

02-179-CD
RONALD M. LITTLE et al -vs- ENERGY RESOURCES, INC. et al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER, :
VIRGINIA M. SHAW, EXECUTORS OF THE :
MARTIN BEARER ESTATE, MB ENERGY : NO. 02 - 179 - CD
INC., and EUGENE CUOMO, :
Plaintiffs : COMPLAINT
vs. :
: :
ENERGY RESOURCES, INC., and :
TDK COAL SALES, INC., :
Defendants :
:

Filed on Behalf of:
Plaintiffs

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED FILED

FEB 07 2002

010:39 AM
SAC
William A. Shaw
Prothonotary
PP
go

FEB 07 2002

William A. Shaw
Prothonotary

3 CERT TO ATT.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER,
VIRGINIA M. SHAW, EXECUTORS OF THE
MARTIN BEARER ESTATE, MB ENERGY
INC., and EUGENE CUOMO,

NO. 02 - CD

Plaintiffs

vs.

ENERGY RESOURCES, INC., and
TDK COAL SALES, INC.

Defendants

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

Virginia Shaw, Prosecutor of the Martin Estate Estate,
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.
McKnight Road, Blairsville, Pennsylvania 15717-7550.

2. That Plaintiff is COURT ADMINISTRATOR of the above named Clearfield County Courthouse corporation which maintains 11 North Second Street of Building 10 Clearfield, PA 16830
175 McKnight Road, Blairsville, Pennsylvania 15717-7550.
(814) 765-2641 Ex 5982

determined against the ERI interests and in favor of the Bearer interests.

RESPECTFULLY SUBMITTED,

BELIN & KUBISTA

By

Carl A. Belin, Jr., Esq.

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF Indiana :
:

Before me the undersigned officer, personally appeared Ronald M. Little, James J. Bearer and Virginia M. Shaw, who depose and say they are the Executors of the Martin Bearer Estate, and as such being authorized to do so, and being duly sworn according to law, depose and say that the facts set forth in the foregoing Complaint are true and correct to the best of their knowledge, information and belief.

Ronald M. Little
Ronald M. Little

James J. Bearer
James J. Bearer

Virginia M. Shaw
Virginia M. Shaw

Sworn and subscribed before me this 5th day of
February, 2002.

Diane K. DeGruttola
Notary Public



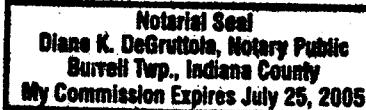
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF Indiana :

Before me the undersigned officer, personally appeared
MICHAEL S. KCARAK, who deposes and says he is the
PRESIDENT of MB Energy, Inc., and as such
HE being authorized to do so, and being duly
sworn according to law, deposes and says that the facts set
forth in the foregoing Complaint are true and correct to the
best of HIS knowledge, information and belief.

Michael S. Kcarak
PRESIDENT

Sworn and subscribed before me this 5th day of
February, 2002.

Diane K. DeGruttola
Notary Public



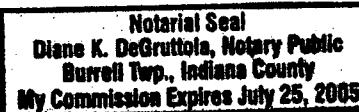
COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF Indiana :
:

Before me the undersigned officer, personally appeared Eugene Cuomo, who being duly sworn according to law, deposes and says that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

Eugene Cuomo
Eugene Cuomo

Sworn and subscribed before me this 5th day of
February, 2002.

Diane K. DeGruttola
Notary Public



LETTER OF INTENT

THIS AGREEMENT, made and entered into this 8th day of August, 1994, by and between MARTIN L. BEARER, an individual who trades and does business as NORTH CAMBRIA FUEL COMPANY, and who maintains an office and place of business at 250 Airport Road, P.O. Box 1319, Indiana, Pennsylvania, 15701, hereinafter referred to as "NORTH CAMBRIA,"

A

N

D

BRADFORD COAL CO., INC., a corporation who does business at Bigler, Pennsylvania, 16825 and AL HAMILTON CONTRACTING COMPANY, a corporation who does business at Woodland, Pennsylvania, 16881, hereinafter jointly referred to as "BRADFORD".

WHEREAS, for the sum of \$1.00, in hand paid, each unto the other, and intending to be legally bound, NORTH CAMBRIA and BRADFORD have set their understanding in writing.

WHEREAS, NORTH CAMBRIA owns certain real estate in Penn Township, Greenwood Township and Brady Township, Clearfield County, Pennsylvania, and also has various leases with the James B. Graham Estate and/or North Central Bank, as well as Surface Mining Permits covering certain tracts of real estate and/or coal rights, including, but not limited to, all that right, title and interest and/or leasehold interest obtained by NORTH CAMBRIA which may adjoin or in anyway facilitate the development of coal mining on those Graham Lease parcels originally obtained by North Cambria

PLAINTIFF'S
EXHIBIT

A

Fuel Company from James R. Walsh, Esquire, Trustee of the Bankruptcy Estate of the Benjamin Coal Company, including but not limited to those shown on Exhibit "A" attached hereto and incorporated herein by reference.

WHEREAS, NORTH CAMBRIA is offering to sell to BRADFORD the Graham Leases, all Surface Mining Permits pertaining to Leases and associated real estate for One Million (\$1,000,000.00) Dollars plus seventy-five (\$.75) cents per ton override royalty on all coal mined and removed from this area.

BRADFORD agrees to pay NORTH CAMBRIA Twenty-five Thousand (\$25,000.00) Dollars, non-recoverable, option fee upon signing. This option fee covers a period of sixty (60) days from the date of signing. NORTH CAMBRIA will grant BRADFORD the exclusive right for these sixty (60) days to enter, drill, explore and evaluate this property. This also grants BRADFORD the right of access to any and all records of NORTH CAMBRIA covering this area, including but not limited to, drill records, files, leases and maps of the area. Bradford Coal Co., Inc., specifically understands and acknowledges that Martin L. Bearer, t/d/b/a North Cambria Fuel Company shall not mortgage or encumber, with any liens of any kind, or sell or assign or set over or sublet, the whole or any part of the hereby demised premises or this lease without written consent of North Central Bank on behalf of the James B. Graham Estate hereunder first had and obtained.

BRADFORD agrees to be responsible for any reclamation work, or any DER problems which may be associated with such testing. BRADFORD will assume all responsibility and liability for any

person or agent acting for them in this capacity.

That the parties agree that at the end of the sixty (60) days from the signing of this Agreement, BRADFORD may, upon request, be granted an additional sixty (60) day exclusive option period for the sum of Fifty Thousand (\$50,000.00) Dollars as a non-recoverable fee in order to reach a settlement with North Central Bank.

The parties agree that if BRADFORD purchases the area covered by this Agreement, the total of all option payments may be deducted from the purchase price. If BRADFORD decides against the purchase of these properties, NORTH CAMBRIA may retain all option fees.

IN WITNESS WHEREOF, and intending to be legally bound, we hereunto set our hands and seals the date and year first above written.

NORTH CAMBRIA FUEL COMPANY



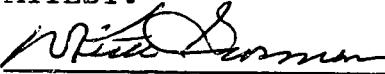
Witness



Martin L. Bearer

BRADFORD COAL CO., INC.

ATTEST:



Secretary

"Corporate Seal"



C. Alan Walker, President
and Chief Executive Officer

AL HAMILTON CONTRACTING COMPANY

ATTEST:



Secretary

"Corporate Seal"



C. Alan Walker, President

COMMONWEALTH OF PENNSYLVANIA :
Cambria : S.S.
COUNTY OF ~~INDIANA~~ :

On this, the 1st day of August, 1994, before me, the undersigned officer, personally appeared MARTIN L. BEARER who acknowledged himself to be the President of North Cambria Mills Company, and that he as such officer being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notarial Seal
Eugene Cuomo, Notary Public
Dean Twp., Cambria County
My Commission Expires May 18, 1996

Eugene Cuomo
(Notary Public)

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : S.S.

On this, the 1st day of August, 1994, before me, the undersigned officer, personally appeared C. ALAN WALKER who acknowledged himself to be the President and Chief Executive Officer of Bradford Coal Co., Inc., and that he as such officer being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President and Chief Executive Officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Gloria A. Thoman
(Notary Public)

NOTARIAL SEAL
GLORIA A. THOMAN, Notary Public
Bigler, Clearfield County
My Commission Expires Aug. 31, 1996

COMMONWEALTH OF PENNSYLVANIA :
: S.S.
COUNTY OF CLEARFIELD :
:

On this, the 1st day of August, 1994, before
me, the undersigned officer, personally appeared C. ALAN WALKER who
acknowledged himself to be the President of Al Hamilton Contracting
Company, and that he as such officer being authorized to do so,
executed the foregoing instrument for the purposes therein
contained by signing the name of the corporation by himself as
President.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal.

Gloria A. Thoman
(Notary Public)

NOTARIAL SEAL
GLORIA A. THOMAN, Notary Public
Bigler, Clearfield County
My Commission Expires Aug. 31, 1996

EXHIBIT "A"

1. Benjamin Lease No. 1020, known as the T.R. M-30 Lease.
2. Benjamin Lease No. 1035, known as the Korb Lease.
3. Benjamin Lease No. 1481, known as the Irish Run Lease.
4. Benjamin Lease No. 1620, known as the Keenan Lease.
5. Benjamin Lease No. 1912, known as the Daily Run Lease.
6. Annie Powell Lease dated October 1, 1956.

And any and all amendments or extensions to numbers 1-6 above.

AGREEMENT

THIS AGREEMENT, made and entered into this 24 day of
FEB., 1995, by and among:

MARTIN L. BEARER, an individual, trading and doing business as, North Cambria Fuel Company and who maintains an office in Indiana County, Pennsylvania; hereinafter referred to as (NCF),

-and-

M.B. ENERGY, INC., a Pennsylvania corporation which maintains an office in Indiana County, Pennsylvania; hereinafter referred to as (MBE),

-and-

BRADFORD COAL CO., INC., C. ALAN WALKER, CEO, with office and place of business at Post Office Box 368, Bigler, Clearfield County, Pennsylvania, 16825-0368; hereinafter referred to as (BCC)

W I T N E S S E T H :

A. MBE has the right, under certain permits issued by the Pennsylvania Department of Environmental Resources (DER) which are described in Exhibit A hereto, to mine and remove coal from certain real property located in Clearfield County, Pennsylvania. For all purposes under this Agreement, the permits described in Exhibit A shall be collectively designated and referred to as the "Mining Permits".

PLAINTIFF'S
EXHIBIT

B
ALL-STATE® INTERNATIONAL

B. By an instrument dated May 22, 1990, NCF acquired the interest of James R. Walsh, Esquire, Trustee of the Bankruptcy Estate of Benjamin Coal Company, under the leases and agreements described in Exhibit B to this Agreement. For all purposes under this Agreement, the leases and agreements described in Exhibit B shall be collectively designated and referred to as the "Benjamin Leases".

C. By deed dated May 22, 1990, NCF purchased from James R. Walsh, Esquire, Trustee of the Bankruptcy Estate of Benjamin Coal Company, the real property and coal reserves described in Exhibit C to this Agreement. For all purposes under this Agreement, the real property and coal reserves described in Exhibit C shall be collectively designated and referred to as the "Benjamin Realty".

D. MBE has a pending surface mining permit with the DER that is described in Exhibit D hereto, to mine and remove coal from certain real property located in Clearfield County, Pennsylvania. For all purposes under this Agreement, the permit described in Exhibit D shall be collectively designated and referred to as "Poplar Run".

E. By Agreement dated September 28, 1994, attached hereto as Exhibit E of this Agreement, NCF acquired all of the right, title and interest of McDonald Land and Mining Co., Inc., under Surface Mining Permit No. 17910113, the Wall Farm permit

and the Rogers Lease Agreement with Clarence W. Rogers and Pauline Walls Rogers. For all purposes under this Agreement, the mining permit and lease in Exhibit E shall be collectively designated and referred to as the "Wall Farm".

WHEREAS, BCC desires to purchase and acquire from NCF and MBE (hereafter, collectively "Sellers"), and Sellers desire to transfer, assign and convey to BCC all of Sellers' right, title and interest in, to and under the Mining Permits, the Benjamin Leases, the Benjamin Realty, Poplar Run, and the Wall Farm.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and intending to be legally bound hereby, the parties agree as follows:

1. Sale of Assets. Sellers agree to transfer, assign and convey to BCC or its nominee, and BCC or its nominee agree to and shall purchase and acquire from Sellers, subject to the terms and conditions of this Agreement, all of Sellers' right, title and interest, if any, in, to and under the following (sometimes hereafter, collectively, the "Assets"):

- A. The Mining Permits.
- B. The Benjamin Leases.
- C. The Benjamin Realty.
- D. Poplar Run.
- E. The Wall Farm.

2. That Sellers hereby authorize BCC or its nominee to mine, remove and market coal by the surface mining method as well as the auger mining method, from and under the surface mining permits of Sellers, listed on Exhibit C, attached hereto and incorporated herein by reference.

3. That BCC or its nominee shall have the full right and authority to operate under Sellers permits pending transfer of same.

4. That BCC shall have the right to designate any coal mine operator of its choice as its nominee to be the assignee of the permits listed on Exhibit A attached hereto and incorporated herein by reference, with the understanding that BCC shall remain responsible to Sellers for the performance of the terms and conditions of this Agreement with Sellers.

5. That BCC covenants and agrees that it shall designate a nominee to apply, to the appropriate agency of the Commonwealth of Pennsylvania for the transfer of the mining permits on Exhibit A into the name of the nominee. The applications for the transfer of all mining permits shall be submitted to DER on or before August 24, 1995. The list of bonds to be replaced is attached hereto, marked as Exhibit F and is incorporated herein by reference.

Time is of the essence, and BCC or its nominee shall diligently pursue the transfer of all permits. If any permit is not transferred by February 24, 1996, then an additional fee of

Twenty-five One Hundredths (\$.25) Dollars per ton shall be assessed to all coal mined from the permits which have not been transferred; which amount shall be paid in addition to the amount specified in Paragraphs 13 and 15, and shall be paid at the same time, and in the same manner.

It is understood that if through noncompliance of North Cambria Fuel Company or M. B. Energy, Inc., DER has delayed such transfer, then the additional fee shall not apply.

6. BCC shall replace all of the bonds listed on Exhibit F on or before May 1, 1995. It being understood that BCC would receive what it actually paid in bond premium or posted as collateral for the substitution or posting of bonds, in the event said monies have been returned to Sellers instead of BCC.

7. That Sellers shall seek to maintain a current and valid mining license until the permits which are listed on Exhibits A, D and E have been transferred to the nominee of BCC, by any and all appropriate regulatory agencies.

8. That Sellers agree to fully cooperate with BCC, or its nominee, in effectuating amendment or the transfer of the surface mining permits, and BCC, or its nominee, agrees to pay and be responsible for all costs and expenses incurred in said transfer.

9. That Sellers hereby warrant, covenant and assert they are not aware of, at the date of the execution of this Agreement, any outstanding violations from any federal, state or local statutes, laws, ordinances, rules or regulations concerning surface mining under Sellers said permits listed on Exhibit A or E.

10. That Sellers shall indemnify, defend and save BCC or its nominee harmless, including reasonable attorneys fees, from any and all violations, liabilities, claims, causes of action, damages or losses resulting from violations of any federal, state or local statutes, laws, ordinances, rules or regulations concerning surface mining under Sellers said permits listed on Exhibits A and D, that existed on or before the date of the execution of this Agreement.

