

NATURAL RESOURCE RESTORATION AND ENHANCEMENT CREDIT PROTOCOL

This Natural Resource Restoration and Enhancement Credit Protocol (Protocol) is made and entered into by the National Oceanic and Atmospheric Administration (“NOAA”), on behalf of the Department of Commerce and the Elliott Bay Trustee Council, and Bluefield Holdings, Inc. (“Bluefield”) (together “the Parties”).

RECITALS

For purposes of this Protocol, NOAA is acting on behalf of the Elliott Bay Trustee Council, which consists of NOAA, the United States Department of the Interior; the Washington Department of Ecology, on behalf of the state of Washington; the Muckleshoot Indian Tribe; and the Suquamish Tribe (hereinafter “Trustees”). All final determinations regarding Projects and the associated NRD Credits must be approved by all Trustees.

The Lower Duwamish Waterway is listed on the National Priorities List as a federal Superfund site, pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. and as amended (“CERCLA”).

Harbor Island and Lockheed West and its associated waterways are immediately downstream from the Lower Duwamish Waterway and these are also federal Superfund sites pursuant to CERCLA.

Hazardous substances have been or are being released at or to the Lower Duwamish Waterway, the Harbor Island waterways and into Elliott Bay through various avenues, including, but not limited to direct discharge, surface water runoff, groundwater and seeps. Those hazardous substances have caused injury to, destruction and/or loss of natural resources at the Site, including, but not limited to, fish, shellfish, invertebrates, birds and marine sediments, as well as the destruction and/or loss of natural resource services such as ecological services, and direct and passive human losses located in these areas.

The Trustees, under the authority of Section 107(f) of CERCLA, 42 U.S.C. 9607(f); Section 1006(b) of the Oil Pollution Act of 1990 (“OPA”), 33 U.S.C. 2706(b); and, 40 C.F.R. Part 300, subpart G, serve as trustees for natural resources for the assessment and recovery of damages for injury to, destruction of, or loss of natural resources under their trusteeship in, around and at the Site.

The Trustees have carried out and/or are carrying out damage assessments for the Site and anticipate bringing claims for damage to natural resources under CERCLA.

Bluefield is a business entity that designs, builds, and maintains natural resource restoration and enhancement projects on behalf of persons that are liable for natural resource damages at properties that have been identified as Superfund sites and/or otherwise suffer a loss of natural resources pursuant to CERCLA.

The Parties desire to work collaboratively to facilitate natural resource restoration and enhancement projects, including the creation of habitat in or proximate to the Site.

The Parties agree that, if a natural resource restoration and enhancement project developed pursuant to this Protocol is included in or otherwise a part of a natural resource damage settlement agreement, it is appropriate to credit the ecological value produced by the project prior to entering into the settlement agreement against the liability of any settling potentially responsible party.

Any and all natural resource damage credits generated by the creation of a natural resource restoration and enhancement project at the Site may be one alternative available to all Potentially Responsible Parties to address liabilities for natural resource injuries at the Site.

Pursuant to this Protocol, Bluefield represents that the City of Seattle is working collaboratively with them to generate natural resource restoration and enhancement projects on properties owned by the City of Seattle. Such collaboration is documented through the lease executed between Bluefield and the City of Seattle on February 23, 2009, the purpose of which lease is to give Bluefield access to such property to implement Habitat Restoration Projects with associated Natural Resource Damages Credit as defined herein projects.

The Trustees may provide the same degree of cooperation with any and all other commercial enterprises or other persons that may intend to generate natural resource damage credits through the implementation of natural resource restoration and enhancement projects.

NOW, THEREFORE, in consideration of the foregoing recitals the Parties mutually agree as follows:

AGREEMENT

1. Definitions

1.1 Adaptive Management Plan. The Adaptive Management Plan means the evaluation of a Habitat Restoration Project's original goals, after a Project's construction, when the monitoring results indicate that such project will not meet its original goals. The Adaptive Management Plan will provide for additional actions to achieve a Habitat Restoration Project's original goals or will provide modified goals should the original goals prove infeasible. An Adaptive Management Plan may include a change in the NRD Credit established by the Trustees for the Project.

