

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1244 WDA 2008

Page 1 of 6

August 5, 2008



Eva Jane Hertlein, Edith M. Hertlein, Patsy L. Hertlein Kimble, Frank T. Hertlein, Jr., Glenn R. Hertlein, Timothy L. Hertlein, Louise E. Hertlein Kirkwood, And G. Lee Hertlein, Individually And As Attorney-In-Fact For the Heirs Of Frank T. Hertlein and Ivy E. Hertlein, Appellants
V.
River Hill Coal Company, Inc., A Pennsylvania Corporation, And Leitzinger Land Company, Inc.

Initiating Document: Notice of Appeal

Case Status: Active

06-903-CD

Case Processing Status: July 30, 2008

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType:

Quiet Title

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: July 30, 2008

Next Event Type: Receive Docketing Statement

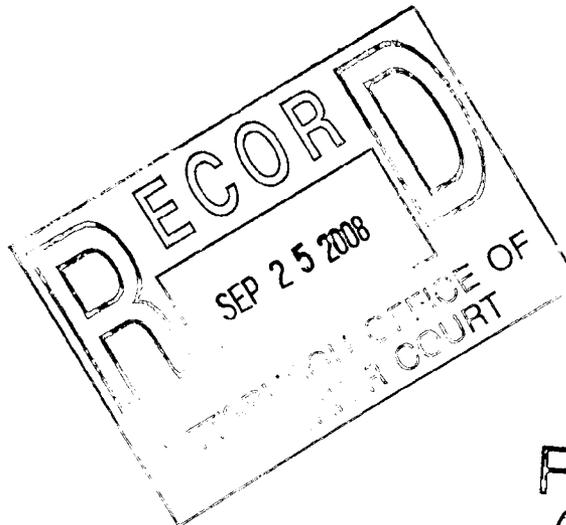
Next Event Due Date: August 19, 2008

Next Event Type: Original Record Received

Next Event Due Date: September 29, 2008

1244 WDA 2008

Record



FILED ^{no cc}
M 11:20 AM
AUG 07 2008 @

William A. Shaw
Prothonotary/Clerk of Courts

#27

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1244 WDA 2008

Page 2 of 6

August 5, 2008



COUNSEL INFORMATION

Appellant Hertlein, Eva Jane
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 **Law Firm:** Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
Phone No.: (814)765-1601 **Fax No.:** (814)765-8142
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein, Edith M
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 **Law Firm:** Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
Phone No.: (814)765-1601 **Fax No.:** (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein Kimble, Patsy L
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 **Law Firm:** Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
Phone No.: (814)765-1601 **Fax No.:** (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein Jr., Frank T
Pro Se: Appoint Counsel Status:
IFP Status:

8/5/2008

Appeal Docket Sheet

Docket Number: 1244 WDA 2008

Superior Court of Pennsylvania

Page 3 of 6

August 5, 2008



Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830
Phone No.: (814)765-1601 Fax No.: (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein, Glenn R
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830
Phone No.: (814)765-1601 Fax No.: (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein, Timothy L
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830
Phone No.: (814)765-1601 Fax No.: (814)765-8142
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E-Mail Address:
Receive E-Mail: No

Appellant Hertlein Kirkwood, Louise E
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Appeal Docket Sheet

Docket Number: 1244 WDA 2008

Page 4 of 6

August 5, 2008



Attorney: Naddeo, James A.
 Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
 Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
 Phone No.: (814)765-1601 Fax No.: (814)765-8142
 Receive Mail: No
 E-Mail Address:
 Receive E-Mail: No

Appellant Hertlein, G. Lee
 Pro Se: Appoint Counsel Status:
 IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
 Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
 Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
 Phone No.: (814)765-1601 Fax No.: (814)765-8142
 Receive Mail: No
 E-Mail Address:
 Receive E-Mail: No

Appellee River Hill Coal Company
 Pro Se: Appoint Counsel Status:
 IFP Status:

Appellee Attorney Information:

Attorney: Ammerman, David S.
 Bar No.: 6801 Law Firm:
 Address: 310 E Cherry St
 Clearfield, PA 16830
 Phone No.: (814)765-1701 Fax No.: (814)765-1703
 Receive Mail: Yes
 E-Mail Address:
 Receive E-Mail: No

Appellee Leitzinger Land Company Inc
 Pro Se: Appoint Counsel Status:
 IFP Status:

Appellee Attorney Information:

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1244 WDA 2008

Page 5 of 6

August 5, 2008



Attorney: Smith, Peter Fortune
 Bar No.: 34291 Law Firm:
 Address: 30 S 2nd Street
 PO Box 130
 Clearfield, PA 16830
 Phone No.: (814)765-5595 Fax No.: (814)765-6662
 Receive Mail: Yes
 E-Mail Address:
 Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
7/25/08	Notice of Appeal	60.00	60.00	2008SPRWD000764

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
 County: Clearfield Division: Civil
 Date of Order Appealed From: July 14, 2008 Judicial District: 46
 Date Documents Received: July 30, 2008 Date Notice of Appeal Filed: July 25, 2008
 Order Type: Judgment Entered OTN:
 Judge: Cherry, Paul E. Lower Court Docket No.: No 06-903-CD
 Judge

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
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Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
July 30, 2008	Notice of Appeal Filed		
		Appellant	Hertlein, Eva Jane

August 5, 2008	Docketing Statement Exited (Civil)		
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Western District Filing Office

2:58 P.M.

Appeal Docket Sheet

Docket Number: 1244 WDA 2008

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August 5, 2008

Superior Court of Pennsylvania



CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

**Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein
VS.
River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.
06-903-CD**

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from **No. 1** to 29, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is September 23, 2008.



William A. Shaw
Prothonotary/Clerk of Courts

(seal)

Date: 9/23/2008

Time: 10:28 AM

Page 1 of 3

Clearing County Court of Common Pleas

ROA Report

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

User: BHUDSON

Eva Jane Hertlein, et alvs.River Hill Coal Company, Inc., et al

Civil Other-COUNT

Date		Judge
6/5/2006	New Case Filed. Filing: Civil Complaint, located in Karthaus Township Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1914137 Date: 06/05/2006 Amount: \$85.00 (Check) 1CC Atty.	No Judge No Judge
6/20/2006	Sheriff Return, June 7, 2006 at 11:35 am served the within Complaint on River Hill Coal Company Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Naddeo \$41.74	No Judge
7/6/2006	Praecipe For Entry of Appearance, filed by Atty. Ammerman 2 Cert. to Atty. Enter appearance on behalf of Defendant River Hill Coal Company, Inc. Praecipe for Writ to Join Additional Defendant, filed by Atty. Ammerman noc cert copies, issued 2 Writs to Join Addintional Defendant to Atty.	No Judge No Judge
7/7/2006	Entry of Appearance, filed. Please enter my appearance as attorney for additional defendant Leizinger Land Company Inc., in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC. Acceptance of Service, filed. I accept service of the Writ to Join Addtional Defendant in the above reference case on behalf of Leitzinger Land Compai Inc., the additional defendant, and certify that I am counswl of record for Leitzinger Land Company Inc., and authorized to do so, filed by s/ Peter F. Smith Esq. No CC.	No Judge No Judge
	Certificate of Service, filed. Peter F. Smith attorney for Leitzinger Land Company Inc., in the above-captioned matter, hereby certify that I served a true and corect copy of the Praecipe for Entry of Apperance and Acceptance of Service filed in this matter on James A. Naddeo Esq. and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge
7/14/2006	Answer and New Matter filed by David S. Ammerman Esq. 3CC atty.	No Judge
7/27/2006	Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company Inc., filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	No Judge
8/15/2006	Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	No Judge
9/8/2006	Certificate of Service, filed. Served Additional Defendant's Interrogatories directed to Plaintiffs and Addtional Defendant's Request for Production of Documents directed to Plaintiffs on James A. Naddeo Esq., filed by Peter F. Smith Esq. No CC.	No Judge
10/4/2006	Certificate of Service, filed. That a true and correct copy of Plaintiffs' Answer to Addtional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents Directed to Plaintiffs in the above-captioned action case was served on Davi S. Ammerman Esq., and Peter F. Smith Esq., on the 3rd day of October 2006, filed by s/ James A. Naddeo Esq. NO CC.	No Judge
10/10/2006	Certificate of Readiness for Non-Jury Trial, filed by s/ James A. Naddeo, Esquire. No CC	No Judge