11. That BCC, and its nominee, shall indemnify, defend and save Sellers harmless, including reasonable attorneys fees, from any and all violations, liabilities, claims, causes of action, damages or losses resulting from violations of any federal, state or local statutes, laws, ordinances, rules or regulations concerning surface mining under the permits listed on Exhibits A, D and E. This indemnification does not apply to health or safety violations, either federal or state, that may have existed prior to the execution of this Agreement.

12. That Sellers covenant and agree to assign all leases listed on Exhibit B attached hereto and incorporated herein by reference, to BCC, or its nominee. In addition, Sellers agree to assist in obtaining and securing any and all lease extensions or renewals of the leases listed on Exhibit B that are required by BCC or its nominee to continue operations thereunder. However, the Sellers shall not be required to assist in obtaining and securing a lease with North Central Bank (James B. Graham Estate). That Sellers agree to indemnify, defend and save

harmless BCC or its nominee from any claims, causes of actions, damages or losses, including but not limited to all costs and attorneys fees, which may arise from any action brought by any lessor, sub-lessor or the owner of any property interest, that resulted from actions of Sellers prior to the signing of this agreement. This indemnification shall survive the transferring and assigning of all the leases to BCC and the term of said leases.

13. That BCC, or its nominee, shall pay Sellers the sum of Seventy-five One-hundredths (\$.75) Dollars per ton as an override royalty on all tonnage mined, removed and sold from the properties listed on Exhibit B. In the event coal is not sold from the leases listed under Exhibit B as run-of-mine coal, the override royalty of Seventy-five One-hundredths (\$.75) Dollars per ton shall be paid on coal mined, removed and sold from the properties on a net tonnage basis determined after reduction from gross run-of-mine tonnage as a result of any and all processing or cleaning of said coals. That BCC, or its nominee, shall reimburse Sellers for all pre-paid royalties listed on Exhibit B as the coal is mined, removed and sold from the properties on a per ton basis based on rates stated in the leases until the prepaids are exhausted. Settlements shall be made on the 25th day of each month for all such coal mined and removed from the premises during the preceding calendar month and all settlements shall be based upon the weights by which the coal is marketed. It is further understood and agreed that a summary of coal weighslips

shall be mailed to the Lessor at this mailing address, together with royalty checks.

14. That Sellers covenant and agree to assign all right, title, and interest to all expired leases obtained by Sellers on the James B. Graham parcels that were originally obtained by Sellers from James R. Walsh, Esquire, Trustee of the Bankruptcy Estate of Benjamin Coal Company, including but not limited to those shown on Exhibit B, attached hereto and incorporated herein by reference. Sellers agree BCC shall not reimburse Sellers for any royalties that were pre-paid on leases that have expired as of the signing of this Agreement. That Sellers agree to indemnify, defend and save harmless BCC from any claims, causes of actions, damages or losses, including but not limited to all costs and attorneys fees, which may arise from any action brought by any lessor, sub-lessor or the owner of any property interest, that resulted from actions of Sellers prior to the signing of this agreement. This indemnification shall survive the transferring and assigning of all the leases to BCC and the term of said leases.

15. That BCC, or its nominee, shall pay Sellers the sum of Seventy-five One-hundredths (\$.75) Dollars per ton as an override royalty on all tonnage mined, removed and sold from the expired "Graham" Leases including but not limited to those listed on Exhibit B attached hereto and incorporated herein by reference. In the event coal is not sold from the leases as run-of-mine coal, the override royalty of Seventy-five One-hundredths (\$.75)

Dollars per ton shall be paid on coal mined, removed and sold from the properties on a net tonnage basis determined after reduction from gross run-of-mine tonnage as a result of any and all processing or cleaning of said coal. Settlements shall be made on the 25th day of each month for all such coal mined and removed from the premises during the preceding calendar month and all settlements shall be based upon the weights by which the coal is marketed. It is further understood and agreed that a summary of coal weighslips shall be mailed to the Lessor at this mailing address, together with royalty checks.

16. Sellers shall execute and deliver to BCC a deed, in the form of Exhibit C attached hereto and incorporated herein by reference, for the Benjamin Realty. All real estate taxes assessed with respect to the Benjamin Realty described in Exhibit C for the year 1995, shall be prorated on a calendar-year basis as of the date of the Closing. All real estate transfer taxes with respect to the Benjamin Realty shall be paid equally by Sellers and BCC.

17. That the parties hereto acknowledge that Sellers have a permit pending with DER known as the Poplar Run Permit, Pre-application #1794005, Exhibit D. Sellers hereby agree to assist BCC or its nominee in their efforts to obtain the issuance of said permit. BCC or its nominee shall pay any and all costs and expense to obtain said permit. Upon the issuance of said permit, it shall be made a part of this Agreement and the duties and responsibilities of the parties with respect to all the

permits listed on Exhibit A, attached hereto and incorporated herein by reference, shall also be applicable to the Poplar Run Permit.

18. That the Sellers agree to transfer, assign and convey to BCC or its nominee all of their right, title and interest to the Wall Farm that was acquired under a certain Agreement between the Sellers and McDonald Land and Mining Company on September 28th, 1994, listed on Exhibit E, attached hereto and incorporated herein by reference.

19. BCC or its nominee agree to assume all responsibility Sellers acquired under Exhibit E and comply in a timely manner with all terms and conditions of the leases and permits. Upon the transfer of said permit, it shall be made part of this Agreement and the duties and responsibilities of the parties with respect to all the permits listed on Exhibit A, shall be applicable to the Wall Farm.

20. That BCC shall pay the Sellers the purchase price of Nine Hundred Twenty-five Thousand and No One-hundredths (\$925,000.00) Dollars upon the execution of this Agreement for the transfer and assignment of all right, title and interest for the assets described in all attached Exhibits of this Agreement.

21. The parties hereto hereby acknowledge, agree and consent, notwithstanding any other provision to the contrary herein, that BCC shall have the full and complete right to assign, transfer and set over completely any and all rights, privileges, liabilities, and responsibilities in, to and under the mining permits and bonds delineated by this agreement to its nominees.

22. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, the heirs, personal representatives, successors and assigns of the Sellers; and the heirs, personal representatives, successors and assigns of BCC.

23. Further Documentation. The parties hereto agree that they will execute any and all written instruments, assignments, releases, satisfactions and such other writings as may be necessary or desirable for the proper effectuation of this Agreement.

24. Entire Agreement. This Agreement sets forth the entire and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter. No amendment, modification or alteration of the terms of this Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties.

25. Applicable Law. This Agreement shall be governed by and construed under and in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to its conflict of laws principles, and provided that no presumption shall arise or exist in favor of or against either party as a consequence of the preparation and/or negotiation of this Agreement. The head notes to the paragraphs of this Agreement are inserted for a matter of convenience only and are not intended to and do not define, describe or limit any provisions contained herein.

26. Disclaimer. Buyers have entered into this Agreement based solely on their examination, inspection and review of assets and agreements and on their assessment of the ownership of, title to, and condition of the assets and not as a result of the representation of the Seller or any person acting in behalf of the Seller. Buyer realizes that Seller is transferring, assigning and conveying to Buyers only such interest, if any, which Sellers may have.

27. Buyers agree that with a two (2) day notice, Martin L. Bearer or his designated representative, shall have access to Buyer's operations and records for the purpose of verifying the royalties and other sums payable by Buyers under this Agreement and Buyers' compliance of terms and conditions of the Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

WITNESS:

Rosie M. Cook

NORTH CAMBRIA FUEL COMPANY

Martin L. Bearer
Martin L. Bearer, Owner

ATTEST:

M. B. ENERGY, INC.

Michael S. Klapak
Secretary (SEAL)

Michael S. Klapak
Michael S. Klapak, President &
Secretary/Treasurer

ATTEST:

BRADFORD COAL CO., INC.

W. Keith Garman, Secy-Treas
W. Keith Garman,
Secretary/Treasurer

C. Alan Walker, President ^{Chief}
C. Alan Walker, President & ^{Executive}
Chief Executive Officer

MINING PERMITS

<u>NCF JOB NO.</u>	<u>JOB NAME</u>	<u>TOWNSHIP/COUNTY</u>	<u>PERMIT NO.</u>
279	Shamrock	Penn/Clearfield	17900108
281	Graham	Penn/Clearfield	17814000
291	Leprechaun	Penn & Brady/Clearfield	17900143
307	Swope	Penn & Brady/Clearfield	17810124

EXHIBIT "A"

BENJAMIN LEASES

GRAHAM ESTATE LEASES - Updated 2/15/95
2/24/95 Balances

<u>Lease Name & Number</u>	<u>Status</u>	<u>Pre-paid A/C</u>
North Cent. Bank/Powell-#1033	good till exhaustion	\$ 91,850.59
Raymond Nelson-#300	expires 4 yrs. from permit issuance	17,100.00
Michael Selester-#307	expires 5 yrs. from permit issuance	0.00
Swope-#312	expires 3 yrs. from permit issuance	0.00
London Heirs-#400	expires 5 yrs. from permit issuance	0.00
Clarence Thomas-#319	expires 5 yrs. from permit issuance	10,200.00
Ruth Dush-#1038	expires 2/10/96	5,250.00
Joseph Madera-#1634	exhaustion if actively mining	21,364.60
Charles Danvir-#1238	exhaustion	0.00
Jo Ann Lynch-#1920	till notice of termination	3,280.00
Charles Bell-#1931	exhaustion wheelage agmt.	0.00
Friendly Farms-#362	expires 5 yrs. from permit issuance	0.00
Irish Run #1418	expired 7/1/91	0.00
James Barnes #1476	expired 12/93	0.00
NCBank/Dailey Run #1912	expired 7/31/90	0.00
NCBank/Korb #1035	exhaustion	800.00
NCBank/Keenan #1602	expired 7/1/91	<u>0.00</u>
		\$149,845.19

EXHIBIT "B"

BENJAMIN REALTY

<u>DEED</u>	<u>ACRES</u>	<u>TOWNSHIP</u>
117-D-10-6	80 acres coal rights	Greenwood
104-E9-3	20 acres coal rights E seam	Bloom
107-C6-20.1	1.48 acres surface 4.5 acres surface	Brady
107-D7-15	25 acres coal rights	Brady

EXHIBIT "C"

POPLAR RUN

<u>NCF JOB NO.</u>	<u>JOB NAME</u>	<u>TOWNSHIP/COUNTY</u>	<u>PRE-APPL.</u>
324	Poplar Run	Penn/Clearfield	1794005

EXHIBIT "D"

WALL FARM

<u>NCF JOB NO.</u>	<u>JOB NAME</u>	<u>TOWNSHIP/COUNTY</u>	<u>PERMIT NO.</u>
?	Wall Farm	Penn/Clearfield	17910113

EXHIBIT "E"

M. B. ENERGY, INC. BONDS TO BE REPLACED

<u>JOB OR PROPERTY</u>	<u>SMP#</u>	<u>BOND AMOUNTS</u>	<u>STAGE OF RELEASE</u>
Swope, Selester, Nelson	17910124	\$221,900	Partial SI
Graham	17814000	\$140,060	Not Activated
Leprechaun	17900143	\$132,200	Not Activated
Shamrock	17900108	<u>\$94,240</u>	Partial SII
		\$588,400	

MCDONALD BONDS TO BE REPLACED

<u>JOB OR PROPERTY</u>	<u>SMP#</u>	<u>BOND AMOUNTS</u>	<u>STAGE OF RELEASE</u>
Wall Farm	17910113	\$104,700	Activated

TOTAL AMOUNT OF BONDS TO BE REPLACED = \$693,100

EXHIBIT "F"

Commonwealth of Pennsylvania
Department of Environmental Resources
Bureau of Mining and Reclamation

SURFACE MINING PERMIT
NO. 17900108

Permittee: M. B. Energy, Inc.
P.O. Box 1319
Indiana, PA 15701

Name of Operation: Shamrock

Issuance Date: May 21, 1990

Type of Operation: Surface

Expiration Date: May 21, 1995

Township: Penn and Brady

County: Clearfield

1. This permit is hereby issued in accordance with the provisions of the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945 (P.L.1198, No.418), as amended, 53 P.S. §1396.1 et seq., and the Clean Streams Law, Act of June 22, 1937 (P.L. 1987, No.394), as amended, 35 P.S. §691.1 et seq., and the regulations promulgated pursuant to these Acts. This permit is also issued in accordance with the following statutes and regulations promulgated pursuant to these statutes as marked:

- Coal Refuse Disposal Control Act, Act of September 24, 1968 (P.L.1040, No.318), as amended, 52 P.S. §30.51 et seq., and the regulations promulgated pursuant to this Act.
- Dam Safety and Encroachments Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. §693.1 et seq., and the regulations promulgated pursuant to this Act.
- Air Pollution Control Act, Act of January 8, 1960 (1959 P.L. 2119, No. 787), as amended, 35 P.S. §4001 et seq., and the regulations promulgated pursuant to this Act.
- Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, NO. 97), 35 P.S. §6018.101 et seq., and the regulations promulgated pursuant to this Act.

2. The permit is for 798 acres of which 195 coal acres are planned to be affected. Permittee may conduct surface coal mining activities only on that area of the permit outlined on the Authorization to Mine and accompanying maps contained in Part C of this permit. Initial authority to conduct mining activities is granted for an area of 88.9 acres described in Part C of this permit. Additional authority to conduct mining activities may be granted by written approval of the Department and attached to Part C of this permit. Permittee is prohibited from conducting coal mining activities on that portion of the permit area which has not been authorized for mining by the Department, in writing and shown on the bond approval and mining authorization map(s) contained in Part C of this permit.

PART A

SURFACE MINING PERMIT NO. 17900108NPDES PERMIT NO. PA0116971

Permittee: M. B. Energy, Inc.
 P.O. Box 1319
 Indiana, PA 15701

Name of Operation: ShamrockIssuance Date: May 21, 1990Type of Operation: SurfaceExpiration Date: May 21, 1995Township: Penn and BradyCounty: Clearfield

I. Effluent Limitations and Monitoring Requirements for Mine Drainage Treatment Facilities.

<u>Outfall No.</u>	1A	<u>Lat.</u>	40°58'11"	<u>Long.</u>	78°41'02"
	2A		40°58'18"		78°41'22"
	3B		40°58'28"		78°41'17"
	4A		40°58'43"		78°41'02"
	5A		40°58'51"		78°40'55"
	6A		40°58'43"		78°41'08"
	7A		40°58'30"		78°41'24"
	10A		40°58'01"		78°41'20"

a. The permittee is authorized to discharge during the period from May 21, 1990 through May 21, 1995.

b. Based on the hydrologic data and anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or revisions, the following effluent limitations and monitoring requirements apply to the above listed outfall numbers.

Discharge Limitations

Monitoring Requirements

Concentration (mg/l
 unless otherwise specified)

Discharge Parameter	Average Monthly	Maximum Daily	Measurement Frequency <small>(Once a month when discharging)</small>	Sample Type	Reporting Frequency
Iron	3.0	6.0		Grab	Quarterly
Manganese	2.0	4.0	"	"	"
Aluminum	2.0	4.0	"	"	"
Total Suspended Solids	35.0	70.0	"	"	"

pH Not less than 6.0 standard units nor greater than 9.0 standard units at all times.