1.2 Candidate Parcels. Candidate Parcels are the locations on which some of the natural resource restoration and enhancement projects shall be implemented and which are located in or proximate to the Site, including, but not limited to those properties identified in the lease between Bluefield and the City of Seattle or such other agreements as may be entered into by other parties.

1.3 Corrective Action Plan. A Corrective Action Plan is a plan prepared by Bluefield and approved by the Trustees, during the conceptual design through the completion of construction, that identifies the steps Bluefield will take to implement the corrective action strategy the Parties determine is needed to address problems that prevent a Conditional Project from being constructed as designed. A Corrective Action Plan may include a change in the NRD Credit established by the Trustees for the Project.

1.4 Discount Service-Acre Years (DSAYs). DSAYs means the amount of a specific suite of ecological services determined to be produced per acre of a given type of habitat over a period years, the total of which are discounted to a present value.

1.5 Effective Date. Effective date means the latest date this Protocol has been executed by all of the Parties as set forth on the signature page(s) of this Protocol.

1.6 Habitat Restoration Projects (“Habitat Restoration Project” or “Project”). Habitat Restoration Project or Project shall refer to the natural resource restoration and enhancement projects on which the Parties collaborate and agree upon project design, construction, location, operation and maintenance. Such Projects may be assigned a NRD Credit by the Trustees that the Trustees may recognize as one alternative to address responsibility by potentially responsible parties at the Site. Each Project will be maintained in perpetuity and have the required financial assurances set forth in paragraph 4.1, below, and shall be classified in one of the following ways:

1.6.1 Conditional Projects. Conditional Projects shall refer to the Habitat Restoration Projects, prior to construction completion, on which the Parties collaborate on project design, planned construction, location, planned operation, performance criteria, maintenance, and, if applicable, corrective action. In order for a project to be considered a Conditional Project for purposes of this Protocol, it must have an assigned Interim NRD Credit (as approved in writing by the Trustees), the required financial assurances as set forth in paragraph 4.1, and a provision that it be maintained in perpetuity.

1.6.2 Constructed Projects. Constructed Projects shall refer to the Habitat Restoration Projects after construction is completed and where a notice of completion of construction has been submitted and accepted by the Trustees. Constructed Projects will include those Projects in which monitoring indicates an Adaptive Management Plan is necessary. In order for a Project to be considered a Constructed Project for purposes of this Protocol, it must have assigned an As-Built or Adjusted NRD Credit (as approved in writing by the Trustees), the required financial assurances, and a provision that it be maintained in perpetuity.

1.7 Natural Resource Damages Credit (“NRD Credit”). Natural Resource Damages Credit shall be a determination of the ecological value of a Habitat Restoration Project and is the ecological value such Project is expected to generate taking into account such Project’s anticipated habitat benefits beyond the Project Baseline Condition. NRD Credit will be estimated based on DSAYs or such other measurement of ecological value that the Trustees employ for determining damages to natural resources at the Site and shall be classified in one of the following three ways:

1.7.1 Interim Natural Resource Damage Credit (“Interim NRD Credit”). Interim NRD Credit shall be a determination of the ecological value of a habitat restoration project as designed prior to its construction completion.

1.7.2 As-Built Natural Resource Damage Credit (“As-Built NRD Credit”). As-Built NRD Credit shall be a determination of the ecological value of a habitat restoration project as it is actually constructed, prior to monitoring and subsequent to Bluefield’s notice of construction completion.

1.7.3 Adjusted NRD Credit. Adjusted NRD Credit shall be a determination of the ecological value of a habitat restoration project as it is actually performing after it has been operated and maintained for three years and every three years thereafter up to and including the end of the ninth year. Adjusted NRD Credit will also include any adjustments made to any NRD Credit assigned pursuant to this Protocol as necessitated from public comment or as required by the United States Attorney General or the court.