Civil Other-COUNT

Date		Judge
1/23/2007	Order, NOW, this 22nd day of Jan, Ordered: 1. Counsel shall submit all documents relative their respective positions to opposing counsel and the Court within 20 days of today's date. 2. Counsel for the parties shall submit Brief no later than March 30, 2007 to the Court. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith	Paul E. Cherry
2/13/2007	Certificate of Service, filed. Sent Pre-Trial Statements filed in the above case on January 15, 2007 to Judge Paul E. Cherry, James A. Naddeo Esq., and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
4/2/2007	Certificate of Service, filed. That a true and correct copy of Stipulation in the above-captioned action case was served on Peter F. Smith Esq on the 2nd day of April 2007, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Paul E. Cherry
4/5/2007	Stipulation, filed. By s/ James A. Naddeo, Esquire. No CC	Paul E. Cherry
4/11/2007	Certificate of Service, copy of Leitzinger Land Company, Inc.'s Brief served by Hand Delivery to James A. Naddeo, Esquire, and David S. Ammerman, Esquire, on April 10, 2007. Filed by s/ Peter F. Smith, Esquire. No CC	Paul E. Cherry
6/6/2007	Opinion, NOW, this 5th day of June, 2007, after review of briefs submitted by the Plaintiffs and the Defendant and examination of the exhibits submitted a part of the record this Court finds that the lease excludes the approximately 50 acres identified on the Henry F. Van Valzah map as the "Wharton Cole" tract. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith; 1CC Law Library, D. Mikesell (without memo)	Paul E. Cherry
6/22/2007	Filing: Praecipe to Enter Judgment. Please enter Judgment in favor of the Defendant, Leitzinger Land Company Inc., pursuant to the court's June 5, 2007 opinion. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1919513 Dated: 6/22/2007 Amount: \$20.00 (Check) Notices to Attys: Naddeo and Ammerman.	Paul E. Cherry
6/27/2008	Order, this 27th day of June, 2008, AGAIN, this court finds the approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement Frank Hertlein, Leitzinger Bros. Realty Company and Edward Redding. By The Court, /s/ Paul E. Cherry, Judge. CC to Attys: Naddeo, Ammerman, and Smith	Paul E. Cherry
7/14/2008	Filing: Praecipe to Enter Judgment. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1924968 Dated: 7/14/2008 Amount: \$20.00 (Check) Please enter Judgment in favor of the Defendants and against the Plaintiffs pursuant to the Court's Decision and Order entered in this matter on June 27, 2008, filed by s/ Peter F. Smith Esq. Notice to Attys: Naddeo and Ammerman.	Paul E. Cherry
	Certificate of Service, filed. Served a true and correct copy of the Praecipe to Enter Judgment filed in this matter on the Plaintiffs Attorney James A. Naddeo Esq and the Defendant River Hill Coal Company's Attorney David S. Ammerman, filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
7/25/2008	Filing: Appeal to High Court Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1925122 Dated: 7/25/2008 Amount: \$50.00 (Check) Notice of Appeal, to the Superior Court, from the Order entered on June 27, 2008 and Judgment there entered. Filed by s/ James A. Naddeo, Esquire. 6CC Atty. Naddeo; 1CC & Check for \$60.00 to Superior Court.	Paul E. Cherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

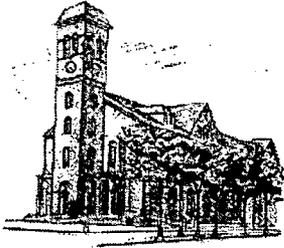
No. 06-903-CD

*Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein*

Vs.

*River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.*

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/05/2006	Civil Complaint	43
02	06/20/2006	Sheriff Return	01
03	07/06/2006	Praeipce for Entry of Appearance	01
04	07/06/2006	Praeipce for Writ to Join Additional Defendant	02
05	07/07/2006	Entry of Appearance	02
06	07/07/2006	Acceptance of Service	01
07	07/07/2006	Certificate of Service	01
08	07/14/2006	Answer and New Matter	07
09	07/27/2006	Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company, Inc.	05
10	08/15/2006	Answer to New Matter	06
11	09/08/2006	Certificate of Service	01
12	10/04/2006	Certificate of Service	02
13	10/10/2006	Certificate of Readiness for Non-Jury Trial	04
14	01/23/2007	Order, Re: documents and briefs due	01
15	02/13/2007	Certificate of Service	01
16	04/02/2007	Certificate of Service	02
17	04/05/2007	Stipulation, Re: Admission of documents	89
18	04/11/2007	Certificate of Service	01
19	06/06/2007	Opinion	07
20	06/22/2007	Praeipce to Enter Judgment	02
21	06/27/2008	Order, Re: clear language and meaning of original opinion	01
22	07/14/2008	Praeipce to Enter Judgment	02
23	07/14/2008	Certificate of Service	01
24	07/25/2008	Notice of Appeal to High Court	06
25	07/30/2008	Order, Re: concise statement due	01
26	07/30/2008	Order, Re: Status conference scheduled	02
27	08/07/2008	Appeal Docket Sheet, 1244 WDA 2008	06
28	08/20/2008	Plaintiffs' Concise Statement of Matters Complained of on Appeal	05
29	09/23/2008	Letters, Re: Notification of mailing appeal mailed to James A. Naddeo, Esq; David S. Ammerman, Esq.; and Peter F. Smith, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931 (c).	05



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

Paul E. Cherry, Judge
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

James A. Naddeo, Esq.
PO Box 552
207 East Market St.
Clearfield, PA 16830

David S. Ammerman, Esq.
310 East Cherry Street
Clearfield, PA 16830

Peter F. Smith, Esq.
PO Box 130
Clearfield, PA 16830

Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein
Vs.

River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.

Court No. 06-903-CD; Superior Court No. 1244 WDA 2008

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on September 23, 2008.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
010:26/BJ
SEP 23 2008

BJ
William A. Shaw
Prothonotary/Clerk of Courts

#29

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-903-CD

*Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein*

Vs.