Steve per Ron
please review.COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES
BUREAU OF MINING AND RECLAMATION

SMP25

ZET/TS

SF

COAL SURFACE MINING PERMIT
NO. 17814000Permittee: M. B. Energy, Inc.
250 Airport Road
P. O. Box 1319
Indiana, PA 15701-1319Name of Operation: GrahamTransfer Date: September 25, 1990Renewal Date: March 1, 1994Compliance Date: March 10, 1994Issuance Date: March 1, 1984Type of Operation: Surface MineExpiration Date: March 1, 1999Permitted Seams: Lower Freeport,
Upper Kittanning, Middle KittanningTownship: PennCounty: Clearfield

This approval is subject to the attached LIMITS OF AUTHORIZATION, MANDATED COAL MINING ACTIVITY PERMIT CONDITIONS AND REQUIREMENTS and to:

PART A EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS AND MANDATED NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) CONDITIONS AND REQUIREMENTS

PART B SPECIAL CONDITIONS OR REQUIREMENTS

PART C AUTHORIZATION TO MINE

The permit is for 310.2 acres of which 170.2 acres are planned to be affected. Permittee may conduct surface coal mining activities only on that area of the permit outlined on the Authorization to Mine and accompanying maps contained in Part C of this permit. Initial authority to conduct mining activities is granted for an area of 66.8 acres described in Part C of this permit. Additional authority to conduct mining activities may be granted by written approval of the Department and attached to Part C of this permit. Permittee is prohibited from conducting coal mining activities on that portion of the permit area which has not been authorized for mining by the Department, in writing, and shown on the bond approval and mining authorization map(s) contained in Part C of this permit.

This permit is hereby issued in accordance with the provisions of the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945 (P.L. 1198, No. 418), as amended, 52 P.S. §§1396.1 et seq., and The Clean Streams Law, Act of June 22, 1937 (P.L. 1987, No. 394), as amended, 35 P.S. §§691.1 et seq., The Air Pollution Control Act, Act of January 8, 1960 (1959 P.L. 2119, No. 787), as amended, 35 P.S. §§4001 et seq., and the regulations promulgated pursuant to these Acts. This permit is also issued in accordance with the following statutes and regulations if marked:

PART A
COAL SURFACE MINING PERMIT NO. 17814000
NPDES PERMIT NO. PA0608769

Permittee: M. B. Energy, Inc.
250 Airport Road
P. O. Box 1319
Indiana, PA 15701-1319

Name of Operation: Graham

Type of Operation: Surface Mine

Permitted Seams: Lower Freeport,
Upper Kittanning, Middle Kittanning

Transfer Date: September 25, 1990

Renewal Date: March 1, 1994

Compliance Date: March 10, 1994

Issuance Date: March 1, 1984

Expiration Date: March 1, 1999

Township: Penn

County: Clearfield

DISCHARGE TO (RECEIVING WATERS) an unnamed tributary to, and Irish Run to Curry Run to West Branch Susquehanna

I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS
A. MINE DRAINAGE TREATMENT FACILITIES

Outfall Numbers	Latitude	Longitude
001 (16)	40° 59' 35"	78° 42' 25"
002 (17)	40° 59' 27"	78° 42' 26"
003 (18)	40° 59' 13"	78° 42' 22"
004 (19)	40° 59' 07"	78° 42' 02"
005 (20)	40° 59' 21"	78° 41' 51"
006 (21)	40° 59' 31"	78° 41' 46"
007 (22)	40° 59' 47"	78° 41' 44"

Based on the hydrologic data and anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or revisions, the following effluent limitations and monitoring requirements apply to the above listed outfall numbers.

<u>DISCHARGE LIMITATIONS*</u>				<u>MONITORING REQUIREMENTS</u>	
Discharge Parameter	Average Monthly	Maximum Daily	Instantaneous Maximum	Measurement Frequency	Sample Type
Iron	3.0	6.0	7.0	Two Times Per Month	Grab
Manganese	2.0	4.0	5.0	"	"
Total Suspended Solids	35.0	70.0	90.0	"	"

pH not less than 6.0 standard units nor greater than 9.0 standard units at all times.

Alkalinity must exceed acidity at all times.

*Unless otherwise indicated, discharge limitations are concentrations and expressed in mg/l and the total (dissolved plus suspended fraction) is applicable for each parameter.

PART C

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

AUTHORIZATION TO MINE
PERMIT NO. 102257-17814000RR-02

Permittee: M. B. Energy, Inc.
250 Airport Road
P. O. Box 1319
Indiana, PA 15701-1319

Name of Operation: Graham

Issuance Date: March 10, 1994

Type of Operation: Surface Mine

Expiration Date: March 1, 1999

Township: Penn

County: Clearfield

- A. Permittee is hereby authorized to conduct coal mining activities on lands of James T. Barnes estate, James D. Graham estate situated in Penn Township, Clearfield County. Surface owners consent is attested to by inclusion of a properly executed Consent of Landowner form submitted in support of this approval.
- B. Surface coal mining activities are limited to the area designated as yellow (support); red (0-85' mining); blue (Stage I, 0-85' mining) in the map submitted in support of the request for this Mining Authorization, which covers 66.8 acres.
- C. The maximum allowed depth of pit or height of highwall is 85 feet. The maximum pit dimensions are described by Part B Condition #3.
- D. Bond Description
 - Original Bond
 - Transfer
 - Additional Bond
 - See Special Condition No. 6.
- E. The approved erosion and sediment control facility related to the area to be mined in accordance with this authorization must be constructed in accordance with the approved plan, certified by a professional engineer or land surveyor, and the certification submitted to the Department prior to the commencement of other coal mining activities in this area.

Commonwealth of Pennsylvania
Department of Environmental Resources
Bureau of Mining and Reclamation

SURFACE MINING PERMIT
NO. 17900143

Permittee: M. B. Energy, Inc.
250 Airport Road
P. O. Box 1319
Indiana, PA 15701-1319

Name of Operation: Leprechaun

Issuance Date: February 13, 1992

Expiration Date: February 13, 1997

Township: Penn and Brady

County: Clearfield

1. This permit is hereby issued in accordance with the provisions of the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945 (P.L.1198, No.418), as amended, 53 P.S. §1396.1 et seq., and the Clean Streams Law, Act of June 22, 1937 (P.L. 1987, No.394), as amended, 35 P.S. §691.1 et seq., and the regulations promulgated pursuant to these Acts. This permit is also issued in accordance with the following statutes and regulations promulgated pursuant to these statutes as marked:

- Coal Refuse Disposal Control Act, Act of September 24, 1968 (P.L.1040, No.318), as amended, 52 P.S. §30.51 et seq., and the regulations promulgated pursuant to this Act.
- Dam Safety and Encroachments Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. §693.1 et seq., and the regulations promulgated pursuant to this Act.
- Air Pollution Control Act, Act of January 8, 1960 (1959 P.L. 2119, No. 787), as amended, 35 P.S. §4001 et seq., and the regulations promulgated pursuant to this Act.
- Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, NO. 97), 35 P.S. §6018.101 et seq., and the regulations promulgated pursuant to this Act.

2. The permit is for 341.1 acres of which 115.3 coal acres are planned to be affected. Permittee may conduct surface coal mining activities only on that area of the permit outlined on the Authorization to Mine and accompanying maps contained in Part C of this permit. Initial authority to conduct mining activities is granted for an area of 44.8 acres described in Part C of this permit. Additional authority to conduct mining activities may be granted by written approval of the Department and attached to Part C of this permit. Permittee is prohibited from conducting coal mining activities on that portion of the permit area which has not been authorized for mining by the Department, in writing and shown on the bond approval and mining authorization map(s) contained in Part C of this permit.

M. B. Energy, Inc.
Penn and Brady Townships, Clearfield County

PART A

SURFACE MINING PERMIT NO. 17900143

NPDES PERMIT NO. PA 0206458

Permittee: M. B. Energy, Inc.
250 Airport Road
P. O. Box 1319
Indiana, PA 15701-1319

Name of Operation: Leprechaun

Issuance Date: February 13, 1992

Expiration Date: February 13, 1997
Township: Pa.

Township: Penn and Brady
County: Cleantown

County: Clearfield

I. Effluent Limitations and Monitoring Requirements for Mine Drainage Treatment Facilities.

<u>Outfall No.</u>	001 TP-A	<u>Lat.</u>	40°59'15"	<u>Long.</u>	78°41'11"
002	TP-B		40°59'00"		78°41'23"
003	TP-C		40°59'25"		78°41'19"
004	TP-E		40°59'57"		78°41'22"

a. The permittee is authorized to discharge during the period from February 13, 1992 through February 13, 1997.

b. Based on the hydrologic data and anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or revisions, the following effluent limitations and monitoring requirements apply to the above listed outfall numbers.

Discharge Limitations

Monitoring Requirements

Concentration (mg/l
unless otherwise specified)

Discharge Parameter	Average Monthly	Maximum Daily	Measurement Frequency (Once a month when discharging)	Sample Type	Reporting Frequency
Iron	3.0	6.0		Grab	Quarterly
Manganese	2.0	4.0	"	"	"
Aluminum	2.0	4.0	"	"	"
Total Suspended Solids	35.0	70.0	"	"	"

pH Not less than 6.0 standard units nor greater than 9.0 standard units at all times.

Commonwealth of Pennsylvania
 Department of Environmental Resources
 Bureau of Mining and Reclamation

SMP49

SURFACE MINING PERMIT
 NO. 17910124

Permittee: M. B. Energy, Inc.
 P. O. Box 1319
 Indiana, PA 15701

Name of Operation: Swope-Selester-Nelson Issuance Date: September 9, 1992

Type of Operation: Surface Mine Expiration Date: September 9, 1997

Permitted Seams: Upper Kittanning,
 Lower Freeport, Upper Freeport

Townships: Brady & Penn

County: Clearfield

1. This permit is hereby issued in accordance with the provisions of the Surface Mining Conservation and Reclamation Act, Act of May 31, 1945 (P.L.1198, No.418), as amended, 53 P.S. §1396.1 et seq., and the Clean Streams Law, Act of June 22, 1937 (P.L. 1987, No.394), as amended, 35 P.S. §691.1 et seq., and the regulations promulgated pursuant to these Acts. This permit is also issued in accordance with the following statutes and regulations promulgated pursuant to these statutes as marked:

- Coal Refuse Disposal Control Act, Act of September 24, 1968 (P.L.1040, No.318), as amended, 52 P.S. §30.51 et seq., and the regulations promulgated pursuant to this Act.
- Dam Safety and Encroachments Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. §693.1 et seq., and the regulations promulgated pursuant to this Act.
- Air Pollution Control Act, Act of January 8, 1960 (1959 P.L. 2119, No. 787), as amended, 35 P.S. §4001 et seq., and the regulations promulgated pursuant to this Act.
- Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, NO. 97), 35 P.S. §6018.101 et seq., and the regulations promulgated pursuant to this Act.

2. The permit is for 393.0 acres of which 215.0 coal acres are planned to be affected. Permittee may conduct surface coal mining activities only on that area of the permit outlined on the Authorization to Mine and accompanying maps contained in Part C of this permit. Initial authority to conduct mining activities is granted for an area of 82.3 acres described in Part C of this permit. Additional authority to conduct mining activities may be granted by written approval of the Department and attached to Part C of this permit. Permittee is prohibited from conducting coal mining activities on that portion of the permit area which has not been authorized for mining by the Department, in writing and shown on the bond approval and mining authorization map(s) contained in Part C of this permit.

PART A

SURFACE MINING PERMIT NO. 17910124
NPDES PERMIT NO. PA0206725

Permittee: M. B. Energy, Inc.
P. O. Box 1319
Indiana, PA 15701

Name of Operation: Swope-Selester-Nelson

Issuance Date: September 9, 1992

Type of Operation: Surface Mine

Expiration Date: September 9, 1997

Permitted Seams: Upper Kittanning
Lower Freeport, Upper Freeport

Townships: Brady & Penn

County: Clearfield

I. Effluent Limitations and Monitoring Requirements for Mine Drainage Treatment Facilities.

<u>Outfall No.</u>	(002) TP-1	<u>Lat.</u>	41° 00' 02"	<u>Long.</u>	78° 42' 04"
	(004) TP-2		41° 00' 02"		78° 41' 54"
	(006) TP-3		40° 59' 40"		78° 42' 50"
	(009) TP-4		40° 59' 42"		78° 42' 53"
	(012) TP-5		40° 59' 37"		78° 43' 10"
	(015) TP-6		40° 59' 58"		78° 43' 18"

a. The permittee is authorized to discharge during the period from September 9, 1992 through September 9, 1997.

b. Based on the hydrologic data and anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or revisions, the following effluent limitations and monitoring requirements apply to the above listed outfall numbers.

Discharge Limitations

Monitoring Requirements

Concentration (mg/l
unless otherwise specified)

Discharge Parameter	Average Monthly	Maximum Daily	Instantaneous Maximum	Measurement Frequency	Sample Type	Reporting Frequency
Iron	3.0	6.0	7.0	Twice a Month when discharging	Grab	Quarterly
Manganese	2.0	4.0	5.0	"	"	"
Aluminum	2.0	4.0				
Total Suspended Solids	35.0	70.0	90.0	"	"	"

This agreement made and entered into this
5th day of August 1994.

This agreement is to set forth in writing
the acknowledgement that:

Bradford Coal Co., Inc.

will pay Eugene E. Cuomo of Box 32 Dysart, Pa 16636,
\$.10 per ton on coal mined on:

the Bradford Coal Co., Inc./Martin L. Bearer Agmt
on the James B. Graham Estate

Said royalty shall be paid in accordance with scheduling
and weights used in the payment of the Lessor's royalty.

This agreement shall be binding upon and inure to
the parties hereto, their heirs, successors and assigns.

Witness

Witness

Dave M. Cirulla

Dave M. Cirulla

C. Alan Walker, President

C. Alan Walker, President & CEO
BRADFORD COAL CO., INC.

Eugene E. Cuomo

Eugene E. Cuomo

PLAINTIFF'S
EXHIBIT

C
ALL-STATE® INTERNATIONAL

TERMINATION AGREEMENT

MADE this 24 day of February, 1995 by and
between NORTHERN CENTRAL BANK, as trustee under the Codicils to
the Will of James B. Graham, deceased ("Lessor") and
MARTIN BEARER, Agent ("Lessee").

PREAMBLES:

A. Lessor and Lessee entered into a Lease Modification
Agreement ("Modification Agreement") dated January 17, 1990.
Prior to the execution of the Modification Agreement Lessee had
purchased from the Trustee in Bankruptcy for Benjamin Coal Company
certain leases referred to in the Lease Modification Agreement and
herein as the "Benjamin Leases".

B. By virtue of the aforementioned purchase of the
Benjamin Leases from the Trustee in Bankruptcy, Lessee became the
lessee under the Benjamin Leases.

C. Certain of the Benjamin Leases have expired.

D. Lessee, M.B. Energy, Inc. and Bradford Coal Company
Inc. will enter into an Agreement ("Bradford Agreement") a
condition precedent to which is the execution and delivery of this
Termination Agreement.