1.8 Potentially Responsible Party (“PRP”). A Potentially Responsible Party shall be covered persons as that term is defined in CERCLA and as identified by the Trustees for this Site.

1.9 Project Baseline Condition. Solely for the purposes of this Protocol, the Project Baseline Condition shall be the habitat conditions at the location of a Habitat Restoration Project prior to construction taking into account remedial measures that are or will be required by the U.S. Environmental Protection Agency under CERCLA.

1.10 Proximate. For purposes of this Protocol, proximate to the Site means at a location that has a demonstrably reasonable nexus to the natural resources and resource services impacted by releases of hazardous substances from the Site.

1.11 Site. Site shall refer to that area known as the Lower Duwamish River and the Harbor Island Waterways, in the State of Washington, collectively, including the shoreline, intertidal areas, tributaries, drainage areas, estuaries and bottom sediments. This area includes but is not limited to the Lower Duwamish Waterway, the Harbor Island Waterway and Lockheed West Superfund Sites, as identified or amended by the EPA, and all areas affected by releases of hazardous substances within or from the Lower Duwamish Waterway, Harbor Island, and Lockheed West Superfund Sites. This also includes but is not limited to all slips in, associated with, or near the Lower Duwamish Waterway, the East and West Waterways of Harbor Island, and Elliott Bay.

1.12 Technical Assistance. Technical Assistance shall mean the provision by the Trustees of assistance to Bluefield in the evaluation, design, planning, and oversight of the Site's Projects completed pursuant to this Protocol and the evaluation required for determining any NRD Credit for such Projects. Technical Assistance shall include the assistance of legal counsel acting on behalf of and/or at the request of the Trustees.

2. Collaboration on Habitat Project Design and Construction Assessment

2.1. Site Habitat Project Evaluations. The Trustees may collaborate with Bluefield in evaluating options for potential habitat restoration projects located in or proximate to the Site. All Projects to be constructed by Bluefield must be approved in writing by the Trustees before the Trustees will assign any NRD Credit to the Project pursuant to paragraph 3, below. As a condition of the Trustee approval of a Project, Bluefield will ensure that the required financial assurances have been obtained, and the Project will be maintained in perpetuity. Technical Assistance may be provided in an effort to maximize the ecological services of Habitat Restoration Projects.

2.2. Site Allocation. The evaluation of PRPs' potential liability and initiation of settlement discussions are anticipated to be conducted by the Trustees. Nothing in this Protocol authorizes Bluefield to participate in either the evaluation of PRPs' liability or settlement negotiations between the Trustees and PRPs. To facilitate resolving natural resource damage claims against PRPs, the Trustees may develop a variety of tools, including a proposed allocation of the Site's natural resource damages liability among the PRPs. Nothing in this Protocol authorizes Bluefield to obtain any such tools developed by the Trustees, nor does this agreement require that the Trustees employ any particular tool or approach in negotiating settlements with PRPs. In addition, any such tools or methodologies developed by the Trustees are for settlement purposes only, and do not alter the joint and several liability of PRPs under CERCLA or otherwise create any rights in Bluefield or PRPs.

2.3. Establishment of Conditional Projects. The Parties shall jointly identify one or more proposed Habitat Restoration Projects under the terms of this Protocol, including proposed design, Candidate Parcel, construction, operation, performance criteria, maintenance, corrective action (if applicable), and Interim NRD Credit for a proposed Project. Each Conditional Project must be maintained in perpetuity. After the Parties have agreed upon a project, within 60 days, or other such period of time as agreed to by the Parties, Bluefield shall submit a scope of work delineating the actual work to be undertaken, schedule to be followed, and specifics relating to the Project, including but not limited to the operation, maintenance, performance monitoring, and, if applicable, the corrective action strategy of any Project. Any such scope of work must be approved in writing by the Trustees prior to its release. Once the Project has a completed scope of work, the Trustees may assign the Project an Interim NRD Credit as set forth in paragraph 3.