*River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.*

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25	07/30/2008	Order, Re: concise statement due	01
26	07/30/2008	Order, Re: Status conference scheduled	02
27	08/07/2008	Appeal Docket Sheet, 1244 WDA 2008	06
28	08/20/2008	Plaintiffs' Concise Statement of Matters Complained of on Appeal	05

Civil Other-COUNT

Date		Judge
3/5/2006	New Case Filed.	No Judge
	Filing: Civil Complaint, located in Karthaus Township Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1914137 Date: 06/05/2006 Amount: \$85.00 (Check) 1CC Atty.	No Judge
3/20/2006	Sheriff Return, June 7, 2006 at 11:35 am served the within Complaint on River Hill Coal Company Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Naddeo \$41.74	No Judge
7/6/2006	Praeipce For Entry of Appearance, filed by Atty. Ammerman 2 Cert. to Atty. Enter appearance on behalf of Defendant River Hill Coal Company, Inc.	No Judge
	Praeipce for Writ to Join Additional Defendant, filed by Atty. Ammerman noc cert copies, issued 2 Writs to Join Addintional Defendant to Atty.	No Judge
7/7/2006	Entry of Appearance, filed. Please enter my appearance as attorney for additional defendant Leizinger Land Company Inc., in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	Acceptance of Service, filed. I accept service of the Writ to Join Addtional Defendant in the above reference case on behalf of Leitzinger Land Compai Inc., the additional defendant, and certify that I am counswl of record for Leitzinger Land Company Inc., and authorized to do so, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	Certificate of Service, filed. Peter F. Smith attorney for Leitzinger Land Company Inc., in the above-captioned matter, hereby certify that I served a true and corect copy of the Praeipce for Entry of Apperance and Acceptance of Service filed in this matter on James A. Naddeo Esq. and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge
7/14/2006	Answer and New Matter filed by David S. Ammerman Esq. 3CC atty.	No Judge
7/27/2006	Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company Inc., filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	No Judge
3/15/2006	Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	No Judge
3/8/2006	Certificate of Service, filed. Served Additional Defendant's Interrogatories directed to Plaintiffs and Additional Defendant's Request for Production of Documents directed to Plaintiffs on James A. Naddeo Esq., filed by Peter F. Smith Esq. No CC.	No Judge
10/4/2006	Certificate of Service, filed. That a true and correct copy of Plaintiffs' Answer to Additional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents Directed to Plaintiffs in the above-captioned action case was served on Davi S. Ammerman Esq., and Peter F. Smith Esq., on the 3rd day of October 2006, filed by s/ James A. Naddeo Esq. NO CC.	No Judge
10/10/2006	Certificate of Readiness for Non-Jury Trial, filed by s/ James A. Naddeo, Esquire. No CC	No Judge

Date: 9/23/2008

Time: 10:08 AM

Page 3 of 3

Clearfield County Court of Common Pleas

ROA Report

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

User: BHUDSON

Eva Jane Hertlein, et alvs.River Hill Coal Company, Inc., et al

Civil Other-COUNT

Date		Judge
7/30/2008	<p>Order AND NOW, this 29th day of July 2008, the Court having been notified Paul E. Cherry of Appeal to the Superior Court of Pennsylvania in the above captioned matter, it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. Statement shall be filed of record and shall be served upon the Judge pursuant to paragraph (b)(1). Any issue not properly included in the Statement timely filed and served pursuant to subdivision (b) shall be deemed waived. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith</p> <p>Order, AND NOW, this 29th day of July 2008, it is the ORDER of this Court Paul E. Cherry that Status Conference with regard to this matter shall be and is hereby scheduled for the 8th day of August 2008, beginning at 9:00 a.m. in Judge's Chambers, of the Clearfield County Courthouse, Clearfield PA. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Naddeo, D. Ammerman and P Smith.</p>	Paul E. Cherry
8/7/2008	Appeal Docket Sheet, filed. 1244 WDA 2008 No CC	Paul E. Cherry
8/20/2008	Plaintiffs' Concise Statement of Matters Complained of on Appeal, filed by s. Paul E. Cherry James A. Naddeo, Esquire. 3CC Atty. Naddeo	

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 23 2008

Attest.



William A. Ben
Prothonotary/
Clerk of Courts

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

No. 06 - 903 - CD

Type of Pleading:

**PLAINTIFFS' CONCISE
STATEMENT OF MATTERS
COMPLAINED OF ON APPEAL**

On behalf of Plaintiffs:

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 3cc
0111/06/11 Atty Naddeo
AUG 20 2008 (EP)

William A. Shaw
Prothonotary/Clerk of Courts

Dated: August 19, 2008

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN,
JR., GLENN R. HERTLEIN,
TIMOTHY L. HERTLEIN, LOUISE
E. HERTLEIN KIRKWOOD, and G.
LEE HERTLEIN, Individually,
and as Attorney-in-Fact for
the heirs of FRANK T.
HERTLEIN and IVY E.
HERTLEIN,

Plaintiffs,

v.

RIVER HILL COAL COMPANY,
INC., A Pennsylvania
corporation,

and

LEITZINGER LAND COMPANY,
INC.,

Defendants.

No. 06-903-CD

PLAINTIFFS' CONCISE STATEMENT
OF MATTERS COMPLAINED OF ON APPEAL

NOW COME, the Plaintiffs, by and through their attorneys, NADDEO & LEWIS, LLC, and file this Concise Statement of Matters Complained of on Appeal in accordance with Court Order of July 29, 2008.

Appellants preface this statement by stating that they cannot readily discern the basis of the Judge's Opinion and Order of June 27, 2008 and complain of the following matters, generally.

1. The Court erred in concluding (in its June 27, 2008 Order of Court) that the "approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement between Leitzinger Bros. Realty Company and Edward Redding, parties of the first part, and Frank J. Hertlein, party of the second part in that said conclusion is contradictory to its prior Order and Opinion of June 5, 2007.

2. The Court erred in permitting testimony and evidence to be entered to the record at the hearing upon Plaintiffs' related declaratory judgment action filed to case number 07-1448-CD (said hearing being that which precipitated the Court's ruling entered to this case on June 27, 2008).

Respectfully submitted by,

By 
James A. Naddeo, Esquire
Attorney for the Plaintiffs

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, *
JR., GLENN R. HERTLEIN, *
TIMOTHY L. HERTLEIN, LOUISE *
E. HERTLEIN KIRKWOOD, and G. *
LEE HERTLEIN, Individually, *
and as Attorney-in-Fact for *
the heirs of FRANK T. *
HERTLEIN and IVY E. *
HERTLEIN, *

No. 06-903-CD

Plaintiffs, *

v. *

RIVER HILL COAL COMPANY, *
INC., A Pennsylvania *
corporation, *
and *

LEITZINGER LAND COMPANY, *
INC., *

Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Concise Statement of Matters Complained of on Appeal was served on the following and in the following manner on the 19th day of August, 2008:

First-Class Mail, Postage Prepaid

The Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

and

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By



James A. Naddeo

Attorney for Plaintiffs

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1244 WDA 2008

Page 1 of 6

August 5, 2008



Eva Jane Hertlein, Edith M. Hertlein, Patsy L. Hertlein Kimble, Frank T. Hertlein, Jr., Glenn R. Hertlein, Timothy L. Hertlein, Louise E. Hertlein Kirkwood, And G. Lee Hertlein, Individually And As Attorney-In-Fact For the Heirs Of Frank T. Hertlein and Ivy E. Hertlein, Appellants

✓
River Hill Coal Company, Inc., A Pennsylvania Corporation, And Leitzinger Land Company, Inc.