E. Lessor and Lessee will terminate the existing Benjamin Leases as hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing Preambles and intending to be legally bound hereby:

1. Except as hereinafter set forth, Lessee agrees that the Lease Modification Agreement and the existing Benjamin Leases are hereby terminated. Lessee releases Lessor from all duties and obligations to Lessee under the Benjamin Leases and the Lease Modification Agreement and any and all documents executed by Lessor and Lessee in connection therewith.

2. Except as hereinafter set forth, Lessor agrees that the Lease Modification Agreement and the existing Benjamin Leases are hereby terminated; and, except as hereinafter set forth, Lessor releases Lessee from all duties and obligations to Lessor under the Benjamin Leases and the Lease Modification Agreement and any and all documents executed by Lessor and Lessee in connection therewith, including, without limitation the duty to pay further royalties from and after the date hereof. The Lessor further agrees to terminate with prejudice a certain civil suit filed by Lessor against Lessee at 93-1820 CD in the Court of Common Pleas of Clearfield County.

3. Lessor specifically excepts and reserves from the operation of this Agreement the right to be indemnified by Lessee

pursuant to the provisions of paragraph 15 of the Modification Agreement as the same relates to injury or damage which occurred prior to the date hereof.

4. This agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument. It shall not be necessary in making proof of this agreement to produce or account for more than one such counterpart.

5. Simultaneously with the execution hereof Lessee shall execute in favor of Lessor a quit claim deed for the Benjamin Leases.

6. This Agreement shall inure to and shall be binding upon the parties hereto and their respective heirs, successors and assigns.

WITNESS the due execution hereof as of the day and year first above written.

NORTHERN CENTRAL, Trustee as aforesaid

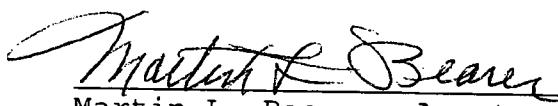
By Martin L. Bearer
Martin L. Bearer
Martin L. Bearer, Agent

QUIT CLAIM DEED

MADE this 24th day of February, 1995 by
MARTIN L. BEARER, Agent, ("Grantor") and NORTHERN CENTRAL BANK,
trustee under the Codicil to the Will of James B. Graham,
deceased ("Grantee").

Intending to be legally bound hereby Grantor hereby
releases and quit claims unto Grantees, its successors and
assigns, all of its right, title and interest in and to the
property in Clearfield County, Pennsylvania described or referred
to in that certain Lease Modification between Grantee as lessor
and Grantor as lessee dated January 17, 1990 and in that certain
Agreement dated October 1, 1958 between County National Bank at
Clearfield, et al. as lessors and C.E. Powell et ux. as lessees,
as amended by Agreement dated July 1, 1988 and by the foregoing
Lease Modification Agreement.

WITNESS the due execution hereof on the day and year
first above written.



Martin L. Bearer, Agent

PLAINTIFF'S
EXHIBIT

E

ALL-STATE[®] INTERNATIONAL

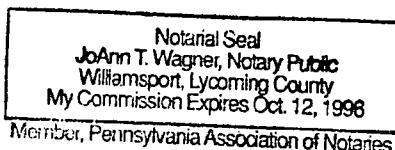
STATE OF PENNSYLVANIA : : SS
COUNTY OF Lycoming :

On this, the 24th day of February, 1998, before
me the undersigned officer, personally appeared Martin L. Bearer,
known to me (or satisfactorily proven) to be the person whose name
is subscribed to the within instrument, and acknowledge that he
executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and
official seal.

JoAnn T. Wagner
Notary Public

MY COMMISSION EXPIRES:



LEASE AGREEMENT

Made and entered into this 24th day of February, 1995, by and between NORTHERN CENTRAL BANK, successor trustee under Codicils to the Will of James B. Graham, deceased ("Lessor") having a mailing address of 102 West Fourth Street, Williamsport, Pennsylvania 17701, Attention: William Fox, and BRADFORD COAL CO., INC., a Pennsylvania corporation ("Lessee") having a mailing address at P.O. Box 368, Bigler, Pennsylvania 16825.

PREAMBLES:

A. Lessor is the owner of certain interests in real property ("Property") situate in Penn and Brady Townships, Clearfield County, Pennsylvania and more particularly described on Exhibit A attached hereto and made a part hereof.

B. The surface of some of the coal lands is owned by Georgia-Pacific Corporation which acquired the Property ("Georgia-Pacific Property") by deed dated April 20, 1994.

C. In addition, some of the Property is subject to a Lease Modification Agreement dated January 17, 1990 between Lessor and Martin L. Bearer and certain leases defined in said Agreement as the "Benjamin Leases" which are owned by the said Martin L. Bearer. The said Benjamin Leases and the said Lease Modification

PLAINTIFF'S
EXHIBIT

Agreement are collectively referred to herein as the "Bearer Lease").

D. Lessee desires to lease the Property under the terms hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing Preambles which are incorporated by reference herein and intending to be legally bound hereby the parties hereto covenant and agree as follows:

ARTICLE I

TITLE; NOTICE

1.1 Covenants of Authority and Limited Warranty of Title.

a. Lessor covenants that it has authority to grant to Lessee the rights and interests as set forth herein pursuant to the trust powers granted to it.

b. Lessee acknowledges that Lessor has not examined the title to the Property and makes no representations or warranties as to title to the Property except that Lessor hereby covenants, promises and agrees to and with Lessee, its successors and assigns, that Lessor has not heretofore done or committed any act, matter or thing whatsoever whereby the Property, or any part

thereof, is, are, shall or may be impeached, charged, or encumbered in title, charge, estate or otherwise howsoever.

1.2 Notices. Notices required hereunder shall be in writing and shall be either delivered personally or mailed by certified return receipt requested, as follows: in the case of Lessor, notice shall be delivered to 102 West Fourth Street, Williamsport, Pennsylvania 17701, ATTENTION: William Fox, and in the case of Lessee: to Bradford Coal Co., Inc., P.O. Box 368, Bigler, Pennsylvania 16825, ATTENTION: C. Alan Walker, President. Each of the parties reserves the right to change the name and/or address of the persons to whom notices shall be delivered or mailed, which change shall become effective upon receipt of written notice of said change by the other party. All mailed notices shall be deemed given when mailed and the return receipt shall be conclusive evidence of mailing.

ARTICLE II

THE LEASE; CERTAIN DEFINITIONS

2.1 The Lease. Lessor hereby lets, leases and demises unto Lessee and Lessee takes and hires from Lessor, all upon and subject to the terms and conditions hereinafter set forth, the sole and exclusive right to mine and remove by the strip mining method only (as opposed to the deep, auger or other methods of mining) all coal from and under the Property, together with all interests of Lessor in the Mining Rights (hereinafter defined).

The Lessee shall have the right to auger mine with the written permission of the Lessor. The written permission shall be on a site specific basis.

2.2 Certain Definitions.

2.2.1 "Mining Rights" shall mean the right to mine and remove all of the coal in, on or underlying the Property by the strip mining method and auger mining method where Lessor consents, together with the right, where Lessor owns any of the surface of the Property, of ingress, egress and regress to enter upon and under the Property for the purpose of examining, testing and mining by the strip mining method, and auger mining method where Lessor consents, removing and carrying away said coal by such ways and means as may be necessary in the judgment of the Lessee, reasonably exercised, in the successful strip mining and auger mining where Lessor consents, and taking away of the same, and also together with such mining, operation, drainage and surface rights and privileges as are owned by Lessor, with the right to deposit upon the surface of said lands, spoil piles and waste material from the mining operations thereon. Mining Rights shall not include, and Lessor excepts and reserves unto itself, the right and privilege to use the surface of the Property to develop and remove minerals other than coal, timber, oil and gas so long as in the exercise of such privilege Lessor does not materially interfere with the operations of Lessee hereunder.

2.2.2. "Mineable Coal" shall mean all Marketable Coal which can be developed and mined by the strip mining method and auger mining method where Lessor consents, considering actual conditions and costs of the strip mining operations and auger mining operations where Lessor consents, and royalties payable to the owners of the coal and surface, and which can be mined and sold at a reasonable profit.

2.2.3. "Marketable Coal" shall mean all Mineable Coal of a quality rendering such coal saleable in the markets in which such coal is generally sold.

2.2.4. "Force Majeure" shall mean events or circumstances which effectively prevent continuation of normal mining operations and are wholly or substantially without the control of Lessee, such as amendments to or adoption of laws, ordinances or other governmental regulations, court orders; impracticability of performance as contemplated by § 2-165 of the Uniform Commercial Code; inability to obtain permits or licenses, scarcity of or inability to obtain necessary equipment, material, power or fuel; strike, walk out, lock out, inability to market Mineable Coal; inability to obtain necessary consents and/or mining rights from surface landowners; flood, storm, earthquake, fire, war, insurrection, civil disobedience and all other like or similar events or occurrences which are beyond Lessee's reasonable control.

ARTICLE III

TERM

3.1. Term. This Lease shall commence on the day ("Commencement Date") when Lessee has delivered to Lessor a duly executed and acknowledged original of the termination of the Bearer Lease which termination document shall be in form and substance satisfactory to Lessor. This Lease shall continue, unless sooner terminated under the terms hereof, for a period of 10 calendar years thereafter. If Lessee has paid to Lessor royalties (minimum and production) equal to \$2,000,000 during the term of this Lease, Lessee at its option, may renew this Lease for an additional period of five years.

3.2. Conditions. If the Bearer Lease is not terminated by February 28, 1995, this Lease shall terminate.

ARTICLE IV

MINING COVENANTS

4.1 Mining Permits; Commencement of Mining. Lessee shall acquire and when appropriate make application for all mining permits and licenses from appropriate governmental agencies which are required to be obtained prior to the conduct of a surface mining operation on the Property.

4.2 Operating Methods; Compliance With Laws. Lessee shall conduct mining operations on the Property in a good and workmanlike manner and in compliance with all laws, regulations and orders of the United States of America, the Commonwealth of Pennsylvania and any bureau, department or subdivision thereof. Lessee shall conduct the mining operations on a continuous basis (except for Force Majeure) and in a diligent, energetic and efficient manner so as to recover all of the Mineable and Merchantable Coal from the Property, all pursuant to mining plans prepared by and regularly maintained by Lessee.

ARTICLE V

ROYALTIES

5.1 Production Royalties. Lessee shall pay to the Lessor tonnage royalty on all Marketable coal removed from the Property in the amount of ten (10%) percent of the Selling Price of Coal received for each net ton of coal, or Three (\$3.00) dollars per net ton, whichever is greater, on the coal removed from the fee tracts and five (5%) percent or One and fifty one-hundredths (\$1.50) dollars for the coal removed from the coal only tracts. The "Selling Price of the Coal" shall be defined as follows:

- a. For coal processed through a tipple or preparation plant, the average monthly invoice price, F.O.B. railroad cars, for all coal loaded at the tipple or preparation plant, less the cost of

transporting coal from the Property to said tipple or preparation plant, where such cost is borne by the Lessee; or

b. For coal transported directly by truck from the pit to the purchaser, the average selling price at destination for all coal so transported to purchasers, less transportation charges.

If the sale of any coal mined and sold from the Property is a non-arm's length sale by Lessee to any company, firm, corporation or individual directly or indirectly controlling, controlled by or under common control with Lessee, the price used in computing royalties due Lessor hereunder shall be the reasonable market value of similar coal having similar quality produced from mines in the area. The sale shall be deemed "non-arm's length" where the market price for similar coal in the area exceeds the actual selling price of the coal by more than 5% of such actual selling price. The Lessee shall not be required to mine, remove, ship, or pay for coal which is not Mineable.

5.2 Payments of Production Royalty. All production royalty payments payable to Lessor shall be accounted for and paid monthly on or before the 25th day of the month for all coal mined and sold from the Property during the preceding calendar month. Each such payment shall be accompanied by a true and current statement showing fully and accurately the weight of all coal mined and sold from the Property during the preceding month all in accordance with Section 5.5 hereof. In addition, Lessee shall submit to Lessor verification of the Selling Price of Coal in such

form and at such times as Lessor shall request. In addition, each monthly statement submitted by Lessee shall show the total of all minimum and production royalties paid to Lessor prior to the issuance of each such statement.

5.3 Minimum Royalties. (a) Lessee shall pay to the Lessor advance monthly royalty in the amount of Five Thousand (\$5,000.00) dollars per month for the first twelve months of the Lease. For months 13-24 the advance monthly royalty shall be Six thousand (\$6,000.00) dollars per month. For months 25-36 the advance monthly royalty shall be Seven thousand five hundred (\$7,500.00) dollars per month. For months 37-48 the advance monthly royalty shall be Six thousand (\$6,000.00) dollars per month. For months 49-120 the advance monthly royalty shall be Five thousand (\$5,000.00) dollars per month. However, once the total royalty paid to the Lessor totals One million (\$1,000,000.00) dollars in advances and actual tonnage royalty combined, no further advance monthly minimums shall be due during the initial ten year term of this Lease; (b) During the five year renewal period, if any, Lessee shall pay to Lessor advance monthly royalty in the amount of FIVE THOUSAND (\$5,000.00) DOLLARS per month for each month during the Renewal Period. Said advance monthly royalty payments shall cease when all the coal that is Mineable is exhausted. Such payments shall be made in advance, without demand or setoff, on the first day of each and every calendar month during the term of this Lease commencing on the

first day of the calendar month next succeeding the Commencement Date.

5.4 Credit. Accrued royalties in the amount of \$92,650.59 paid under the Bearer Leases and minimum royalty payments shall be credited against the production royalty payments, if any, made in the calendar month with respect to which the minimum royalty payment has been made. If no production royalty payment is made in any month or if the production royalty payment made in any month is less than the minimum royalty payment made in such month, the positive difference between the minimum royalty paid and the production royalty paid shall be a credit to Lessee to subsequent production royalty payments made thereafter, it being understood, however, that at no time shall the monthly payments required to be made pursuant to this Article V be less than the amount of the minimum monthly royalty payment required to be made hereunder.

5.5 Weighing Procedures; Analysis; Deductions. (a) The weight of all coal mined from the Property shall be ascertained upon the basis of certified truck scale weights of licensed weighmasters. Weight for payment of production royalty shall be based upon the amount of Merchantable Coal taken from the Property. Any person, persons or corporations having the records of the weights of coal produced from the Property are hereby authorized to have the Lessee furnish to Lessor the weights of the coal mined by Lessee from the Property. (b) If the ash content of the coal is less than 15% on an as-received analysis, there shall

be no reduction in weight for rejects in the cleaning process. If the ash on an as-received analysis is 15% to 20% then Lessee may deduct up to 20% of the weight for rejects in the cleaning process. If the ash on an as-received analysis is 20% to 25% then Lessee may deduct up to 30% of the weight for rejects in the cleaning process. If the ash on an as-received analysis is greater than 25% then Lessee may deduct up to 50% of the weight of the coal for rejects in the cleaning process. The analysis to determine ash content shall be performed on a daily basis from truck samples taken on a daily basis. The records of such analysis shall be made available to Lessor. Lessor shall have the right to perform an analysis of the ash content of coal from time to time at the pit and to have the same analyzed by an independent testing company.