2.4. Inability to Construct Conditional Project as Designed. In the event that there is a significant problem that would prevent a Conditional Project from being constructed as designed, the Parties will discuss and attempt to formulate a corrective

management strategy that will allow the Parties to determine what attributes are not on target for Project success and what actions need to be taken to achieve Project success. Within 60 days of the Trustees' notification to Bluefield that a corrective management strategy is necessary, or other such period of time as agreed to by the Parties, a Corrective Action Plan shall be drafted by Bluefield and presented to the Trustees for their written approval. Such Corrective Action Plan may result in a change of the Interim NRD Credit established by the Trustees. Trustees may withdraw its approval of a Conditional Project if the Parties cannot agree to a Corrective Action Plan and/or revision to the associated Interim NRD Credit. In the event of the Trustees' withdrawal from a Conditional Project due to the absence of an agreement between the Parties on a Corrective Action Plan and/or the associated Interim NRD Credit, the Trustees shall have no obligation to refund any monies that have been paid or expended by Bluefield pursuant to this Protocol.

2.5. Commencement of Constructed Projects. Within 90 days of establishing a Conditional Project's scope of work and the Trustee determination of Interim NRD Credit, or such other period of time as the Parties shall agree, Bluefield shall commence construction of the Conditional Project. If Bluefield has not commenced construction of a Conditional Project within the agreed time, the Trustees may withdraw its recognition and/or approval of any such Conditional Project, including any associated Interim NRD Credit. In the event of the Trustees' withdrawal from a Conditional Project for Bluefield's failure to timely commence and complete construction, the Trustees shall have no obligation to refund any monies that have been paid or expended by Bluefield pursuant to this Protocol.

2.6. Establishment of a Constructed Project. Within 60 days upon completion of construction, or other such period of time as agreed to by the Parties, Bluefield shall submit a written notice of completion to the Trustees. Upon the Trustees review of the notice of completion and providing written approval of the project as-built, the Trustees may assign the Project an As-Built NRD Credit as set forth in paragraph 3. Once the Trustees have determined an As-Built NRD Credit, it shall be a Constructed Project. If Bluefield has not provided a written notice of completion within 60 days or if the Trustees' review of the notice of completion indicates that the Project is not constructed as agreed, including, but not limited to, failure to complete the Project in accordance with the scope of work and/or any Corrective Action Plan, the Trustees may withdraw its recognition and/or approval of any such Project, including any associated NRD Credit. In the event of the Trustees' withdrawal from a Constructed Project for Bluefield's failure to timely submit an approvable notice of completion, the Trustees shall have no obligation to refund any monies that have been paid or expended by Bluefield pursuant to this Protocol.

2.7. Adjustments to Constructed Projects. Every three years of operation and maintenance of a Constructed Project for up to nine years, the Trustees and Bluefield shall in good faith meet and review the results of performance monitoring for each Constructed Project. In the event that the performance monitoring indicates the Project is not performing as expected, the Parties will discuss and attempt to formulate an adaptive management strategy that will allow the Parties to determine what changes, if any, need to be made to the Project to achieve success. Within 60 days of the Trustees'

notification to Bluefield that an adaptive management strategy is necessary, or other such period of time as agreed to by the Parties, an Adaptive Management Plan shall be drafted by Bluefield and presented to the Trustees for their written approval. Such Adaptive Management Plan may result in a change of the As-Built NRD Credit established by the Trustees, resulting in an Adjusted NRD Credit. Trustees may withdraw its approval of a Constructed Project if the Parties cannot agree to an Adaptive Management Plan and/or any Adjusted NRD Credit. In the event of the Trustees' withdrawal from a Constructed Project due to the absence of an agreement between the Parties on an Adaptive Management Plan and/or the associated Adjusted NRD Credit, the Trustees shall have no obligation to refund any monies that have been paid or expended by Bluefield pursuant to this Protocol.