Initiating Document: Notice of Appeal

06-903-CD

Case Status: Active

Case Processing Status: July 30, 2008

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType:

Quiet Title

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: July 30, 2008

Next Event Type: Receive Docketing Statement

Next Event Due Date: August 19, 2008

Next Event Type: Original Record Received

Next Event Due Date: September 29, 2008

FILED *no cc*
AUG 07 2008
William A. Shaw
Prothonotary/Clerk of Courts

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1244 WDA 2008

Page 2 of 6

August 5, 2008



COUNSEL INFORMATION

Appellant Hertlein, Eva Jane
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 **Law Firm:** Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
Phone No.: (814)765-1601 **Fax No.:** (814)765-8142
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein, Edith M
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 **Law Firm:** Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
Phone No.: (814)765-1601 **Fax No.:** (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein Kimble, Patsy L
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 **Law Firm:** Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
Phone No.: (814)765-1601 **Fax No.:** (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein Jr., Frank T
Pro Se: Appoint Counsel Status:
IFP Status:

Appeal Docket Sheet

Docket Number: 1244 WDA 2008

Page 3 of 6
August 5, 2008



Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830
Phone No.: (814)765-1601 Fax No.: (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein, Glenn R
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830
Phone No.: (814)765-1601 Fax No.: (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein, Timothy L
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
Address: 207 East Market Street
PO Box 552
Clearfield, PA 16830
Phone No.: (814)765-1601 Fax No.: (814)765-8142
Receive Mail: No
E-Mail Address:
Receive E-Mail: No

Appellant Hertlein Kirkwood, Louise E
Pro Se: Appoint Counsel Status:
IFP Status:

Appellant Attorney Information:

Appeal Docket Sheet

Docket Number: 1244 WDA 2008

Page 4 of 6

August 5, 2008



Attorney: Naddeo, James A.
 Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
 Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
 Phone No.: (814)765-1601 Fax No.: (814)765-8142
 Receive Mail: No
 E-Mail Address:
 Receive E-Mail: No

Appellant Hertlein, G. Lee
 Pro Se: Appoint Counsel Status:
 IFP Status:

Appellant Attorney Information:

Attorney: Naddeo, James A.
 Bar No.: 6820 Law Firm: Law Office of Naddeo & Lewis, LLC
 Address: 207 East Market Street
 PO Box 552
 Clearfield, PA 16830
 Phone No.: (814)765-1601 Fax No.: (814)765-8142
 Receive Mail: No
 E-Mail Address:
 Receive E-Mail: No

Appellee River Hill Coal Company
 Pro Se: Appoint Counsel Status:
 IFP Status:

Appellee Attorney Information:

Attorney: Ammerman, David S.
 Bar No.: 6801 Law Firm:
 Address: 310 E Cherry St
 Clearfield, PA 16830
 Phone No.: (814)765-1701 Fax No.: (814)765-1703
 Receive Mail: Yes
 E-Mail Address:
 Receive E-Mail: No

Appellee Leitzinger Land Company Inc
 Pro Se: Appoint Counsel Status:
 IFP Status:

Appellee Attorney Information:

Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1244 WDA 2008

Page 5 of 6

August 5, 2008



Attorney: Smith, Peter Fortune
 Bar No.: 34291 Law Firm:
 Address: 30 S 2nd Street
 PO Box 130
 Clearfield, PA 16830
 Phone No.: (814)765-5595 Fax No.: (814)765-6662
 Receive Mail: Yes
 E-Mail Address:
 Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number
7/25/08	Notice of Appeal	60.00	60.00	2008SPRWD000764

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
 County: Clearfield Division: Civil
 Date of Order Appealed From: July 14, 2008 Judicial District: 46
 Date Documents Received: July 30, 2008 Date Notice of Appeal Filed: July 25, 2008
 Order Type: Judgment Entered OTN:
 Judge: Cherry, Paul E. Lower Court Docket No.: No 06-903-CD
 Judge

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
----------------------	------------	---------------------

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
July 30, 2008	Notice of Appeal Filed	Appellant	Hertlein, Eva Jane
August 5, 2008	Docketing Statement Exited (Civil)		Western District Filing Office

2:58 P.M.

Appeal Docket Sheet

Docket Number: 1244 WDA 2008

Page 6 of 6

August 5, 2008

Superior Court of Pennsylvania



FILED

0110:3431
JUL 30 2008

William A. Shaw
Prothonotary/Clerk of Courts
1CC Atty's: *Maddo*
D. Ammerman
P. Smith

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

EVA JANE HERTLEIN, EDITH M. : NO. 06-903-CD
HERTLEIN, PATSY L. HERTLEIN :
KIMBLE, FRAND T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually, and as Attorney-in-Fact for :
the heirs of FRANK T. HERTLEIN and :
IVY E. HERTLEIN, :
Plaintiffs :

v.

RIVER HILL COAL COMPANY, INC., :
A Pennsylvania Corporation, :
Defendants :

EVA JANE HERTLEIN, EDITH M. : NO. 07-1448-CD
HERTLEIN, PATSY L. HERTLEIN :
KIMBLE, FRAND T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually, and as Attorney-in-Fact for :
the heirs of FRANK T. HERTLEIN and :
IVY E. HERTLEIN, :
Plaintiffs :

v.

RIVER HILL COAL COMPANY, INC., :
A Pennsylvania Corporation, :
and :
LEITZINGER LAND COMPANY, INC., :
Defendants :

ORDER

AND NOW, this 29th day of July, 2008, it is the ORDER of this Court that Status
Conference with regard to this matter shall be and is hereby scheduled for the 8th day of

226

August, 2008, beginning at 9:00 A.M., in
Judge's Chambers, of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED

JUL 30 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

EVA JANE HERTLEIN, EDITH M. : NO. 06-903-CD
HERTLEIN, PATSY L. HERTLEIN :
KIMBLE, FRANK T. HERTLEIN, :
JR., GLENN R. HERTLEIN, :
TIMOTHY L. HERTLEIN, LOUISE :
E. HERTLEIN KIRKWOOD, and G. :
LEE HERTLEIN, Individually, :
and as Attorney-in-Fact for :
the heirs of FRANK T. HERTLEIN and :
EVY E. HERTLEIN, :
Plaintiffs :

V. :

RIVER HILL COAL COMPANY, INC., :
A Pennsylvania Corporation, :

and :

LEITZINGER LAND COMPANY, INC., :
Defendants :

ORDER

AND NOW, this 29th day of July, 2008, the Court having been notified of Appeal to the Superior Court of Pennsylvania in the above captioned matter, it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. It is the further ORDER of this Court that the Statement shall be filed of record and shall be served upon the Judge pursuant to paragraph (b)(1).

Any issue not properly included in the Statement timely filed and served pursuant to subdivision (b) shall be deemed waived.

BY THE COURT,

PAUL E. CHERRY,
JUDGE

FILED
07/11/14/08
JUL 30 2008
William A. Shaw
Prothonotary/Clerk of Courts
1 CC Atty: Nacdeo
D. Ammerman
P. Smith

FILED

JUL 30 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/30/08

- You are responsible for serving all appropriate parties.
- The Prothonotary's office has provided service to the following parties:
 - Plaintiff(s)
 - Plaintiff(s) Attorney
 - Defendant(s)
 - Defendant(s) Attorney
 - Other
 - Special Instructions:



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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN,
JR., GLENN R. HERTLEIN,
TIMOTHY L. HERTLEIN, LOUISE
E. HERTLEIN KIRKWOOD, and G.
LEE HERTLEIN, Individually,
and as Attorney-in-Fact for
the heirs of FRANK T.
HERTLEIN and IVY E.
HERTLEIN,

Plaintiffs,

v.

RIVER HILL COAL COMPANY,
INC., A Pennsylvania
corporation,
and

LEITZINGER LAND COMPANY,
INC.,

Defendants.

No. 06-903-CD

NOTICE OF APPEAL

Notice is hereby given that Plaintiffs, EVA JANE HERTLEIN, EDITH M. HERTLEIN, PATSY L. HERTLEIN KIMBLE, FRANK T. HERTLEIN, JR., GLENN R. HERTLEIN, TIMOTHY L. HERTLEIN, LOUISE E. HERTLEIN KIRKWOOD, and G. LEE HERTLEIN, Individually and as Attorney-in-Fact for the heirs of FRANK T. HERTLEIN and IVY E. HERTLEIN, hereby appeal to the Superior Court of Pennsylvania from the Order entered on June 27, 2008 and Judgment there following entered on or about July 14, 2008. The Order has been entered on the docket as is evidenced by the attached copy of the Docket Entries. The Judgment has been entered as evidenced by its attachment hereto.