ARTICLE VI

INDEMNITY; INSURANCE

6.1 Indemnity by Lessee; Insurance. Lessee agrees to indemnify, save and hold harmless and defend Lessor from and against any and all claims, demands, suits or causes of action, nature, including death, to persons, including employees or Lessee, and property of any person arising out of or in connection with Lessee's operations hereunder, together with all costs and expenses and attorneys' fees reasonably incurred by Lessor arising out of or in connection with Lessee's operation hereunder. Lessee shall obtain and maintain during the term hereof comprehensive

general liability insurance on an "occurrence basis" against claims for bodily injury or death or property damage occurring on or about the Property to afford protection in a "single limit" of not less than \$1,000,000 with a \$5,000,000 excess policy in addition to the primary policy. Such insurance shall be placed with a company or companies satisfactory to Lessor and shall name Lessor as a named insured and certificates thereof shall be delivered to Lessor during the term hereof to evidence that such insurance is in effect at all times.

6.2 Pollution Liability Insurance. Lessee shall obtain and maintain in effect a pollution liability insurance policy in the amount of \$1,000,000 which shall be in form and in substance satisfactory to Lessor and the Pennsylvania Department of Environmental Resources and which shall be issued by a company or companies satisfactory to lessor.

6.3 Failure to Maintain Insurance. If Lessee does not maintain the insurance required to be maintained pursuant to this Article, Lessor may, at its option, obtain the insurance required to be maintained by Lessee hereunder. Lessee will on demand reimburse Lessor for any amounts paid or expended for such insurance together with interest on the amount of such payments at the rate of 15% per annum from the date such payments are made by Lessor until the date of reimbursement of such payments by Lessee.

6.4 Survival of Provisions. The terms of this Article VI, including without limitation the duty to indemnify, save and hold harmless and defend and provide insurance, shall remain in full force and effect following the termination of this Lease with respect to all re-entries by Lessee onto the Property for any reason.

ARTICLE VII

RECORDS AND INSPECTION

7.1 Records; Inspection by Lessor. Lessee shall keep accurate and correct books of account showing coal mined from the Property together with all sales records thereof and containing all facts necessary for a just accounting of rents and royalties including, without limitation, all coal mined from other properties which may be co-mingled with coal from the Property, the manner of shipping, and a record of all analysis of said coal made or caused to be made by the Lessee. Lessor, its agents and representatives, shall have access at any and all reasonable times to all such records and to the offices where such records are kept for the purpose of inspecting, auditing and making copies of said records; and Lessor is hereby authorized to demand and require of any railroad company or any trucking company transporting the coal produced from the Property an inspection of their books and records showing the detailed weight of all such coal and pertinent information in relation thereto; and the said carriers and their

agents are hereby authorized and requested to show Lessor and its agents all such records when requested and to furnish all such information.

7.2 Maps. The Lessee shall deliver to the Lessor a copy of the map of the Property submitted to the Commonwealth of Pennsylvania with its application for a mining permit for the said Property before commencing mining operations upon the Property.

ARTICLE VIII

TAXES

8.1 Real Estate Taxes. Lessee shall pay during the term of this Lease when the same shall become due all taxes, whether, state, local or federal or whatsoever kind which shall be or may be levied on or collectable out of the product of the Property, improvements thereon or used in connection therewith by Lessee, except that the Lessor shall pay any and all real estate taxes on the Property.

ARTICLE XI

TIMBER

9.1 Notification; removal. Lessee covenants and agrees that, prior to commencing mining operations in any area of the Property of which Lessor is the owner of the surface upon which is located any timber of value for either pulp wood or saw timber, it

will notify Lessor in writing at least six months prior to commencing such operations. Lessor shall have the right to remove any such timber during the ninety day period following receipt of such notice. Lessor agrees that in removing such timber it will not unduly interfere with or delay the mining operations of Lessee on the Property.

9.2 Destruction of Timber. As to any timber which Lessor determines not to remove pursuant to paragraph 9.1, Lessee covenants and agrees that it will not destroy or damage such timber unnecessarily and agrees that all corners and boundary lines removed during the mining operation will be replaced by Lessee, at no cost to Lessor, at the end of mining and reclamation operations.

9.3 Georgia-Pacific Property. Lessee acknowledges that it has received a copy of the deed for the Georgia-Pacific Property and covenants and agrees to fully perform the obligations of Lessor to Georgia-Pacific in connection with the removal of the coal from the Georgia-Pacific Property. In this regard, Lessee agrees to indemnify and save and hold harmless and defend Lessor from any claims, demands, actions or causes of action brought or made by Georgia Pacific in connection with or related to Lessee's operations hereunder.

ARTICLE X

RESTORATION

10.1 Duty to Restore. Lessee shall conduct operations on the Property in a proper and workmanlike manner with adequate machinery and equipment and when operations are completed, Lessee shall promptly restore the surface of the Property in full and complete compliance with all applicable laws and regulations.

10.2 Contractual Duty. The parties agree that the laws and regulations relating to restoration of the Property in effect on the date of this instrument are incorporated herein by reference and shall be deemed to be contractual obligations of Lessee to restore the Property whether or not such obligations are in effect at the time that restoration actually occurs. Lessee further covenants and agrees that the top soil and subsoil each shall be separately removed and stored apart from the overburden and that in the restoration, the subsoil will be placed on the overburden and thereafter the top soil will be placed on the subsoil in such a manner that no large rocks will be above the surface of the top soil. Lessee further agrees that, except as otherwise provided by applicable law or regulations, no trees or plantings will be used in restoration by the Lessee which would restrict Lessors rights to use or harvest the plantings or the right to use the Property in any manner.

ARTICLE XI

COMPLIANCE WITH LAWS

11.1 Duty to Comply. The Lessee covenants and warrants that it will abide and comply with all local, state and federal laws, rules and regulations now existing (including, without limitation, the Open Pit Mining Conservation Act of 1945 as amended, the Pure Streams Law of 1937 as amended, the Pennsylvania Workmen's Compensation Act as amended and the 1977 Federal Strip Mine Act) or which may hereafter become effective relating to mining by the surface mining method, including those regarding drilling, prospecting, cleaning, processing, transporting, augering restoration, surface support, water, streams, air, employees, blasting and explosives related to its mining operations. It is understood that Lessee shall not be in default hereunder if a claim is made by any enforcement agency that Lessee is not abiding or complying with any of the aforementioned laws, rules or regulations, provided, however, that Lessee either has commenced to comply with any such laws or is contesting such claim with diligence and in good faith if, in each instance, procedures for enforcements either have not been commenced or if commenced, have been suspended.

11.2 Indemnification. Lessee covenants to indemnify and save harmless and defend Lessor from all responsibility and liability for any failure of Lessee to comply with the local, state and federal laws, rules and regulations, from any failure to

obtain all required permits and from any fines, penalties and prosecutions of and agrees that such covenant shall be a continuing obligation, notwithstanding the termination of this Lease.

11.3. Reclamation. Lessee shall give Lessor ten days prior written notice before closing or backfilling the last stripping cut in any operation on the Property and permit Lessor, if it so desires, to make an inspection thereof. All reclamation shall be performed in accordance with all applicable laws and regulations and in accordance with the best known and approved mining practices and methods.

ARTICLE XII

ASSIGNMENT AND SUBLETTING

12.1 Assignment and Subletting. Lessee shall not assign transfer, hypothecate, pledge or convey this Agreement or any of its rights and obligations hereunder, whether voluntarily or by operation of law, without the prior written consent of Lessor. Any merger, consolidation, liquidation, or any change in ownership or power to vote a majority of Lessee's outstanding voting stock shall constitute an assignment for the purposes of this paragraph and shall require the prior written consent of Lessor in each instance. Notwithstanding the foregoing, it is understood that Lessee shall have the right to contract with third parties to conduct production operations on the Property, it being

understood, nevertheless, that Lessee shall remain primarily responsible and liable for full performance of all terms and conditions of this Agreement.

ARTICLE XIII

DEFAULT, SURRENDER AND TERMINATION

13.1 Payment Default. If Lessee fails to make any payment required to be made to Lessor hereunder when the same become due and payable, Lessor has the option to terminate this Lease except that Lessor shall not terminate this option if such failure to pay occurs only twice in any calendar year and such two late payments are made within 15 days after written notice that the same have not been made. All delinquent payments shall bear interest at the rate of 15 percent per annum from the date upon which the same were due and each day's interest shall be due and payable on the day following which the same is earned.

13.2 Covenant Default. If Lessee fails to keep or perform any other covenant or agreements, either express or implied, to be performed on Lessee's part, then Lessor has the option, after giving written notice to Lessee specifying such nonperformance, to terminate this lease at the end of thirty days from date of receipt of such notice by Lessee; provided, however, Lessee may preserve this lease and prevent such termination by the bona fide commencement of performance of operations or acts to remedy the default specified in said notice within such thirty day

period. In the event of Lessee's failure to cure the specified default or make a bona fide effort to perform within said thirty day period, then, at the election of Lessor, this lease and the leasehold estate hereby created and all rights of Lessee hereunder shall become forfeited and cease and terminate, and Lessor shall have the right, without further notice, to re-enter the Property and to exclude Lessee therefrom, except for the purpose of removal of Lessee's property, as authorized hereinafter, and except for the performance of any reclamation work required by law. Any waiver by Lessor of any particular default shall not prevent forfeiture and termination of this lease for any other default or for the same default occurring at a later time.

13.3 Surrender. Lessee shall have the right to surrender and terminate this Lease upon giving at least sixty (60) days prior written notice to Lessor of such intent to surrender. Upon payment of all royalties due and payable to Lessor and the completion of all required reclamation work, Lessee shall thereafter be relieved all liability under this Lease. Lessee agrees to execute any document in recordable form evidencing such surrender as may be reasonably required by Lessor.

13.4 Rights After Termination. In the event this lease is terminated for any reason, Lessee, upon payment of all royalties and other payments due Lessor, shall have the right for a period of 180 days thereafter to remove all buildings, structures, machinery, equipment, tools, tracks, supplies and

other fixtures and facilities placed by Lessee on the Property and Lessee shall further have the right to re-enter the Property for such period of time as may be necessary to efficiently comply with the laws of the Commonwealth of Pennsylvania and the United States regulating the reclamation of the Property.

ARTICLE XIV

ARBITRATION

14.1 Arbitration. Any controversy, claim or dispute between the parties directly or indirectly concerning this Lease or the breach thereof or the subject matter hereof, including questions concerning the scope and applicability of this arbitration clause, shall be finally settled by arbitration in Williamsport, Pennsylvania in accordance with the rules then obtaining of the American Arbitration Association. The arbitration panel shall consist of three members - one appointed by Lessor, one appointed by Lessee and one appointed mutually by the two other members. Each party shall appoint its arbitrator within thirty days after the commencement of the arbitration. If either party fails to appoint an arbitrator within such thirty day period or if the two arbitrators so selected cannot agree on the third member within sixty days after the commencement of the arbitration procedure, the arbitrator or arbitrators, as the case may be, shall be selected by the President Judge of the Court of Common Pleas of Clearfield County, Pennsylvania. The arbitrators shall be persons who are proficient and experienced in coal mining

and in the particular question at issue. The arbitrators shall have the right and authority to determine how their decision or determination as to each issue or matter in dispute may be implemented or enforced. Any decision or award of the arbitrators shall be final and conclusive on the parties to this agreement; there shall be no appeal therefrom other than for bias, fraud or misconduct; judgment upon such decision or award may be entered in any competent court in the Commonwealth of Pennsylvania and application may be made to such Court for confirmation of such decision or award for an order of enforcement and for other legal remedies which may be necessary to effectuate such decision or award. Each party hereto gives consent to personal jurisdiction of any such court in reference to any matter arising out of the foregoing arbitration or enforcement thereof.

ARTICLE XV

MISCELLANEOUS PROVISIONS

15.1 Notices. All notices and statements required to be given or made hereunder shall be in writing and shall be delivered in accordance with the provisions of paragraph 1.10.

15.2. Descriptive Headings. The descriptive headings of the several articles and paragraphs of this agreement are inserted for convenience only. They are not intended to indicate all of the matter following them. Accordingly, they shall not

control or affect the meaning or construction of any of the provisions hereof.

15.3 Severability. If any paragraph or provision of this lease or the application thereof to either party hereto or any circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this Lease which can be given effect without the invalid provision or application, and to this end the parties agree that the provisions to this agreement are and shall be severable.

15.4 Recording. Lessee agrees not to record this instrument without the prior written consent of Lessor. If such consent is granted, notice of this Lease shall be placed on the public record by using a short form memorandum of lease in the form provided by the statutes of the Commonwealth of Pennsylvania.

15.5 Applicable Law. This lease shall be governed by and be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

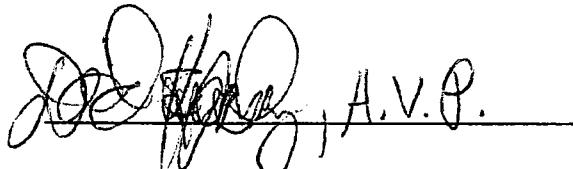
15.6 Binding Effect. This agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

15.7 Integration. This agreement constitutes and contains the entire and only agreement between the parties and

supersedes and cancels any and all pre-existing agreements and understanding between the parties relating to the subject matter hereof.

WITNESS the due execution hereof on the day and year first above written.

ATTEST:



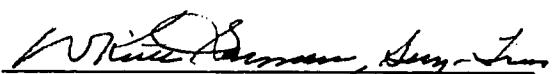
Joe O'Halloran, A.V.P.

LESSOR:

NORTHERN CENTRAL BANK, Trustee
as aforesaid

By Willie E. Scott
Title Vice President

ATTEST:



Wm. D. Murray, Secy-Treas.

LESSEE:

BRADFORD COAL CO.

