CALLC (N.D.W. Va.)

STATE OF _____
COUNTY OF _____

Be it remembered that on this ____ day of _____, 20__, before me, the subscriber, a Notary Public, personally appeared: [NAME] and he thereupon acknowledged that he signed the foregoing instrument in such capacity, and that said instrument is the voluntary act of deed of said [NAME].

_____
Printed Name:_____
A Notary Public of _____

My Commission Expires: _____

EXHIBIT A

CONSERVED AREA

Appendix F: Mitigation Credit Analyses

TABLE 1 – Sites Subject to Conservation Easement or Deed Restriction

Site Name	County	Perennial Impact Length	Intermittent Impact Length	Ephemeral Impact Length	Stream Credit Balance	Wetland Impacts (acres)	Wetland Credit Balance
Mohler Lumber Co. 68 Well Pad	Boone	0	0	0	0	0.08	-0.11
Sammy L. Stewart ETUX 1 Well Pad	Kanawha	0	156	0	91.05	0	0
Buzzard Impoundment	Marshall	1270	230	0	619.01	1.75	0
Elson (TCO) Well Pad	Marshall	0	0	0	0	0.16	-0.44
Evick Impoundment	Marshall	495	75	0	496.54	0.25	-0.25
Pleasant Ridge Compressor Station	Marshall	0	77	292	22.20	0	0
Ray Baker Well Pad	Marshall	910	515	10	508.53	0	0
Villers UIC	Marshall	885	135	0	382.29	0	0
Pardee and Curtain Realty 16 WP	Mingo	0	67	0	-80.58	0	0
Miller 1H (WV) Well Pad	Preston	0	0	409	-7.96	0	0
Coastal Forest Resources Co 3	Upshur	0	0	0	0	0.25	-0.33
Delmar Light Well Pad	Upshur	0	30	0	0	0.01	-0.02
Edward Gower Well Pad	Upshur	26	286	0	57.13	0	0
James (Red) Ogden Well Pad	Upshur	0	197	0	-150.54	0.14	-0.35
Mike Ross Well Pad	Upshur	32	485	0	-19.93	0.14	-0.16*
Ralph G. Lipps Well Pad	Upshur	0	313	0	130.74	0	0
Skinner Well Pad	Upshur	272	0	0	95.39	0.06	-0.21
Tall Trees Well Pad	Upshur	600	500	0	198.32	0.25	-0.64*
Thomas Celestine ETUX 1	Upshur	0	82	0	34.08	0	0
Blake Fork Stream	Wetzel	1050	0	0	0	0	0
CHK B / Lynn Camp Run	Wetzel	800	80	0	0	0.5	0
Durig Impoundment	Wetzel	870	55	0	488.66	0	0
Floyd Johnson Well Pad	Wetzel	203	0	125	100.66	0	0
Hohman Impoundment	Wetzel	253	0	63	-49.11	0.15	-0.23
Rine Well Pad	Wetzel	0	0	100	-108.30	0	0
Saber Well Pad	Wetzel	0	0	276	-160.29	0	0
Stansberry Well Pad	Wetzel	0	450	200	14.28	0	0

*Credits already purchased and applied.

TABLE 2 – Sites Not Subject to Conservation Easement or Deed Restriction

Site Name	County	Perennial Impact Length	Intermittent Impact Length	Ephemeral Impact Length	Stream Credit Balance	Wetland Impacts (acres)	Wetland Credit Balance
Mohler Lumber Co. 68 Well Pad	Boone	0	0	0	0	0.08	-0.11
Sammy L. Stewart ETUX 1 Well Pad	Kanawha	0	156	0	31.49	0	0
Buzzard Impoundment	Marshall	1270	230	0	31.73	1.75	0
Elson (TCO) Well Pad	Marshall	0	0	0	0	0.16	-0.63
Evick Impoundment	Marshall	495	75	0	275.10	0.25	-0.25
Pleasant Ridge Compressor Station	Marshall	0	77	292	41.40	0	0
Ray Baker Well Pad	Marshall	910	515	10	-258.42	0	0
Villers UIC	Marshall	885	135	0	-47.60	0	0
Pardee and Curtain Realty 16 WP	Mingo	0	67	0	-80.58	0	0
Miller 1H (WV) Well Pad	Preston	0	0	409	-131.68	0	0
Coastal Forest Resources Co 3	Upshur	0	0	0	0	0.25	-0.33
Delmar Light Well Pad	Upshur	0	30	0	0	0.01	-0.02
Edward Gower Well Pad	Upshur	26	286	0	-61.58	0	0
James (Red) Ogden Well Pad	Upshur	0	197	0	-225.50	0.135	-0.35
Mike Ross Well Pad	Upshur	32	485	0	-208.30	0.14	-0.16*
Ralph G. Lipps Well Pad	Upshur	0	313	0	11.65	0	0
Skinner Well Pad	Upshur	272	0	0	-5.48	0.06	-0.30
Tall Trees Well Pad	Upshur	600	500	0	-259.10	0.25	-0.64*
Thomas Celestine ETUX 1	Upshur	0	82	0	2.88	0	0
Blake Fork Stream	Wetzel	1050	0	0	0	0	0
CHK B / Lynn Camp Run	Wetzel	800	80	0	0	0.5	0
Durig Impoundment	Wetzel	870	55	0	100.08	0	0
Floyd Johnson Well Pad	Wetzel	203	0	125	-14.41	0	0
Hohman Impoundment	Wetzel	253	0	63	-131.79	0.15	-0.23
Rine Well Pad	Wetzel	0	0	100	-108.30	0	0
Saber Well Pad	Wetzel	0	0	276	-160.29	0	0
Stansberry Well Pad	Wetzel	0	450	200	0.23	0	0

*Credits already purchased and applied.