Respectfully submitted by,

By James A. Naddeo
James A. Naddeo, Esquire

FILED

01312381
JUL 25 2008

Atty pd. \$50.00
1000 Atty Naddeo

1000 check for

\$60.00 to Superior Court

ETD

William A. Shaw
Prothonotary/Clerk of Courts

24

Attorney for the Plaintiffs
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN,
JR., GLENN R. HERTLEIN,
TIMOTHY L. HERTLEIN, LOUISE
E. HERTLEIN KIRKWOOD, and G.
LEE HERTLEIN, Individually,
and as Attorney-in-Fact for
the heirs of FRANK T.
HERTLEIN and IVY E.
HERTLEIN,

Plaintiffs,

v.

RIVER HILL COAL COMPANY,
INC., A Pennsylvania
corporation,

and

LEITZINGER LAND COMPANY,
INC.,

Defendants.

06-903
No. ~~06-1448~~-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Notice of Appeal was served on the following and in the following manner on the 25th day of July, 2008:

First-Class Mail, Postage Prepaid
The Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Daniel Nelson, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Court Reporter
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

and

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Plaintiffs

Civil Other-COUNT

Date		Judge
6/5/2006	New Case Filed. Filing: Civil Complaint, located in Karthaus Township Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1914137 Dated: 06/05/2006 Amount: \$85.00 (Check) 1CC Atty.	No Judge No Judge
6/20/2006	Sheriff Return, June 7, 2006 at 11:35 am served the within Complaint on River Hill Coal Company Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Naddeo \$41.74	No Judge
7/6/2006	Praecipe For Entry of Appearance, filed by Atty. Ammerman 2 Cert. to Atty. Enter appearance on behalf of Defendant River Hill Coal Company, Inc. Praecipe for Writ to Jonin Additional Defendant, filed by Atty. Ammerman noc cert copies, issued 2 Writs to Join Addintional Defendant to Atty.	No Judge No Judge
7/7/2006	Entry of Appearance, filed. Please enter my appearance as attorney for additional defendant Leizinger Land Company Inc., in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC. Acceptance of Service, filed. I accept service of the Writ to Join Addtional Defendant in the above reference case on behalf of Leitzinger Land Company Inc., the additional defendant, and certify that I am counswl of record for Leitzinger Land Company Inc., and authorized to do so, filed by s/ Peter F. Smith Esq. No CC.	No Judge No Judge
	Certificate of Service, filed. Peter F. Smith attorney for Leitzinger Land Company Inc., in the above-captioned matter, hereby certify that I served a true and corect copy of the Praecipe for Entry of Apperance and Acceptance of Service filed in this matter on James A. Naddeo Esq. and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge
7/14/2006	Answer and New Matter filed by David S. Ammerman Esq. 3CC atty.	No Judge
7/27/2006	Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company Inc., filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	No Judge
8/15/2006	Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	No Judge
9/8/2006	Certificate of Service, filed. Served Additional Defendant's Interrogatories directed to Plaintiffs and Additional Defendant's Request for Production of Documents directed to Plaintiffs on James A. Naddeo Esq., filed by Peter F. Smith Esq. No CC.	No Judge
10/4/2006	Certificate of Service, filed. That a true and correct copy of Plaintiffs' Answer to Additional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents Directed to Plaintiffs in the above-captioned action case was served on David S. Ammerman Esq., and Peter F. Smith Esq., on the 3rd day of October 2006, filed by s/ James A. Naddeo Esq. NO CC.	No Judge
10/10/2006	Certificate of Readiness for Non-Jury Trial, filed by s/ James A. Naddeo, Esquire. No CC	No Judge

Civil Other-COUNT

Date		Judge
1/23/2007	Order, NOW, this 22nd day of Jan, Ordered: 1. Counsel shall submit all documents relative their respective positions to opposing counsel and the Court within 20 days of today's date. 2. Counsel for the parties shall submit Brief no later than March 30, 2007 to the Court. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith	Paul E. Cherry
2/13/2007	Certificate of Service, filed. Sent Pre-Trial Statements filed in the above case on January 15, 2007 to Judge Paul E. Cherry, James A. Naddeo Esq., and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
4/2/2007	Certificate of Service, filed. That a true and correct copy of Stipulation in the above-captioned action case was served on Peter F. Smith Esq on the 2nd day of April 2007, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Paul E. Cherry
4/5/2007	Stipulation, filed. By s/ James A. Naddeo, Esquire. No CC	Paul E. Cherry
4/11/2007	Certificate of Service, copy of Leitzinger Land Company, Inc.'s Brief served by Hand Delivery to James A. Naddeo, Esquire, and David S. Ammerman, Esquire, on April 10, 2007. Filed by s/ Peter F. Smith, Esquire. No CC	Paul E. Cherry
6/6/2007	Opinion, NOW, this 5th day of June, 2007, after review of briefs submitted by the Plaintiffs and the Defendant and examination of the exhibits submitted as part of the record this Court finds that the lease excludes the approximately 50 acres identified on the Henry F. Van Valzah map as the "Wharton Cole" tract. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith; 1CC Law Library, D. Mikesell (without memo)	Paul E. Cherry
6/22/2007	Filing: Praeipe to Enter Judgment. Please enter Judgment in favor of the Defendant, Leitzinger Land Company Inc., pursuant to the court's June 5, 2007 opinion. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1919513 Dated: 6/22/2007 Amount: \$20.00 (Check) Notices to Attys: Naddeo and Ammerman.	Paul E. Cherry
6/27/2008	Order, this 27th day of June, 2008, AGAIN, this court finds the approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement Frank Hertlein, Leitzinger Bros. Realty Company and Edward Redding. By The Court, /s/ Paul E. Cherry, Judge. CC to Attys: Naddeo, Ammerman, and Smith	Paul E. Cherry
7/14/2008	Filing: Praeipe to Enter Judgment. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1924968 Dated: 7/14/2008 Amount: \$20.00 (Check) Please enter Judgment in favor of the Defendants and against the Plaintiffs pursuant to the Court's Decision and Order entered in this matter on June 27, 2008, filed by s/ Peter F. Smith Esq. Notice to Attys: Naddeo and Ammerman.	Paul E. Cherry
	Certificate of Service, filed. Served a true and correct copy of the Praeipe to Enter Judgment filed in this matter on the Plaintiffs Attorney James A. Naddeo Esq and the Defendant River Hill Coal Company's Attorney David S. Ammerman, filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry

2007 1 5 2008

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

EVA JANE HERTLEIN, EDITH M.	:	
HERTLEIN, PATSY L. HERTLEIN	:	No. 06-903-CD
KIMBLE, FRANK T. HERTLEIN, JR.,	:	
GLENN R. HERTLEIN, TIMOTHY L.	:	
HERTLEIN, LOUISE E. HERTLEIN	:	
KIRKWOOD, and G. LEE HERTLEIN,	:	
Individually and as Attorney-in-Fact for:	:	
The Heirs of FRANK T. HERLEIN and	:	
IVY E. HERTLEIN,	:	
Plaintiffs,	:	
vs.	:	
RIVER HILL COAL COMPANY, INC.,	:	
A Pennsylvania Corporation,	:	
and	:	
LEITZINGER LAND COMPANY, INC.:	:	
Defendants	:	

Notice is given that a judgment has been entered of record in Clearfield County for Defendants and against the Plaintiff.

William L. ...
Prothonotary

By _____, Deputy

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and a s Attorney-in-Fact for
The Heirs of FRANK T. HERLEIN and
IVY E. HERTLEIN,

Plaintiffs

vs.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation

Defendant

and

LEITZINGER LAND COMPANY, INC.