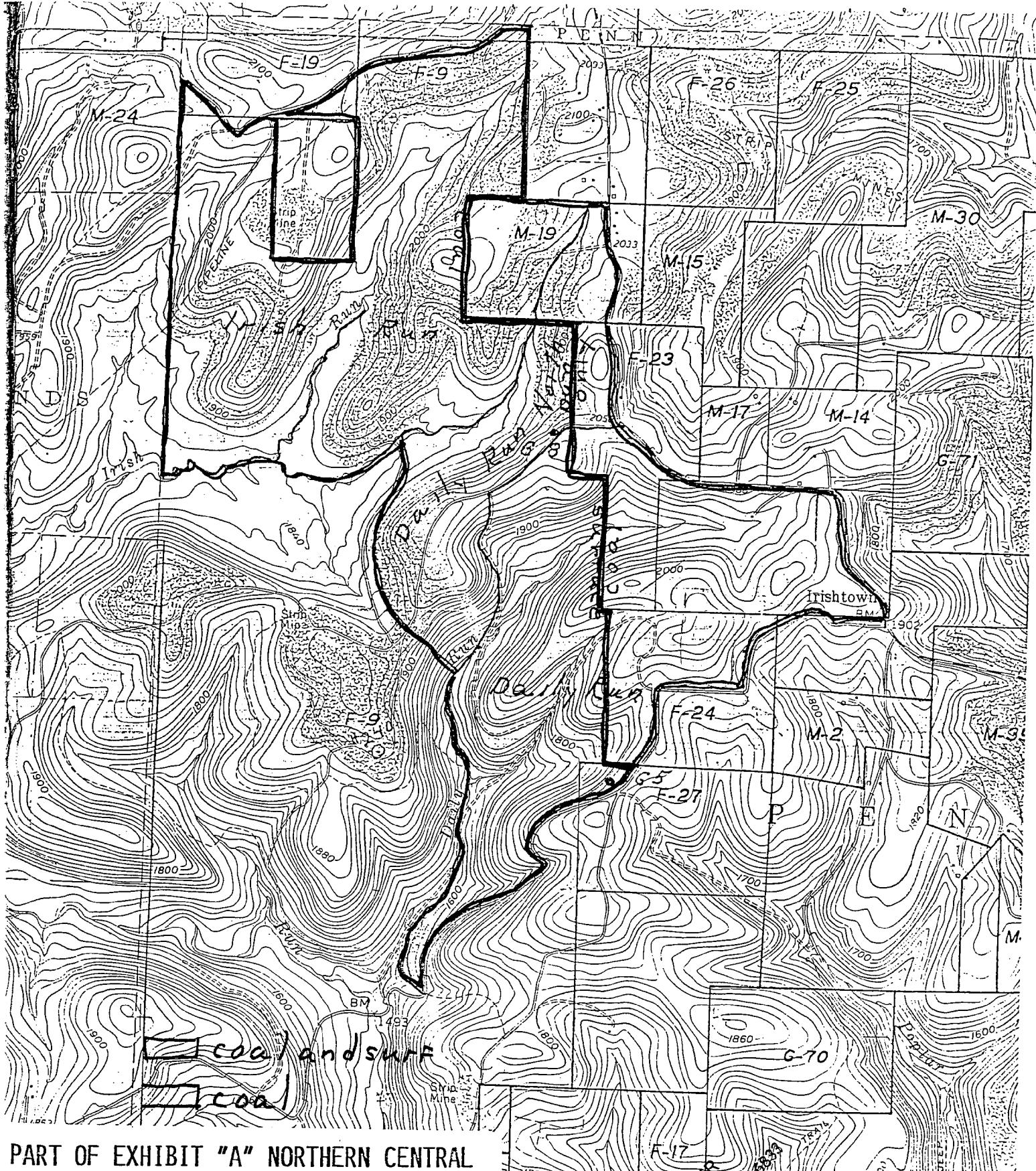
By C. Alan Marshall
Title President

EXHIBIT A TO LEASE AGREEMENT
BETWEEN NORTHERN CENTRAL BANK, TRUSTEE
AND BRADFORD COAL CO., INC.

Exhibit A to this Agreement consists of:

1. A tract map entitled "James B. Graham Estate Map showing Penn Township Lands, Clearfield County, Penna" and showing the bottom right corner the legend "Benjamin/Powell Lease as of January 1, 1995". This map has been initialled by the parties for identification purposes;
2. An 8 $\frac{1}{2}$ x 11 inch topographical map entitled "Part of "Exhibit A" Northern Central Bank/M.B. Energy/ Bradford Coal Company Agreement showing former Irish Run Lease, former Daily Run Lease and former Daily Run North Lease. R.L. Kester, P.L.S. 1/18/95"; and
3. A two page chart dated January 16, 1995 entitled "Northern Central Bank Benjamin/Powell Lease as of January 1, 1995" cross referenced to the aforementioned maps.

The areas on the maps referred to in paragraphs 1 and 2 above and outlined in red and green constitute the Property demised in the foregoing Lease Agreement.



PART OF EXHIBIT "A" NORTHERN CENTRAL
BANK/M.B. ENERGY/BRADFORD COAL COM-
PANY AGREEMENT SHOWING FORMER IRISH
RUN LEASE, FORMER DAILY RUN LEASE
AND FORMER DAILY RUN NORTH LEASE.

JANUARY 16, 1995

**NORTHERN CENTRAL BANK
BENJAMIN/POWELL LEASE
AS OF JANUARY 1, 1995**

ONE OF TWO

* = Surface rights owned by Georgia-Pacific, see deed.

ROBERT L. KESTER

ROBERT E. MILLER
P.O. Box 86
CURWENSVILLE, PENNSYLVANIA 16833
(814) 236-3413

JANUARY 16, 1995

NORTHERN CENTRAL BANK
BENJAMIN/LEASES EXPIRED
AS OF JANUARY 1, 1995

TWO OF TWO

TRACT F9 - Irish Run
Daily Run
Daily Run North

KORB LEASE - Part of tract M11 (Current) coal

ROBERT L. KESTER
P.O. Box 86
CURWENSVILLE, PENNSYLVANIA 16833
(814) 236-3413

SURFACE MINE PERMIT TRANSFER AND AGREEMENT

This **SURFACE MINE PERMIT TRANSFER and AGREEMENT** ("Agreement") is made and entered into as of the 25th day of April, 2000, by and between **BRADFORD COAL CO., INC.**, whose address is P. O. Box 368, Bigler, PA 16825, County of Clearfield; hereinafter called "Owner", and **ENERGY RESOURCES, INC.**, a Pennsylvania corporation having its principal office at Fermantown Road, P. O. Box 259, Brockway, PA 15824, County of Jefferson; hereinafter called "ERI".

WITNESSETH THAT:

WHEREAS, Owner is in possession of four (4) surface mine permits located in Brady and Penn Townships, Clearfield County, Pennsylvania. The permit numbers and names assigned each permit are as follows: SSN-Permit No. 17910124, Graham-17814000, Leprechaun-17900143, and Shamrock-17900108; hereinafter collectively called "Permits".

WHEREAS, Owner is desirous of selling the Permits to ERI, and ERI is willing to purchase the Permits providing the results of certain testing, geologic investigations and engineering studies verify the mineability and marketability of the coal reserves, and;

WHEREAS, Owner has certain Option and Lease Agreements, and or Lease Agreements that will be assigned and transferred to ERI. Owner recognizes that a new lease will be negotiated with the Graham Heirs Estate, and;

WHEREAS, ERI, upon acceptance, will transfer the Permits to the ownership of ERI, and replace all outstanding bond liability, and;

WHEREAS, Owner is obligated to ensure environmental and regulatory compliance on the permits for the term of this Agreement until each permit is completely transferred, and;

WHEREAS, Owner and ERI hereby agree to the following provisions.

NOW, THEREFORE, in consideration of the foregoing, and the covenants and agreements of the parties set forth herein, the parties hereto agree as follows:



1. The monetary value of each permit is hereby agreed to as follows:

Mine Name	SMP#	Permit Acres	Remaining Mine Acres	Assigned Permit Value (\$)	ERI Purchase Price (\$)
SSN	17910124	393.0	81.5	\$25,000	\$9,000
Graham	17814000	204.2	17.6	\$20,000	\$7,100
Leprechaun	17900143	342.5	64.0	\$27,500	\$9,700
Shamrock	17900108	798.0	73.0	\$32,750	\$9,200
			Total	\$105,250	\$35,000

2. **ERI**, upon execution of this Agreement, will commence an exploration and drilling program to verify the mineability and marketability of the coal reserves. The exploration program will commence after the execution of the Agreement and extend for a period of thirty (30) days. All drilling records and quality data will be provided to Owner.
3. **ERI** must notify Owner in writing of its decision to purchase the permits by June 30th, 2000. Should Owner not be notified by June 30th, 2000, this Agreement will be null and void, unless the term is extended in writing by Owner and **ERI**.
4. **ERI** will transfer the permits in an orderly succession and shall apply to the Department of Environmental Protection (DEP) for the transfer of one (1) permit per month. Once application is made to transfer a permit, **ERI** will have the right to begin mining operations on the permit that is being transferred. Owner will execute all forms and documents to effectuate the transfer of the permits.
5. Owner shall remain responsible for all regulatory compliance with the DEP on the permit(s) until the permit is completely transferred. Should **ERI** operate a permit under this interim Agreement, before the permit(s) are transferred, **ERI** will be responsible for regulatory compliance and liabilities.

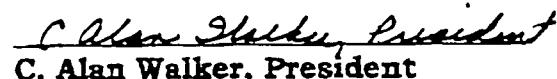
6. The purchase price payment for each permit will be paid as follows: One half of the purchase price when application is made to DEP, and the remaining one half of the purchase price for the permit to be paid when the permit transfer is complete.
7. Owner will cooperate with ERI to obtain a separate lease on the Graham Heirs property. This property and a favorable lease from the Graham Heirs is needed before a permit transfer application can be submitted and must be done before a purchase price can be paid.
8. The prepaid royalties accrued on each lease will be recouped as follows: (a) When the permit is transferred, one-third (1/3) of the prepaid royalties will be reimbursed to Owner by ERI; (b) The balance of the prepaid royalties will be reimbursed by ERI to Owner as a production royalty override from initial production. See Exhibit "A" for prepaid amounts.
9. ERI hereby recognizes that there is an override royalty of \$0.85 per ton payable to North Cambria Fuel Company as part of Owner's initial acquisition of these permits. Owner will cooperate to assign this Agreement and attempt to negotiate a reduction in this override payment.

IN WITNESS WHEREOF, the parties hereto, with intent to be legally bound, hereby have caused this Agreement to be executed as of the date first above written.

ATTEST OR WITNESS:



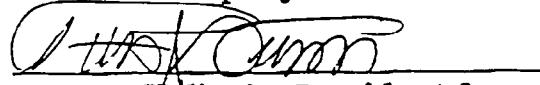
BRADFORD COAL CO., INC.
"Owner"


C. Alan Walker, President
C. Alan Walker, President

ATTEST OR WITNESS:



ENERGY RESOURCES, INC.
"Company"


Peter J. Vuljanic, President &
General Manager

SSN	Raymond Nelson ✓ surface BL76	\$43,800	4/1/00
	J. B. Graham Estate - coal BL68	\$10,277.89	4/1/00
SHAMROCK	Eleanor Byers - surface BL74 ✓	\$24,920	4/1/00
	J. B. Graham Estate - coal BL68	See above for advances	
LEPRECHAUN	Sara Boyce London, et al - surface ✓ BL89A-L	\$4,000	4/1/00
	J. B. Graham Estate - coal BL68	See above for advances	
	Eleanor Byers - surface BL74	See above for advances	
GRAHAM	Jim Barnes - fee BL73 ✓	\$8,000	4/1/00

* These figures are as of dates listed. They will change on a monthly basis.

EXHIBIT "A"

RELEASE AGREEMENT

THIS AGREEMENT, made and entered into this 9th day of November, 2000, by and between MANUFACTURERS AND TRADERS TRUST COMPANY of Williamsport, PA, Successor Trustee under Codicils of the Will of James B. Graham, deceased, hereinafter referred to as LESSOR,

A
N
D

BRADFORD COAL CO., INC., a Pennsylvania business corporation having its mailing address at P. O. Box 368, Bigler, PA 16825; hereinafter referred to as LESSEE, and

WITNESSETH:

WHEREAS, the Lessor and Lessee did enter into a certain Lease Agreement dated February 24, 1995, covering certain tracts of land in Penn and Brady Townships, Clearfield County, Pennsylvania described in EXHIBIT "A" of said February 24, 1995 lease, and,

WHEREAS, the Lessee does desire to release from the said Lease Agreement dated February 24, 1995, certain tracts of land shown on a map attached hereto and made a part hereof and marked as EXHIBIT "A" to this Agreement, and,

WHEREAS, the Lessor is agreeable to the release of certain properties, from the February 24, 1995 Agreement, by the Lessee, and,

NOW, THEREFORE, the Lessor and Lessee have agreed as follows:

1. The MINIMUM ROYALTIES paragraph 5.3, on page 9 of the Agreement dated February 24, 1995, shall be amended as follows:

"Lessee shall pay to the Lessor advance monthly royalty in the amount of Two Thousand Five Hundred (\$2,500.00) Dollars, beginning with payment due November 25, 2000, and continuing on the 25th of each month during the initial ten year term of this lease and the renewal period, as called for in paragraph 3.1, TERM, on page 6 of this lease".

PLAINTIFF'S
EXHIBIT

H

ALL-STATE® INTERNATIONAL

2. The Lessee hereby, by the signing of this Agreement does release and quit-claim unto the Lessor any and all rights granted to the Lessee on the tracts released by this Agreement that are shown on the map attached hereto and made a part hereof marked as EXHIBIT "A".
3. The Lessor and Lessee agree that all other terms, conditions, and or provisions in the February 24, 1995 Lease Agreement between the Lessor and Lessee are still in full force and effect and are hereby ratified by the signing of this Release Agreement.

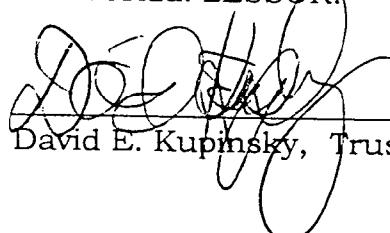
IN WITNESS THEREOF, the Lessor and Lessee have set their hands and seals the date above first written.

ATTEST:

JOHN J. ECKMAN
TRUST OFFICER

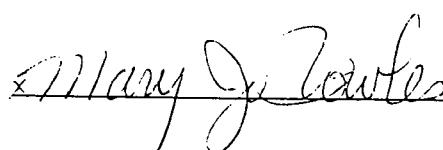


MANUFACTURERS AND TRADERS
TRUST COMPANY, TRUSTEE
James B. Graham Trust,
Asforesaid: LESSOR.