3. Establishment and Use of Settlement Credits with Ecological Value

3.1. Establishment of Interim NRD Credit. Upon the Parties jointly identifying one or more proposed Habitat Restoration Projects, the Parties shall in good faith meet and discuss the Interim NRD Credit for each such Project. The Trustees may determine the Interim NRD Credit of a Project as designed, and that ecological value may be documented in written form by the Trustees and conveyed to Bluefield. All Conditional Projects to be constructed by Bluefield for Interim NRD Credit must be approved in writing by the Trustees and must have the financial assurances required under paragraph 4.1 prior to selling any Interim NRD Credits. Upon meeting all of the requirements for a Conditional Project, the Project will become a Conditional Project with available Interim NRD Credit, and the Interim NRD Credits generated may be sold as provided under this Protocol.

3.2. Sale of Interim NRD Credit. The Trustees will not recognize more than 50 percent of any Interim NRD Credit until the project is established as a Constructed Project with its associated As-Built NRD Credit approved by the Trustees. If for any reason a Conditional Project is not constructed, the Trustees will not recognize any Interim NRD credit associated with that Conditional Project irrespective of whether a PRP purchased such Interim NRD Credit.

3.3. Establishment of As-Built NRD Credit. Upon receipt and Trustee approval of Bluefield's notice of completion, the Parties shall meet in good faith and discuss the As-Built NRD Credit for the Project, the Parties shall in good faith meet and discuss the As-Built NRD Credit for the Project. The Trustees may determine the As-Built NRD Credit of a Project after receiving and approving a written notice of completion and that ecological value may be documented in written form by the Trustees and conveyed to Bluefield. The Conditional Project will then become a Constructed Project with available As-Built NRD Credit. If for any reason, the Trustees cannot approve the notice of completion, the Trustees may withdraw its recognition of any associated NRD Credit.

3.4. Adjustments to NRD Credit. Pursuant to Paragraph 2.7, the Trustees and Bluefield shall in good faith meet and review the results of performance monitoring for each Constructed Project and determine what actions, if any, need to be taken pursuant to the Project's Adaptive Management Plan to ensure the Project is meeting its performance

goals. At such time the Parties may also determine whether an adjustment needs to be made to the As-Built NRD Credit. Any unsold NRD Credit after the third, sixth and ninth year may be subject to adjustment under the following circumstances:

3.4.1 Future Adjustments Upward to Credit Amounts. The Trustees may allow for an upward adjustment from the Constructed Project's As-Built NRD Credit that has previously been established under this Protocol, in the following circumstances: 1) The results of performance monitoring for the affected Project demonstrate the project has produced or is expected to produce greater ecological benefits than were originally estimated in developing the As-Built Credit, and 2) the Trustees' protocols for the evaluation of habitat restoration projects change such that a greater natural resource damages credit would be available under the new protocols.

3.4.2 Future Adjustments Downward to Credit Amounts. The Trustees may require a downward adjustment from the Constructed Project's As-Built NRD Credit that has previously been established under this Protocol in the following circumstances: 1) The results of performance monitoring for the Constructed Project demonstrate that, notwithstanding the actions taken or to be taken under the Project's Adaptive Management Plan, the Constructive Project has produced or is expected to produce lower ecological benefits than were estimated in developing the As-Built NRD Credit for the Constructed Project; 2) remedial actions, development actions or other activities are planned or have occurred in the vicinity of a Constructed Project that have a negative impact on the functioning of the Constructed Project such that a lower natural resource damages credit should be available under the Trustees' protocols; 3) a PRP or any other party has previously received credit for all or a portion of a Constructed Project against environmental or habitat mitigation requirements under federal, state or local laws or ordinances or against natural resource damages liability in another settlement agreement or 4) the Trustees' protocols for the evaluation of habitat restoration projects change such that a lesser natural resource damages credit would be available under the new protocols.