Defendant

No. 06-903-CD

FILED No CC.
0/3:20 am
JUL 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

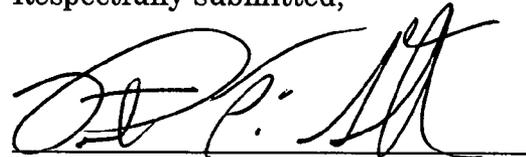
CERTIFICATE OF SERVICE

I, Peter F. Smith attorney for Leitzinger Land Company, Inc. in the above-captioned matter, hereby certify that I served a true and correct copy of the PRAECIPE TO ENTER JUDGMENT filed in this matter on the Plaintiffs Attorney James A. Naddeo and the Defendant, River Hill Coal Company's Attorney David S. Ammerman by U.S. First Class Mail as follows:

James A. Naddeo, Esquire
Attorney for Plaintiffs
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

David S. Ammerman, Esquire
Attorney for Defendant River Hill Coal Co.
310 East Cherry Street
Clearfield, PA 16830

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Plaintiff

Date: July 10, 2008

cc: Leitzinger Land Company, Inc.

23

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

EVA JANE HERTLEIN, EDITH M. :
HERTLEIN, PATSY L. HERTLEIN : No. 06-903-CD
KIMBLE, FRANK T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually and as Attorney-in-Fact for :
the Heirs of FRANK T. HERLEIN and :
IVY E. HERTLEIN, :
Plaintiffs, :
vs. :
RIVER HILL COAL COMPANY, INC., :
A Pennsylvania Corporation, :
and :
LEITZINGER LAND COMPANY, INC. :
Defendants :

FILED pa \$20.00
0/3:20um
JUL 14 2008
ATTY
notice to
ATTY Naddeo
William A. Shaw
Prothonotary/Clerk of Courts
Ammerman

PRAECIPE TO ENTER JUDGMENT

To: William A. Shaw, Prothonotary

Dear Mr. Shaw:

Please enter Judgment in favor of the Defendants and against the Plaintiffs
pursuant to the Court's Decision and Order entered in this matter on June 27, 2008.

Respectfully submitted,

Date: 7/10/08


Peter F. Smith,
Attorney for Plaintiff

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

EVA JANE HERTLEIN, EDITH M. :
HERTLEIN, PATSY L. HERTLEIN : No. 06-903-CD
KIMBLE, FRANK T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually and as Attorney-in-Fact for :
The Heirs of FRANK T. HERLEIN and :
IVY E. HERTLEIN, :
Plaintiffs, :
vs. :
RIVER HILL COAL COMPANY, INC., :
A Pennsylvania Corporation, :
and :
LEITZINGER LAND COMPANY, INC. :
Defendants :

COPY

Notice is given that a judgment has been entered of record in Clearfield County
for Defendants and against the Plaintiff.


Prothonotary

By _____, Deputy

ca

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G LEE HERTLEIN, *
Individually, and as Attorney-in-Fact *
for the heirs of FRANK T HERTLEIN *
and IVY E. HERTLEIN, *
Plaintiffs, *

vs. *

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania Corporation *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants *

FILED

JUN 27 2008
0/1:00/w
William A. Shaw
Prothonotary/Clerk of Courts

NO. 06-903-CD

sent to
Nance
Amstrong
Smith
(611)

ORDER

NOW, this 27th day of June, 2008, upon further consideration of the clear language and meaning of the original opinion, issued the 5th day of June, 2007; AGAIN, this Court finds the approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement Frank Hertlein, Leitzinger Bros. Realty Company and Edward Redding.

BY THE COURT,


PAUL E. CHERRY
Judge

(21)

DATE: 6 27 - 08

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

FILED

JUN 27 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

EVA JANE HERTLEIN, EDITH M. :
HERTLEIN, PATSY L. HERTLEIN : No. 06-903-CD
KIMBLE, FRANK T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually and as Attorney-in-Fat for the :
Heirs of FRANK T. HERLEIN and :
IVY E. HERTLEIN, :
Plaintiffs, :
vs. :
RIVER HILL COAL COMPANY, INC., :
A Pennsylvania Corporation, :
and :
LEITZINGER LAND COMPANY, INC., :
Defendants :

FILED pd \$20.00
0/2:45Lm Notice to
JUN 22 2007 Atty's:
Naddeo
Ammerman
William A. Shaw
Prothonotary/Clerk of Courts

P R A E C I P E T O E N T E R J U D G M E N T

To: William A. Shaw, Prothonotary

Dear Mr. Shaw:

Please enter Judgment in favor of the Defendant LEITZINGER LAND COMPANY, INC., pursuant to the court's June 5, 2007 opinion. I also submit Form 236 along with stamped addressed envelopes to the other parties attorneys.

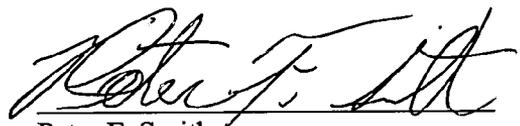
I certify that I have sent a true and correct copy of this Praecipe to Plaintiff's counsel and the other Defendant's counsel by first class U.S. mail as follows:

James A. Naddeo
Attorney For Plaintiffs
P.O. Box 552
Clearfield, PA 16830

David S. Ammerman
Attorney For River Hill Coal Company, Inc.
310 East Cherry Street
Clearfield, PA 16830

Respectfully submitted,

Date: 6/20/07


Peter F. Smith,
Attorney for Plaintiff

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
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KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fat for the
Heirs of FRANK T. HERLEIN and
IVY E. HERTLEIN,

Plaintiffs,

vs.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania Corporation,
and
LEITZINGER LAND COMPANY, INC.,
Defendants

No. 06-903-CD

COPY

Notice is given that a judgment has been entered of record in Clearfield County for
LEITZINGER LAND COMPANY, INC., Defendant and against the Plaintiff.

Prothonotary

By William L. Shaffer, Jr., Deputy

June 22, 2007

Rule of Civil Procedure No. 236

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

FILED 100
019:53301 Atty:
JUN 06 2007 Naddeo
Ammernan
P. Smith

William A. Shaw
Prothonotary/Clerk of Courts

100: Law Library
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(without memo)
62

EVA JANE HERTLEIN, EDITH M. :
HERTLEIN, PATSY L. HERTLEIN :
KIMBLE, FRANK T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually, and as Attorney-in-Fact :
for the heirs of FRANK T. HERTLEIN :
and IVY E. HERTLEIN, :
Plaintiffs, :

No. 06-903-CD

v. :

RIVER HILL COAL COMPANY, INC., :
A Pennsylvania Corporation, :
and :
LEITZINGER LAND COMPANY, INC., :
Defendants :

OPINION

NOW, this 5th day of June, 2007, after review of briefs submitted by the Plaintiffs and the Defendant and examination of the exhibits submitted as part of the record this Court finds that the lease excludes the approximately 50 acres identified on the Henry F. VanValzah map as the "Wharton Cole" tract.

FACTUAL BACKGROUND

At issue in the present case is an agreement (hereafter lease) between the Hertleins, heirs of Frank T. Hertlein and Ivy E. Hertlein (hereafter Plaintiffs), and Leitzinger Land Company, Inc. (hereafter Defendant). There is also an additional defendant in the present action, River Hill Coal Company, Inc (hereafter River Hill). River Hill, as the party that actually mines the coal that is the subject of the current dispute, has the funds from that coal in escrow and has agreed to

distribute them as directed by the Court. Therefore, River Hill will not be discussed in this Opinion.