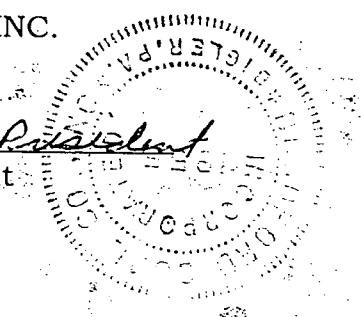
David E. Kupinsky, Trust Officer

WITNESS:



BRADFORD COAL CO., INC.
LESSEE:


C. Alan Walker, President



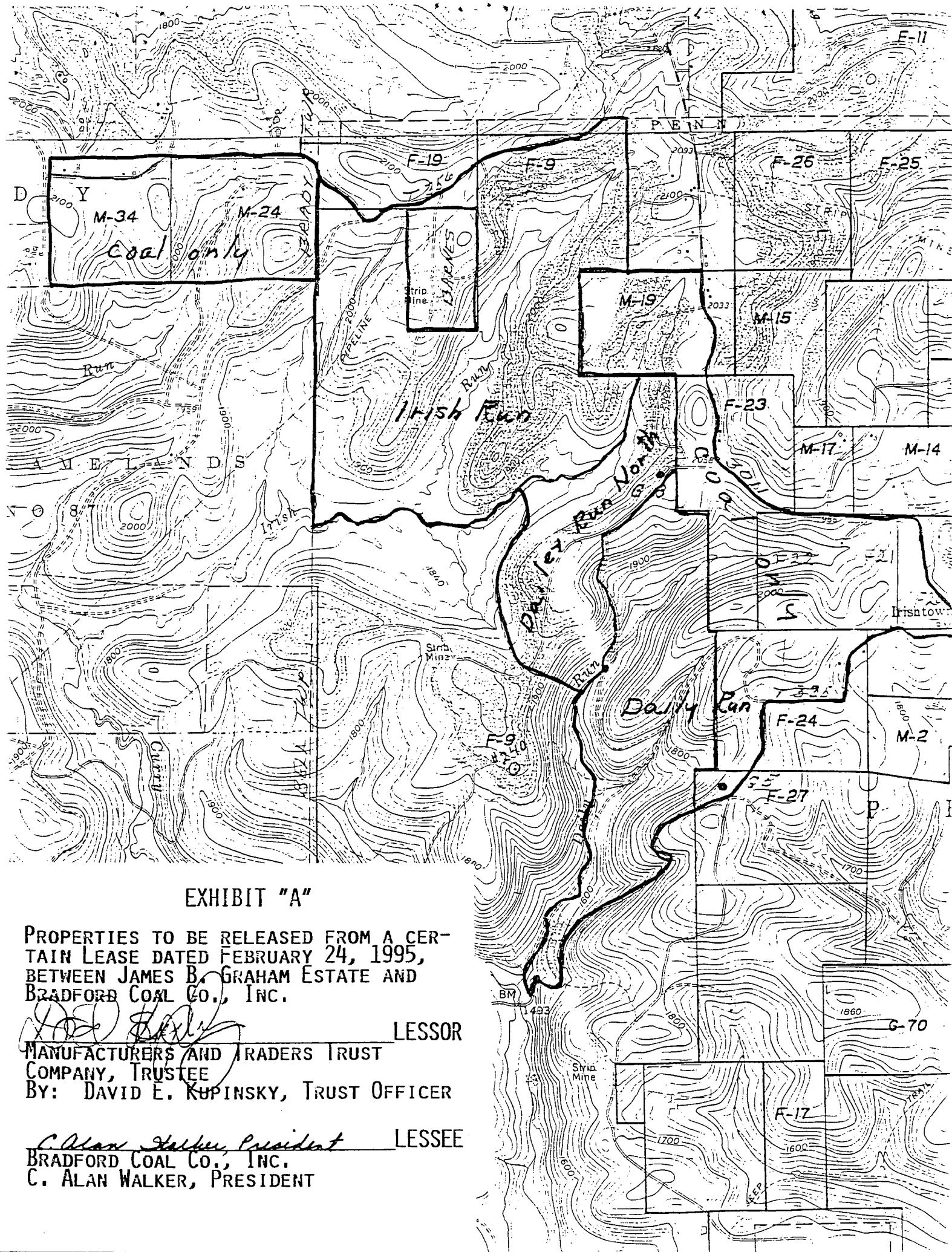


EXHIBIT "A"

PROPERTIES TO BE RELEASED FROM A CERTAIN LEASE DATED FEBRUARY 24, 1995, BETWEEN JAMES B. GRAHAM ESTATE AND BRADFORD COAL CO., INC.

LESSOR

MANUFACTURERS AND TRADERS TRUST
COMPANY, TRUSTEE
BY: DAVID E. KUPINSKY, TRUST OFFICER

C. Alan Walker, President LESSEE
BRADFORD COAL CO., INC.
C. ALAN WALKER, PRESIDENT

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF LYCOMING :

ON THIS, the 9th day of November, 2000, before me, the undersigned officer, personally appeared DAVID E. KUPINSKY, who acknowledged himself to be the TRUST OFFICER of the MANUFACTURERS AND TRADERS TRUST COMPANY, a corporation, and being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as TRUST OFFICER.

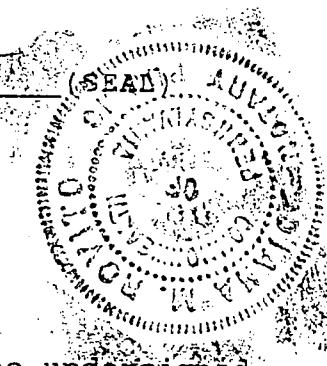
IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Diana M. Rovito

MY COMMISSION EXPIRES:

Notarial Seal
Diana M. Rovito, Notary Public
Williamsport, Lycoming County
My Commission Expires Sept. 23, 2002

Member, Pennsylvania Association of Notaries



COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF CLEARFIELD :

ON THIS, the 10th day of November, 2000, before me, the undersigned officer, personally appeared C. ALAN WALKER, who acknowledged himself to be the PRESIDENT of BRADFORD COAL COMPANY, INC., a corporation, and being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as PRESIDENT.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

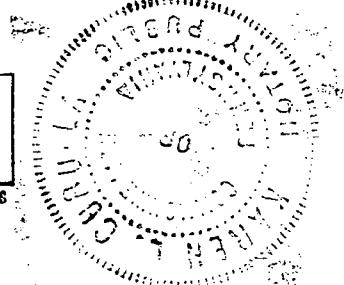
Karen L. Curulla

(SEAL)

MY COMMISSION EXPIRES:

Notarial Seal
Karen L. Curulla, Notary Public
Lawrence Twp., Clearfield County
My Commission Expires Oct. 17, 2004

Member, Pennsylvania Association of Notaries



KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
2000017111

RECORDED ON

NOV 16, 2000

12:32:05 PM

RECORDING FEES - **\$13.00**

RECORDER

COUNTY IMPROVEMENT FUND **\$1.00**

RECORDER FUND **\$1.00**

IMPROVEMENT FUND **\$0.50**

STATE WRIT TAX **\$0.50**

TOTAL **\$15.50**

CUSTOMER

TESTER, ROBERT

CLEARFIELD, PENNSYLVANIA 16830
P. O. BOX 1
15 NORTH FRONT STREET
ATTOL EYSAE LAW
BELLIN & KUBISTA

FILED

FEB 07 2002
010:39/44
William A. Shaw
Prothonotary

FILED

FEB 07 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER, :
VIRGINIA M. SHAW, EXECUTORS OF THE :
MARTIN BEARER ESTATE, MB ENERGY : NO. 02 - 179 - CD
INC., and EUGENE CUOMO, :
Plaintiffs :
vs. :
: :
ENERGY RESOURCES, INC., and :
TDK COAL SALES, INC., :
Defendants :
:

ACCEPTANCE OF SERVICE

TO THE PROTHONOTARY:

I accept service of the Complaint on behalf of Defendants Energy Resources, Inc. and TDK Coal Sales, Inc., and certify that I am authorized to do so.

Please enter my appearance for Defendants Energy Resources, Inc. and TDK Coal Sales, Inc., in the above-captioned matter.

DATE:

February 11, 2002



Robert M. Hanak, Esquire
Hanak Guido & Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801
814-371-7768
Attorney for Defendants

FILED

FEB 13 2002

William A. Shaw
Prothonotary

FILED

012156701
NO
cc

FEB 13 2002

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RONALD M. LITTLE, JAMES J. BEARER,
VIRGINIA M. SHAW, EXECUTORS OF THE
MARTIN BEARER ESTATE, MB ENERGY,
INC., and EUGENE CUOMO,

Plaintiffs

vs.

No. 02-179 CD

ENERGY RESOURCES, INC., and
TDK COAL SALES, INC.,

Defendants

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Defendants,
ENERGY RESOURCES, INC. and TDK COAL SALES, INC.

Date: Feb. 12, 2002



Robert M. Hanak
I.D. No. 05911
Hanak, Guido and Taladay
498 Jeffers St., P. O. Box 487
DuBois, PA 15801
814-371-7768

FILED

FEB 13 2002

010:241/ncc

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

RONALD M. LITTLE, JAMES J. BEARER,
VIRGINIA M. SHAW, EXECUTORS OF
THE MARTIN BEARER ESTATE,
MB ENERGY, INC., and EUGENE
CUOMO,

Plaintiffs

vs.

ENERGY RESOURCES, INC., and
TDK COAL SALES, INC.,

Defendants

CIVIL ACTION

No. 02-179 CD

Type of pleading:

**ANSWER AND
NEW MATTER**

Filed on behalf of:

DEFENDANTS

Counsel of record for
this party

Robert M. Hanak
I.D. No. 05911
Hanak, Guido and Taladay
498 Jeffers St., P. O. Box 487
DuBois, PA 15801
814-371-7768

You are hereby notified to plead
to the within pleading within
twenty (20) days hereof or a
default judgment may be
entered against you.

Robert M. Hanak

FILED

MAR 06 2002

WILLIAM A. SHAW
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

RONALD M. LITTLE, JAMES J. BEARER,
VIRGINIA M. SHAW, EXECUTORS OF THE
MARTIN BEARER ESTATE, MB ENERGY,
INC., and EUGENE CUOMO,

Plaintiffs

vs.

No. 02-179 CD

ENERGY RESOURCES, INC., and
TDK COAL SALES, INC.,

Defendants

ANSWER

AND NOW, come the Defendants, Energy Resources, Inc.
and TDK Coal Sales, Inc., and respond to the Complaint of the Plaintiff
as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted in part and denied in part. It is admitted that
the Bearer interests acquired certain assets pertaining to the mining
of coal from the Bankruptcy Trustee of the Benjamin Coal Company.
Defendants are unaware of the extent of the assets acquired or
whether, or not, such acquired assets included surface mine permits.
therefore, Defendants deny and demand strict proof thereof at trial.
7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted in part and denied in part. It is admitted that Bradford sold surface mining permits to the Defendants (ERI interest) by an agreement of April 25,2000 (misstated in Plaintiffs' Complaint as April 25, 2002). It is denied that said agreement effectively transferred the lease of the James B. Graham Estate to Defendants.

14. It is denied that the Defendants (ERI interest) agreed to pay to the Bearer interest the purchase price of \$0.85 per ton for all coal mined and removed from the premises as covered by the said agreement. To the contrary, the agreement does not obligate the Defendants (ERI interest) to make such payment. By way of further answer, it is averred that at no time did Bradford Coal Company ("Owner") assign the agreement that the said Bradford Coal Company as Owner had with the Bearer interests.

15. Admitted.

16. There was no Complaint paragraph numbered as "16", therefore, a responsive answer is not due.

17. It is denied that Defendants (ERI interest) have agreed to pay to the Bearer interest the \$0.85 per ton for all coal mined and removed from the Exhibit H/A premises. To the contrary, the Defendants (ERI interest) assumed no obligation or made no

specific agreement either expressed or implied to pay such payment of \$0.85 per ton.

18. Admitted. By way of further answer, it is averred that the said Defendants (ERI interest) have no obligation to make such payment as averred herein, and in New Matter.

WHEREFORE, Defendants request judgment in their favor.

NEW MATTER.

Defendants further incorporate their answers above and further aver New Matter as follows:

NEW MATTER - COUNT I

19. In Section 9 of the agreement of April 25, 2000, between Bradford Coal Company and the ERI interests (cited in Plaintiff's Paragraph No. 14), the following provision applies:

"(9) ERI hereby recognizes that there is an override royalty of \$0.85 per ton payable to North Cambria Fuel Company as part of the Owner's (Bradford Coal Co.) initial acquisition of these permits. Owner will cooperate to assign this Agreement and attempt to negotiate a reduction in this override payment."

20. In the above contract term, the Owner (Bradford Coal Company) agreed to cooperate to assign the agreement that the said Bradford Coal Company had with the Bearer interests to Defendants (ERI interest).

21. Any agreement as referenced above per the contract language with Bradford Coal Company, and which would obligate the Defendants (ERI interest) to pay any production royalty to Plaintiffs, was contingent or conditioned upon Bradford Coal Company's having the agreement with the Bearer interest assigned to Defendants.

22. No assignment or novation or privity by any document or agreement occurred, and, in fact, it was impossible to assign the Bearer interest agreement with Bradford Coal Company to the Defendants (ERI interest) for reasons as stated herein.

23. The James B. Graham Trust, Manufacturers and Traders Trust Company, Trustee, is the owner of economic interest in surface and/or coal of that area described in Plaintiffs' Complaint Exhibit H/A, and such area is, in fact, the area intended to be acquired by Defendants (ERI interest).

24. The lease agreement between the James B. Graham Trust and Estate and Bradford Coal Company dated February 24, 1995, which is Plaintiffs' Exhibit F, per Section 12.1, prohibits assignment.

25. The Trustee of the James B. Graham Trust and Estate refused to consent to assignment of the underlying lease of this transaction because of the following:

(a) The said Trustee refused to allow any overriding or production royalty interest to be added to royalty due to the said Trustee of the James B. Graham Estate because such additional charge may impact the ultimate tonnage removed from any of the lands of the said estate.

(b) Because of problems with the Bearer interest encountered by the said Trustee, the Trustee refused to allow any assignment of existing leases wherein an economic benefit was conferred on the Bearer interest.

(c) If the economic interest represented by the production royalty claimed by Plaintiffs did attach to the

leases, the ultimate mining and economic interest of the Trustee in the leases would be diminished.

26. As a result of the James B. Graham Trust and Estate's refusal to allow an assignment of such lease, the Bradford Coal Company was caused to release or terminate specific areas from the master lease between the James B. Graham Estate and the Bradford Coal Company. (See Release Agreement dated November 9, 2000, Plaintiffs' Exhibit H).

27. Defendant, TDK Coal Sales, Inc., entered a lease agreement with Manufacturers and Traders Trust Company, Trustee under the Will of James B. Graham, by a Lease Agreement dated November 9, 2000, for the coal rights and mining rights of that land area which is described in Plaintiffs' Exhibit H/A.

28. As a result of the fact that Defendant, TDK Coal Sales, Inc., entered a new lease for the mining rights on the land area of Plaintiffs' Exhibit H/A, there is no privity of contract between Defendants, the ERI interest, and the Plaintiffs.

29. Based on the above, there is no novation which obligates Defendants, the ERI interest, by any matter expressed or implied.

NEW MATTER - COUNT II

The Defendants incorporate the answers to Plaintiffs' Complaint and New Matter above and further aver New Matter as follows:

30. Plaintiffs' claim for a production payment of \$0.85 per ton was not reduced to any judgment, lien, lis pendens, or charge against the assets acquired by Bradford Coal Company from Plaintiffs.

31. Plaintiffs' claim is not a claim running with the land or charged to specific assets acquired by the Defendants, ERI interest, from the said Bradford Coal Company.

NEW MATTER - COUNT III

The Defendants incorporate the answers to Plaintiffs' Complaint and New Matter above and further aver New Matter as follows:

32. Production payments in the form of overriding royalty are in effect payments made from mineral production based on lease contracts or assignment of lease contracts, or contracts creating such interest between contracting parties.

33. There is no contract between Plaintiffs and Defendants, ERI interest, which could in any way obligate a payment of an overriding production payment, or an assumption of a purchase price payment.

NEW MATTER - COUNT IV

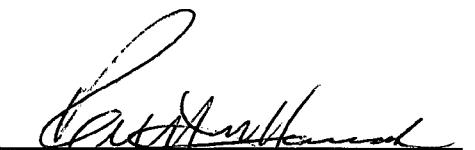
The Defendants incorporate the answers to Plaintiffs' Complaint and New Matter above and further aver New Matter as follows:

34. Bradford Coal Company and/or its assigns have continued to pay to the Plaintiffs the \$0.85 per ton for all coal removed by the said Bradford Coal Company or its assigns from lands retained by the Bradford Coal Company as part of its initial acquisition from the Bearer interest. Such payment continues through the present time and represents a substantial economic benefit to the said Bearer interest.

35. Considering the production payments of \$0.85 per ton that were part of the original Bradford Coal Company agreement with the Bearer interest, it was no longer economic for the Bradford Coal Company to pay such production payment to the Bearer interest and still be able to economically mine coal.

36. Because it was no longer economic to mine coal with the production interest owed to the Bearer interest, the Bradford Coal Company had the option of termination of mining on those leases which have subsequently been leased to the Defendants (ERI interest). Should mining have ceased, the Plaintiffs would have had no recourse to charge the production payment of \$0.85 per ton to or from the Bradford Coal Company.

