

RESOLUTION NO. 1989-3

WHEREAS, the Borough of Indian Lake has as its major resource a body of water known as Indian Lake; and,

WHEREAS, it is imperative to the well-being of the Borough and its residents that the integrity of Indian Lake and its water sources be maintained; and,

WHEREAS, in an effort to insure that integrity, the Borough entered into an Agreement with PBS Coals, Inc., in its own right and as successor by merger to NSM Coal Company, Limited, and NSM Coals, Inc., dated May 25, 1989; and,

WHEREAS, a provision of that Agreement provides for the monthly payment by PBS to the Borough of certain monies in lieu of a surety bond; and,

WHEREAS, the present Borough Council deems it imperative that the monies received be restricted in their disbursement to coincide with the intents and purposes of the aforesaid Agreement.

NOW, THEREFORE, and is is hereby RESOLVED this 27th day of September, 1989, by the Borough Council of Indian Lake, by and through its authority as council that:

1. All monies received by the Borough in accordance with Paragraph Three and any monies drawn from the Letter of Credit in accordance with Paragraph Four of the aforesaid Agreement shall be placed in a Trust fund and invested as such and shall be held and disbursed, both principal and interest, only in accordance with the specific directions of Paragraph Four of the Agreement. Those directions provide:

"It is specifically understood by the parties that this Letter of Credit is for the sole and exclusive use of Indian Lake Borough and the purpose of preventing pollution of the waters of the Permit Area from any form of pollution which would be within the responsibility of PBS based on all applicable rules, regulations and laws of the Commonwealth of Pennsylvania, and that the purpose of this Letter of Credit is to insure the public health, safety and welfare from pollution of the water sources of

Indian Lake. The further purpose of this Letter of Credit is to provide for future protection of the Permit Area from any form of water pollution due to mining activities of PBS."

2. The restrictions provided in Paragraph One hereof shall continue and remain controlling for a period of ten (10) years after the mining by PBS in the permitting areas, as defined in the aforesaid Agreement, has been discontinued.

3. During the effective period of the restrictions, all seats on the Borough Council must be filled prior to a consideration for the disbursement of monies from the Trust Fund. Further, five (5) of the seven (7) members of the Council must authorize disbursement of monies. No authorization shall be effective if less than five (5) votes are obtained to disburse.

4. Following the effective period of the restrictions, authorization for disbursement of the funds shall be effective upon an affirmative vote to disburse by a majority of those members then on the Council.

5. This Resolution may be changed or modified only upon the unanimous affirmative vote of all seven (7) Council members. As provided above in Paragraph Three, all seats on the Council must be filled before any action may be taken to change or modify this Resolution.

6. It is the hope and expectation of this Council that those that follow us here remember and consider the environmental concerns that were the impetus for the creation of the aforesaid Trust Fund and will use wise and prudent judgment in any disbursement of the monies.

ATTEST:

Melba D. Campbell
Melba D. Campbell, Secretary

INDIAN LAKE BOROUGH

By John C. Blackburn
John C. Blackburn, President

By Richard W. Stern
Richard W. Stern, Vice President

Melba D. Campbell

By Faris Jones
Faris Jones

Melba D. Campbell

By John C. McClatchey, Jr.
John C. McClatchey, Jr.

Melba D. Campbell

By John I. Whalley
John I. Whalley

Melba D. Campbell

By Robert B. Langley
Robert B. Langley

Melba D. Campbell

By Samuel Stevanus
Samuel Stevanus