Plaintiffs' predecessors in interest entered into a lease with Defendant's predecessors in interest on January 1, 1950 for the right to mine coal from the leased premises. The lease covers approximately 1500 acres in Karthaus Township and is subject to the exception of certain smaller portions of land. The parties subsequently joined together to lease and sublease the property to River Hill. River Hill, as noted earlier, has been mining the entire property. The royalties from the coal were split 50/50 between the original lessors and the Plaintiffs.

At issue in the present case is language in the lease that excepts a portion of the 1500 acres from the lease and therefore, from the royalty calculations. The description of the excepted parcels is as follows:

Excepting from this lease that portion of the premises now under lease to William Hoffman, being known as the Savel tract of land, identified on the map prepared by Henry F. Van Valzah, identified as the "Wharton Coal Tract"...
P. 1 Defendant's Exhibit A.

In particular, the issue is that the excepted parcel is referred to in four ways. It is referred to as (1) "the premises now under lease to William Hoffman;" (2) "the Savel tract of land;" (3) identified on the map prepared by Henry F. Van Valzah; and (4) the "Wharton Coal Tract."

Also, it should be noted that "Savel" and "Wharton Coal" are referred to both by those spellings and by the spellings "Savi" and "Wharton Cole" respectively in various exhibits.

Since the lease was signed in 1950, these descriptions meant to provide clarity create an ambiguity as to which parcel of land was excepted from the lease. The terms are not referenced again in the contract nor are they defined at any point.

Plaintiffs argue that the excepted parcel is limited to the coal underneath the property presently owned by Steven Savel, which encompasses 39.5 acres. Plaintiffs rely on the language

“known as the Savel tract of land” and argue that the property is defined by that term in the contract and the other terms merely point to where the tract of land can be identified – albeit incorrectly.

Defendants argue that you must give meaning to all of the terms of the contract and that the lease excludes approximately 65 acres that was the entire property owned by John Savel conveyed to him by Wharton Coal.

DISCUSSION

Preliminarily this Court will note “the fundamental rule in construing a contract is to ascertain and give effect to the intention of the parties.” *Huegel v. Mifflin Const. Co., Inc.*, 796 A.2d 350, 354 (Pa.Super. 2002). Further, “under Pennsylvania contract law, when language of a contract is clear and unambiguous, its meaning must be determined by examination of the contract itself.” *Fleetway Leasing Co. v. Wright*, 697 A.2d 1000, 1002 (Pa.Super. 1997) citations omitted. While the original signers of the 1950 lease almost certainly knew which land they were referring to, the descriptors they chose to describe it have little meaning now 57 years after the lease was signed. These terms are therefore ambiguous. When terms in a contract are ambiguous the Court has stated:

In the construction of any contract, if there is any doubt as to the meaning of a term of the contract, such term should receive a reasonable construction and one that will accord with the intention of the parties and in order to ascertain that intention the court must look at the circumstances under which the contract was made, the situation of the parties, the objects they have in mind and the nature of the subject matter of the contract.

Township of Raccoon v. Municipal Water Authority of Borough of, 597 A.2d 757, 765 (Pa.Cmwth. 1991) citations omitted.

Further, while parol evidence is generally not admissible, the Court has held “although the parol evidence rule bars such evidence that adds to or varies an agreement, it does not bar evidence introduced for the purpose of interpreting an ambiguous agreement.” *Morgan v. First*

Pennsylvania Bank, 541 A.2d 380, 384 (Pa.Super. 1988) citations omitted. Therefore, because the language of the lease is ambiguous, parol evidence may be examined to interpret the agreement and give effect to the intention of the parties.

Additionally, “in construing a contract, each and every part of it must be taken into consideration and given effect, if possible, and the intention of the parties must be ascertained from the entire instrument.” *Marcinak v. Southeastern Greene School Dist.*, 544 A.2d 1025, 1027 (Pa.Super. 1988). Therefore, when determining the drafters’ meaning we cannot look only at one descriptor used in the lease and ignore the remaining three. It is necessary to look at all four of the descriptors used to define the excepted land to give effect to the intention of the parties.

Here, the original signers of the contract are deceased so it is necessary to ascertain their intentions through objects they had in mind and the circumstances under which they made the contract. Fortunately, the contract references four different identifiers for the excepted parcel of land. Unfortunately, these identifiers do not offer complete clarity in identifying the excepted parcel since initially they seem to reference very different parcels and amounts of land.

First, in looking at the exhibits it is important to note that this lease deals with the subsurface rights, particularly the right to the coal under the surface, and not the surface land. Therefore, Exhibit G, which depicts the surface ownership of the property above the leased property is not particularly relevant to interpreting the language of the lease. It is clear from a review of Exhibits F, G, and H that the subsurface lots do not perfectly align with the surface lots. Since the lease deals with subsurface rights only, Exhibit G will be only marginally useful in determining what land is excepted. Its relevance rests almost entirely on its being a tool to identify where the Wharton Coal Tract is located.

Initially, it may seem that the Savel tract and the Wharton Coal tract contain significantly different acreage. However, on closer examination of the evidence that is not the case. John Savel received his surface land via two different conveyances. The first conveyance was between Wharton Coal and John Savel and conveyed 1 $\frac{3}{4}$ acres to John Savel by deed dated February 16, 1907. The second conveyance was between Malcolm Cole (Coal) and John Savel in 1919. That deed conveyed approximately 65 acres excepting and reserving approximately 20 acres. The 20 acres that were excepted and reserved were the acres conveyed by Wharton Coal to Clayton Wooster via deed dated December 11, 1876. This would leave John Savel with approximately 46 $\frac{3}{4}$ acres. The Wharton Coal Tract as identified on exhibits F and H is listed as approximately 50 acres.

Further, it is clear from the exhibits that Wharton Coal conveyed approximately 20 acres of the approximately 65 acres he had in 1876 to a Clayton Wooster. P. 1 Plaintiffs' Exhibit 2. The deed to Clayton Wooster did not except or reserve any portion of the land nor did it except or reserve any of the subsurface or mineral rights. This would mean that following the conveyance to Wooster, Wharton Coal had approximately 45 acres remaining. In 1880 Wharton Coal conveyed the "oils, coal, fire clay, iron ore, and other minerals" to Weaver and Betts by agreement dated March 3, 1880. P. 2 Defendant's Exhibit D. In 1880, Wharton Coal would have only had available to him approximately 45 acres to convey subsurface rights to, as he had sold 20 acres to Clayton Wooster in 1876. In fact, in the conveyance to John Savel, Exhibit D, that purports to convey approximately 65 acres there is a paragraph that excepts and reserves the 20 acres conveyed to Clayton Wooster from the deed.

Therefore, with regard to the descriptors "being known as the Savel tract of land; identified on the map prepared by Henry F. Van Valzah; and identified as the "Wharton Coal

Tract” it seems that there is not as much disparity as originally indicated. Savel received his land via two conveyances. The first conveyance from Wharton Coal that covered 1 ¾ acres. The second from Malcolm Cole (Coal) that conveyed approximately 65 acres but excepted and reserved the 20 acres Wharton Coal had previously conveyed to Clayton Wooster. That would leave approximately 45 acres that were conveyed to John Savel from Malcolm Cole (Coal) in 1919 in addition to approximately 2 acres that were conveyed to him from Wharton Coal by deed dated February 16, 1907. Thus, the Savel Tract of land, that contains 46 ¾ acres, contains almost the same amount of land as the Wharton Coal Tract that contains approximately 50 acres.