3.5. Applicability of Credits to PRP Settlements. At the time of entering into any settlement of NRD claims against PRPs at the Site, the Trustees may include NRD Credits established pursuant to this Protocol among the alternatives the Trustees are considering for settling such claims. If the Trustees select the use of NRD Credits as a viable settlement alternative for a particular PRP, the Trustees may recognize the available NRD Credits as documented pursuant to Section 3 of this Protocol, for the purpose of settling NRD claims against PRPs at the Site; provided, that no NRD Credit established under this Protocol may be sold by Bluefield or otherwise be used to resolve liability more than once for the purpose of settling such NRD claims.

3.6. Public Review and Comment. Notwithstanding anything in this Protocol, the terms of any settlement of NRD claims with respect to the Site, including the applicability of any or all NRD Credits to a claim made by the Trustees at the Site, shall remain subject to the approval of the United States Attorney General and may, in the discretion of the United States, be made subject to public review and comment and court approval. The Trustees can make no final determination to accept a natural resource restoration and enhancement project, or its associated NRD Credit, prior to entering into

a settlement agreement. Consequently, any NRD Credit established pursuant to this Protocol may be adjusted based on such public review and comment and/or as required by the United States Attorney General and/or the court.

3.7. Effect of Protocol in Subsequent Litigation. In the event the Trustees bring an action for NRD claims against any PRP relating to the Site or any other site or in the event there is any other litigation relating to the Site, neither the terms of this Protocol nor any determinations of the site allocation, Project Baseline Condition, NRD Credit, the determination of a Project or any other factual determination made or agreed to by the Trustees pursuant to this Protocol shall be used against the Trustees or the United States in such proceedings.

4. Financial and Access Assurances

4.1. Financial Assurances. As a condition of Trustee approval of a Project, Bluefield must provide financial assurance for construction completion, performance monitoring, corrective action and adaptive management (if applicable), operation and maintenance in perpetuity, by funding a trust fund, providing a letter of credit, purchasing an insurance policy, or providing a similar financial assurance mechanism covering the cost of completing construction, performance monitoring, corrective action, and adaptive management and performing the operation and maintenance in perpetuity. Any such financial assurance must be in a form satisfactory to the Trustees and must provide the Trustees with direct rights of enforcement of the obligations. Absent special circumstances, as agreed by the Trustees in writing, Bluefield will provide any such financial assurance after a Project has become a Conditional Project but prior to the sale of any Interim NRD Credit to a PRP. Such financial assurances will be maintained through the initiation, completion, and monitoring phases of construction for each Project. Moreover, Bluefield will establish one or more trust funds or other financial assurance to guarantee maintenance in perpetuity for all Projects, naming the Trustees as beneficiary, and having terms and conditions acceptable in all respects to the Trustees.

4.2. Indemnification. Bluefield and its contractors and subcontractors shall indemnify and hold harmless the Trustees and/or their agents, employees and representatives from any and all damage claims or causes of action arising from negligent or other wrongful acts or omissions of Bluefield and/or its officers, employees, agents, contractors, subcontractors, representatives and any persons acting on its behalf of or under its control in carrying out the requirements of this Protocol. Further, Bluefield agrees to pay the Trustees all reasonable costs they incur, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of damage claims made against the Trustees based on negligent or other wrongful acts or omissions of Bluefield or its officers, employees, agent, contractors, subcontractors, representatives and any person acting on its behalf of or under its control, in carrying out the requirements of this Protocol. None of the Trustees shall be held out as a party to any contract entered into by or on behalf of Bluefield in carrying out the requirements of this Protocol. Neither Bluefield nor any such contractor or representative of Bluefield shall be considered an agent of any Trustee and Bluefield shall require any contractor hereafter

retained by Bluefield who performs work for Bluefield in carrying out the requirement of the Protocol to affirmatively acknowledge that it is not acting as an agent of any Trustee.

4.3. Selection of a Contractor. The selection of any contractor or subcontractor retained by Bluefield to perform any of the work required under this Protocol shall be subject to the Trustees' approval. Bluefield will require that all contractors and subcontractors are bonded and insured.