WHEREFORE, Defendants demand judgment in their favor.



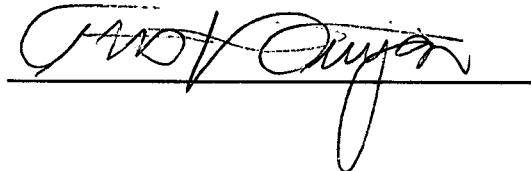
Robert M. Hanak
Attorney for Defendants

VERIFICATION

I, PETER J. VULJANIC, President and CEO of ENERGY RESOURCES, INC., do hereby verify that I have read the foregoing ANSWER AND NEW MATTER. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

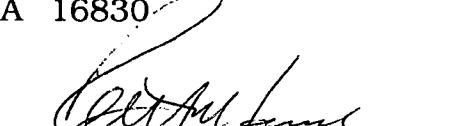
Date: MARCH 4, 2002

A handwritten signature in black ink, appearing to read "Peter J. Vuljanic", is written over the date line.

CERTIFICATE OF SERVICE

I certify that on the 5th day of March, 2002, a true and correct copy of the attached ANSWER AND NEW MATTER was sent via first class mail, postage prepaid, to the following:

Carl A. Belin, Jr., Esq.
Belin & Kubista
15 North Front Street
P. O. Box 1
Clearfield, PA 16830



Robert M. Hanak
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER, VIRGINIA M. SHAW, EXECUTORS OF THE MARTIN BEARER ESTATE, MB ENERGY INC., and EUGENE CUOMO,	:	
		NO. 02 - 179 - CD
Plaintiffs	:	REPLY TO NEW MATTER
vs.	:	
ENERGY RESOURCES, INC., and TDK COAL SALES, INC.,	:	
Defendants	:	

Filed on Behalf of:
Plaintiffs

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

MAR 25 2002

03/01/2002 atty Belin
William A. Shaw
Prothonotary
GRB

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER,	:	
VIRGINIA M. SHAW, EXECUTORS OF THE	:	
MARTIN BEARER ESTATE, MB ENERGY	:	NO. 02 - 179 - CD
INC., and EUGENE CUOMO,	:	
	Plaintiffs	:
VS.	:	
	:	
ENERGY RESOURCES, INC., and	:	
TDK COAL SALES, INC.,	:	
	Defendants	:

REPLY TO NEW MATTER

AND NOW comes Plaintiffs, Ronald M. Little, James Bearer, and Virginia Shaw, Executors of the Martin Bearer Estate, MB Energy, Inc., and Eugene Cuomo (collectively "Bearer"), by and through their attorneys, Belin & Kubista and files the following Reply to New Matter and in support thereof avers as follows:

19. Paragraph 19 is admitted but it is averred that the "override royalty" referred to in the agreement was not, in reality, an override but was a part of the purchase price of the properties and permits sold to Bradford Coal Company and Al Hamilton Contracting Company (collectively "Bradford") as no lease was assigned to Bradford by Bearer, rather Bearer released its interest to North Central Bank (later Manufacturers and Traders Trust Company), Trustee for the James B. Graham Estate ("the Trustee") to effectuate the re-leasing of the premises by Bradford which was the same manner by which Energy Resources, Inc. and/or TDK Coal Sales, Inc. (collectively "ERI") acquired the premises from Bradford.

20. Paragraph 20 is denied as averred; Bearer retained an interest in the properties covered by the Bearer- Bradford agreement and ERI was aware of Bearer's interest in the premises by virtue of its agreement with Bradford and Bearer has an enforceable economic interest in the premises as a third party creditor beneficiary and as a vendor under the above agreement.

21. Paragraph 21 is denied as ERI acquired the premises with notice of the Bearer- Bradford agreement and is liable to Bearer for \$.85 per ton for all coal removed from the premises as Bearer maintained an economic interest in the premises as the ultimate vendor thereof.

22. Paragraph 22 is denied as ERI was aware of the Bearer-Bradford agreement and of the Bearer interest in the premises as a prior vendor and assumed the obligation of the agreement by mining the premises covered by the agreement and is liable for the \$.85 per ton removed from the premises; it is further averred the interest did not arise out of a lease agreement.

23. Paragraph 23 is admitted but it is averred that Bearer also retained an economic interest by virtue of the Bearer-Bradford sale which ERI had actual notice when it acquired the premises from Bradford; it is further averred that without the economic interest, Bearer would not have terminated its interest in the leases and neither Bradford nor ERI would have acquired the lease for the premises.

24. Paragraph 24 is admitted but it is averred the interest of Bearer does not arise from said agreement.

25. Paragraph 25 is admitted in part; Bearer would not have released its interest in the premises so that the Trustee could lease the premises to Walker without the agreement of sale between Bearer and Bradford; Bradford followed the same method of transferring the premises to ERI. Bearer acquired an interest in the premises outside the lease which was created by the Bearer-Bradford agreement of which ERI had actual notice.

26. Paragraph 26 is admitted in part and in further answer thereto, Paragraphs 19-25 of this Reply to New Matter are hereby incorporated by reference and made a part hereof.

27. Paragraph 27 is admitted but said lease could not have been executed until Bearer had released the premises initially and Bradford released the premises subsequent to the Bearer transaction which was contemplated by the agreement of sale between Bradford and ERI.

28. Paragraph 28 is denied as the economic interest created by Bearer-Bradford was outside the lease agreement between the Trustee and Bradford or ERI, and in further answer thereto, Paragraphs 19-27 of this Reply to New Matter are hereby incorporated by reference and made a part hereof.

29. Paragraph 29 is denied as there is not a novation that has occurred as to the Bearer-Bradford agreement but said agreement survived the Bradford-ERI sale and is an existing contract between Bearer and Bradford which establishes an obligation to pay \$.85 per ton for all coal removed from the premises for which ERI is now liable.

COUNT II

30. Paragraph 30 is admitted, and it is averred the obligation is created by an extant agreement which created an economic interest in Bayer for which ERI is now liable.

31. Paragraph 31 is denied and in further answer thereto, Paragraphs 19 -29 of this Reply to New Matter are hereby incorporated by reference and made a part hereof. In further answer thereto, the interest of Bearer is that of a vendor and ERI is a purchaser who took title with notice of that interest.

COUNT III

32. Paragraph 32 is denied as the intention of Bearer and Bradford was not to create a typical override but to establish a purchase price to be determined by tonnages removed from the premises and as ERI had actual notice of the agreement it is liable for \$.85 per ton for the coal removed from the premises. It is further averred that Bearer has the rights of a vendor in an agreement of sale.

33. Paragraph 33 is denied and Bradford gave ERI actual notice of the Bearer-Bradford agreement and ERI assumed the obligation to pay Bearer the \$.85 per ton by mining the coal on the premises covered by the Bearer-Bradford agreement.

COUNT IV

34. Paragraph 34 is admitted that Bradford continues to pay the purchase price for coal removed from other premises covered by the Bearer-Bradford agreement; however, ERI is liable to Bearer for the premises covered by the Bearer-Bradford agreement it purchased from

Bradford, and in further answer thereto, Paragraphs 19-33 of this Reply to New Matter are hereby incorporated by reference and made a part hereof.

35. Paragraph 35 is neither admitted nor denied as after reasonable investigation Bearer is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. In any event ERI is liable for the coal mined and removed from the premises and in further answer thereto, Paragraphs 19-34 of this Reply to New Matter are hereby incorporated by reference and made a part hereof.

36. Paragraph 36 is neither admitted nor denied as after reasonable investigation Bearer is without knowledge or information sufficient to form a belief as to the truth of the averment and, if relevant, strict proof thereof is demanded at trial. It is averred that Bradford did not choose to abandon the premises but sold it to ERI who is mining the coal on the premises covered by the Bearer-Bradford agreement and thereby is liable to Bearer for the \$.85 per ton for all coal removed from the premises.

WHEREFORE, the Bearer interests demand:

- (a) that the ERI interests be directed to account for all coal mined and removed from the Exhibit H/A premises;
- (b) that it be directed to pay over to the Bearer interests \$.85 per ton for coal mined and removed from the premises; and
- (c) that judgment be entered in the amount so determined against the ERI

interests and in favor of the Bearer interests.

RESPECTFULLY SUBMITTED,

BELIN & KUBISTA

By

Carl A. Belin, Jr., Esquire
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA

SS.

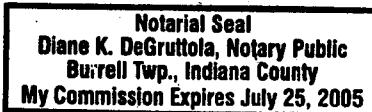
COUNTY OF Indiana

Before me, the undersigned officer, personally appeared Ronald M. Little, deposes and says that he is one of the Petitioners and being authorized by James J. Bearer and Virginia M. Shaw, Executors of the Martin L. Bearer Estate, M.B. Energy, Inc., and Eugene Cuomo, to execute this affidavit, and being duly sworn according to law, deposes and says that the facts set forth in the foregoing Reply to New Matter are true and correct to the best of his knowledge, information and belief.

Ronald M. Little
Ronald M. Little

Sworn and subscribed before me this 21st day of March, 2002

Diane K. DeGruttola
Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER,	:	
VIRGINIA M. SHAW, EXECUTORS OF THE	:	
MARTIN BEARER ESTATE, MB ENERGY	:	NO. 02 - 179 - CD
INC., and EUGENE CUOMO,	:	
	Plaintiffs	
VS.		
ENERGY RESOURCES, INC., and	:	
TDK COAL SALES, INC.,	:	
	Defendants	

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a certified copy of Plaintiffs' Reply to New Matter in the above-captioned matter to the following party by postage prepaid United States mail on March 25, 2002:

Robert M. Hanak, Esquire
Hanak Guido & Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

BELIN & KUBISTA

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiffs

CLARFIELD, PENNSYLVANIA 16830
P. O. BOX 1
15 NORTH FRONT STREET
ATTORNEYS AT LAW
BELLIN & KUBISTA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER, :
VIRGINIA M. SHAW, EXECUTORS OF THE :
MARTIN BEARER ESTATE, MB ENERGY : NO. 02 - 179 - CD
INC., and EUGENE CUOMO, :
Plaintiffs : CERTIFICATE OF SERVICE
vs. :
: :
ENERGY RESOURCES, INC., and :
TDK COAL SALES, INC., :
Defendants :
:

Filed on Behalf of:
Plaintiffs

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED

SEP 04 2002

01 10:38/ndcc
William A. Shaw
Prothonotary 

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER, :
VIRGINIA M. SHAW, EXECUTORS OF THE :
MARTIN BEARER ESTATE, MB ENERGY : NO. 02 - 179 - CD
INC., and EUGENE CUOMO, :
Plaintiffs :
vs. :
: :
ENERGY RESOURCES, INC., and :
TDK COAL SALES, INC., :
Defendants :

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent an original of Plaintiffs' Second Set of Interrogatories Directed to Defendants in the above-captioned matter to the following party by postage prepaid United States first class mail on the 3rd day of September, 2002:

Robert M. Hanak, Esquire
Hanak, Guido & Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

BELIN & KUBISTA

By

Carl A. Belin, Jr., Esq.
Attorney for Plaintiffs

CLEARFIELD, PENNSYLVANIA 16830

P. O. BOX 1

15 NORTH FRONT STREET

ATTORNEYS AT LAW

BELIN & KUBISTA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER, :	
VIRGINIA M. SHAW, EXECUTORS OF THE :	
MARTIN BEARER ESTATE, MB ENERGY :	NO. 02 - 179 - CD
INC., and EUGENE CUOMO, :	
	Plaintiffs :
vs. :	
	NOTICE OF INTENTION
	TO PROCEED
ENERGY RESOURCES, INC., and :	
TDK COAL SALES, INC., :	
	Defendants :

Filed on Behalf of:
Plaintiffs

Counsel of Record for
This Party:

Carl A. Belin, Jr., Esquire
PA I.D. #06805

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972 (PHONE)
(814) 765-9893 (FAX)

FILED 1CC
0104031 Atty Belin
JUL 13 2007
SAC
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

RONALD M. LITTLE, JAMES J. BEARER, :
VIRGINIA M. SHAW, EXECUTORS OF THE :
MARTIN BEARER ESTATE, MB ENERGY : NO. 02 - 179 - CD
INC., and EUGENE CUOMO, :
Plaintiffs :
vs. :
: :
ENERGY RESOURCES, INC., and :
TDK COAL SALES, INC., :
Defendants :
:

NOTICE OF INTENTION TO PROCEED

TO: PROTHONOTARY OF CLEARFIELD COUNTY

I, Carl A. Belin, Jr., Esquire, attorney for the Plaintiffs Ronald M. Little, James J. Bearer, Virginia M. Shaw, Executors of the Martin Bearer Estate, MB Energy Inc., and Eugene Cuomo, do hereby state that we intend to proceed on this matter and request that the case be kept on the active list.

DATE: 7/12/07


Carl A. Belin, Jr., Esquire
Belin, Kubista & Ryan
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

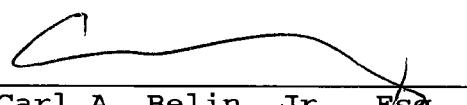
RONALD M. LITTLE, JAMES J. BEARER, :
VIRGINIA M. SHAW, EXECUTORS OF THE :
MARTIN BEARER ESTATE, MB ENERGY : NO. 02 - 179 - CD
INC., and EUGENE CUOMO, :
Plaintiffs :
vs. :
: :
ENERGY RESOURCES, INC., and :
TDK COAL SALES, INC., :
Defendants :
:

CERTIFICATE OF SERVICE

This is to certify that the undersigned has sent a true
and correct copy of Plaintiff's Notice of Intention to Proceed
in the above-captioned matter to the following party by postage
prepaid United States first class mail on the 12 day of July,
2007:

Robert M. Hanak, Esquire
Hanak, Guido and Taladay
498 Jeffers Street
P.O. Box 487
DuBois, PA 15801

BELIN, KUBISTA & RYAN

By 
Carl A. Belin, Jr., Esq.
Attorney for Plaintiffs

FILED

JUL 13 2007

42
William A. Shaw
Prothonotary/Clerk of Courts

Notice of Proposed Termination of Court Case

February 1, 2012

RE: 2002-00179-CD

Ronald M. Little
James J. Bearer
Virginia M. Shaw
Martin Bearer
MB Energy Inc.
Eugene Cuomo

Vs.

Energy Resources, Inc.
TDK Coal Sales, Inc.

FILED
FEB 01 2012
By William A. Shaw
Prothonotary/Clerk of Courts

To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **April 2, 2012**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

F. Cortez Bell, III

F. Cortez Bell, III, Esq.
Court Administrator

Belin
Harah

FILED

FEB 01 2012

William A. Shaw
Prothonotary/Clerk of Courts

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

FILED

JUL 27 2012

W.A. Shaw, Prothonotary/Clerk of Courts

Ronald M. Little
James J. Bearer
Virginia M. Shaw
Martin Bearer
MB Energy Inc.
Eugene Cuomo

Vs.

2002-00179-CD

Energy Resources, Inc.
TDK Coal Sales, Inc.

Termination of Inactive Case

This case is hereby terminated with prejudice this July 27, 2012, as per Rule 230.2



William A. Shaw
Prothonotary

FILED

JUL 27 2012

William A. Shew
Prothonotary/Clerk of Courts