



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Sean T. Connaughton
Chairman

1401 East Broad Street
Richmond, Virginia 23219

(804) 786-2701
Fax: (804) 786-2940

Agenda item 3

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

December 5, 2012

MOTION

**Made By: Mr. Matney Seconded By: Mr. Layne
Action: Motion Carried, Unanimously**

**Title: Limited Access Control Changes (LACC)
Route 23, County of Wise**

WHEREAS, Route 23 (Pound By-Pass), from approximately 2.387 miles south of the west corporate limits of the Town of Pound to approximately 0.118 mile north of the west corporate limits of the Town of Pound, including any necessary relocations, interchange areas, ramps, connections, etc., were designated as Limited Access Highway by the State Highway Commission, predecessor to the Commonwealth Transportation Board (CTB), on December 16, 1965; and,

WHEREAS, in connection with this section of Route 23 (Pound By-Pass), State Highway Project 0023-097-110, RW-203, which is located between the aforesaid locations, the Commonwealth acquired certain lands and limited access easements from various landowners, and established certain limited access control as a design feature of the said project; and,

WHEREAS, due to the construction of the said project and the establishment of certain limited access controls, certain parcels along Route 23 became landlocked; and,

WHEREAS, the acquisition of the right of way for the said project did not account for the possible large quantities of coal remaining on these landlocked parcels; and,

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WHEREAS, memorandum dated September 8, 1966 from the Chief Engineer, memorandum dated September 12, 1966 from the Director Programming and Planning, and memorandum dated September 13, 1966 from the State Right of Way Engineer all acknowledge that access points should be designated for the removal of minerals by the owners of the mineral rights; and,

WHEREAS, memorandum dated February 11, 1970 from the Resident Engineer and memorandum dated February 18, 1970 from the District Right of Way Engineer both provide recommended points of access to the landlocked parcels along Route 23 for the purpose of removing minerals; and,

WHEREAS, Blue Ridge Coal Corporation has acquired fee title ownership of a portion of the parcels previously identified as landlocked and has acquired any and all mineral rights of record as they pertain to the said property; and,

WHEREAS, Blue Ridge Coal Corporation, by letter dated April 5, 2007 has requested a temporary limited access control change (LACC) on the Route 23 (Pound By-Pass) to gain direct access to said Route as a means of ingress and egress for the purpose of removing and hauling minerals from their property which is landlocked; and,

WHEREAS, VDOT has determined and identified that those properties, as shown on the plans for State Highway Project 0023-097-110, RW-203 along the south (left side) of Route 23 between Station 755+00 (Route 23 office revised centerline) and Station 813+70 (Route 23 office revised centerline), and along the north (right side) of Route 23 between Station 813+00 (Route 23 office revised centerline) and Station 817+38 (Route 23 office revised centerline) as being landlocked and that upon request by the mineral right owner of the adjoining lands be granted a temporary LACC being a break in limited access control to accommodate the said non-signalized entrance with right in and right out turning movements, acceleration/deceleration taper lanes, for the said roadway subject to further review and approval; and

WHEREAS, all right of way, engineering, construction, and necessary safety improvements shall meet all VDOT standards and requirements; and

WHEREAS, all costs of engineering and construction, including all necessary safety improvements, will be borne by others; and

WHEREAS, the said breaks shall be gated and controlled by the requestors; and,

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WHEREAS, the said temporary limited access break would be limited to only those lands identified as landlocked on the plans for State Highway Project 0023-097-110, RW-203 and limited to providing ingress and egress for the purpose of removing and hauling minerals only from the adjoining lands within the limits described above.

NOW, THEREFORE, BE IT RESOLVED, in accordance and compliance with the provisions of Section 33.1-58 of the *Code of Virginia* (1950), as amended, the CTB hereby finds and concurs with the determinations made by VDOT, and approves the said LACC for the purposes of allowing temporary entrance to landlocked properties for the removal of minerals as set forth and subject to the above conditions. The Commissioner of Highways is hereby authorized to execute, in the name of the Commonwealth, any and all documents needed to comply with this resolution subject to such restrictions as may be deemed appropriate.

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