4.4. Access and Lease Assignment. As a condition of the Trustee approval of a Project, Bluefield will ensure that the Trustees will have reasonable access to any documents relating to a Project and the land on which that Project is located in order to review and monitor its construction, performance, operation and maintenance. Moreover, any leasehold rights held by Bluefield to the land shall be the same rights the Trustees will have to access the land on which a Project is to be or is being constructed. The Trustees will also have the right to require the completion of a Project's construction and to require that such Project will be maintained in perpetuity.

4.5. Repayment of Past Costs. Within 60 days of the Effective Date of this Protocol, Bluefield will provide the Trustees \$100,000 for past costs expended on Technical Assistance related to this Protocol and its associated Projects. These funds will cover past costs for the Technical Assistance from June 1, 2008 through the time of the Effective Date of this Protocol. Any funds received that exceed the costs expended by the Trustees through the Effective Date will be credited against any future billings for Technical Assistance by the Trustees to Bluefield.

4.6. Bluefield Payment of Trustee Technical Assistance Costs. Bluefield will reimburse the Trustees for the cost of Technical Assistance provided by the Trustees. The Trustees will provide Bluefield with quarterly invoices detailing the Technical Assistance work performed and the charges for such work. Bluefield shall pay all such invoices within 60 days of receipt.

5. Miscellaneous

5.1. Bluefield's Completion of a Project. Bluefield retains the right to decide whether to proceed with any Project for NRD credit until such time as financial assurances have been attained and the Trustees have identified a Project as having an established NRD Credit and where Bluefield has sold NRD Credit to a PRP. Upon having attained the financial assurances and having sold any NRD Credit, Bluefield must not cease work on a Project unless otherwise agreed to in writing by the Trustees and Bluefield.

5.2. Permits. Where any Habitat Restoration Project pursuant to this Protocol requires a federal, state or local permit or approval, Bluefield is responsible for obtaining such permit(s). The Trustees may support Bluefield's efforts to obtain such permits that may be necessary for construction and maintenance of each Project.

5.3. Repairs and/or Replacements of Projects. The Trustees will not be obligated to make any repairs or replacements of any kind, nature or description whatsoever to any Project or any portion thereof.

5.4. Modifications. The Parties may modify the terms of this Protocol by mutual written agreement signed by authorized representatives of the Parties. The Trustees reserve the right to terminate this agreement at any time.

5.5. Counterparts. This Protocol may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.6. Bluefield's Assignment of Rights. Bluefield may, upon written notice to the Trustees, assign its rights and obligations under this Protocol to any person or business entity which is an affiliate of Bluefield, or a trust, insurance company, or similar entity that performs the long-term maintenance of the Project. Bluefield may also, upon written notice to the Trustees, assign its rights and obligations under this Protocol to a Trustee or Trustees upon written acceptance by such Trustee or Trustees.

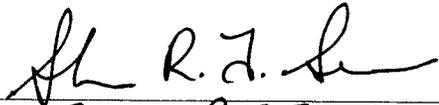
5.7. Retention of Records. Bluefield must retain and instruct its contractors and agents to preserve, for a period of ten years all non-identical copies of the last draft or final version of any documents or records (including documents or records in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of a Project pursuant to this Protocol, provided, however that Bluefield (and its contractors and agents) must retain in addition, copies of all data generated during the performance of the work and not contained in the aforementioned documents required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

5.8. Failure by Bluefield to Comply with this Agreement. If Bluefield fails to comply with any of the terms and conditions of this Protocol, the Trustees may refuse to recognize any or all NRD Credits established pursuant to this Protocol. This right may be exercised in lieu of or in addition to any direct rights of enforcement the Trustees may have in any financial assurances provided pursuant to this Protocol. Refusal by the Trustees to recognize any or all NRD Credits pursuant to this Paragraph will not be unreasonable.

THE TRUSTEES:

BLUEFIELD HOLDINGS, INC.:

By: 
Name: Carl A. Conrad
Title: Special Counsel (MHA)
Date: Friday May 15, 2009

By: 
Name: Shawn R T Severn
Title: President
Date: Friday May 15, 2009