The record also does not contain any evidence of a lease with a Mr. William Hoffman. However, there is a lease with a Mr. James Hoffman that is included in the exhibits. Exhibit I is the lease between Letzinger Bros. Realty Company and James Hoffman dated October 30, 1953. It describes the lease as containing “the coal under the property known as the John Savel Place or Wharton Cole Premises situate on Cataract Hill in Karthaus Township, Clearfield County, Pennsylvania.” This shows that the Wharton Coal tract was available for lease in 1953 when this agreement was entered into – three years after the lease in the present action. Additionally, it shows the land was being leased to a Hoffman. Therefore, it is clear that it must have been excluded from the Hertlein lease to be leased at a later date to another individual. Unfortunately, this lease does not contain specific indicators of the land or acreage either. Again, though, the descriptors refer to “under the property known as the John Savel Place” and “Wharton Cole Premises.”

Taking into account the various exhibits and realizing that the surface land does not necessarily correspond exactly with the subsurface rights, it is most probable that the Wharton Coal tract contains approximately 50 acres. Although, the surface tracts have passed between

many parties and been divided between parties, the subsurface rights seem to have remained fairly constant since 1880 when Wharton Coal conveyed them to Weaver and Betts. Again, in 1880 Wharton Coal had already conveyed approximately 20 acres of the property without reserving and excepting the subsurface rights to a third party, therefore he would not be able to convey the subsurface rights to those 20 acres to Weaver and Betts. Despite the fact that the descriptors seem so disparate initially, they actually, when taken with all of the circumstances and facts that would have been known by the original signers, are remarkably similar and fairly constant in pointing to a approximately 50 acre parcel that is excepted from this lease.

CONCLUSION

Therefore, since this Court is able to look at circumstances under which the contract was made, the situation of the parties, the objects they had in mind, and the nature of the subject matter of the contract to determine the intention of the parties, this Court has done so and concludes that the original signers of the contract intended to exclude the approximately 50 acres contained within the Wharton Coal tract as identified on the map prepared by Henry F. VanValzah. In reaching this conclusion, the Court has examined all of the evidence submitted by the parties and examined all of the relevant terms in the lease to fit everything together to determine exactly what parcel of land was excluded from the lease.

BY THE COURT:


PAUL E. CHERRY
Judge

FILED

JUN 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/6/07

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
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GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fact for the
Heirs of FRANK T. HERTLEIN and
IVY E. HERTLEIN,

Plaintiffs

vs.

RIVER HILL COAL COMPANY, INC.
A Pennsylvania Corporation,
Defendant

and

LEITZINGER LAND COMPANY, INC.
A Pennsylvania Corporation,
Additional Defendant

No. 06-903-CD

FILED
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William A. Shaw
Prothonotary/Clerk of Courts
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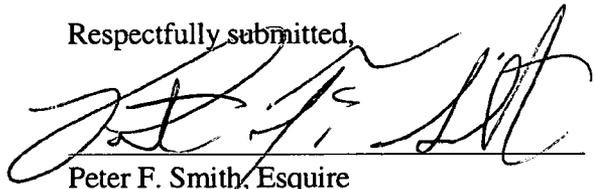
CERTIFICATE OF SERVICE

I, Peter F. Smith, attorney for Additional Defendant, Leitzinger Land Company, Inc., certify that I delivered a true and correct copy of **LEITZINGER LAND COMPANY, INC.'S BRIEF** by Hand Delivery to the attorney for the Plaintiffs and to the attorney for the Defendant on April 10, 2007 to the following addresses:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Leitzinger Land Company, Inc.
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

Date: April 10, 2007

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually, and as Attorney-in-
Fact for the heirs of FRANK T.
HERTLEIN and IVY E. HERTLEIN,
Plaintiffs,

v.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation,
and
LEITZINGER LAND COMPANY, INC.,
Defendants.

No. 06 - 903 - CD

Type of Pleading:

STIPULATION

On behalf of Plaintiffs:

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED ^{NO CC}
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APR 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

#17

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

No. 06 - 903 - CD

STIPULATION

NOW COME counsel for Hertlein and Leitzinger Land Company, Inc., respectively and hereby stipulate and agree to the admission of the documents identified herein:

HERTLEIN

1. Wharton Cole Deed dated July 30, 1870 and recorded in Deed Book GG, page 343.
2. Wharton Cole Deed to Clayton Wooster dated December 11, 1876 and recorded in Deed Book 16, page 57.
3. Clayton Wooster Deed to Joseph Peevy dated 1880 and recorded in Deed Book 28, page 641.

4. Wharton Cole Deed to Trustees of Knights of Labor Lodge No. 10804 dated April 25, 1888 and recorded in Deed Book 46, page 310.
5. Wharton Cole Deed to John Savil dated February 16, 1907 and recorded in Deed Book 162, page 282.
6. Wharton Cole Deed to Hyatt C. Wooster dated December 29, 1888 and recorded in Deed Book 51, page 171.
7. Wharton Cole Deed to Henry Eiseman dated April 21, 1888 and recorded in Deed Book 52, page 200.
8. Wharton Cole deed to Frank Michaels dated December 29, 1888 and recorded in Deed Book 98, page 204.
9. Malcolm Cole Dated to John Savil dated March, 1919 and recorded in Deed Book 235, page 337.

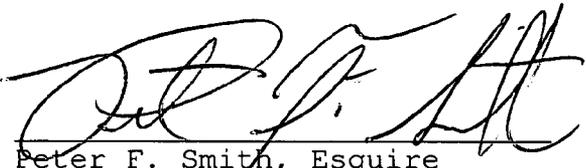
LEITZINGER LAND COMPANY, INC.

- Exhibit A - Leitzinger/Hertlein Lease dated January 1, 1950
- Exhibit B - Lease and Sublease Agreement dated March 15, 2005
- Exhibit C - Wharton Cole Deed dated July 13, 1870
- Exhibit D - John Savil Deed dated March, 1919
- Exhibit E - Stephen Savil Deed dated October 30, 1948
- Exhibit F - H. F. Van Valzah map
- Exhibit G - Clearfield County tax map
- Exhibit H - Map obtained from River Hill Coal Company

- Exhibit I - Lease between Leitzinger Bros., Redding and Hoffman dated October 30, 1953
- Exhibit J - Receipt from James Hoffman dated August 4, 1945
- Exhibit K - Letter from Ted Leitzinger to Sara Redding dated September 4, 1945
- Exhibit L - Cover letter and royalty statements provided by Dave Ammerman

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Plaintiffs


Peter F. Smith, Esquire
Attorney for Leitzinger

DEED

This Indenture,

Jacob C. Michaels Trustee
To
William Michaels
Wharton Cole

Made the thirteenth day of July in the year of our Lord one thousand eight hundred and seventy Between Jacob C. Michaels, Trustee of the herein after described premises for the use of Sarah Michaels wife of William Michaels and the said Sarah Michaels and William her husband and all of their heirs and assigns being of the County of Northham and State of Pennsylvania.

of the one part, and Wharton Cole of the other part, Witnesseth, That the said Wharton Cole for and in consideration of the sum of Five Dollars lawful money of the United States of America, well and truly paid by the said Wharton Cole

at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, and confirm, unto the said Wharton Cole his heirs and assigns, all that certain

piece of land situate in the Township of Northham and County of Lancaster aforesaid being part of a larger tract of land surveyed in presence of a warrant numbered No 4923 and being bounded and described as follows, Beginning at a White oak, thence North twenty five rods to a stone at South East corner of John Michaels land, thence North one hundred and forty rods to a Post, thence East along James Wezels line, seventy five rods to a post thence South along line of George Conway and the public road one hundred and forty rods to White Oak a place of beginning, containing sixty five acres and one hundred rods and being same premises conveyed from David H. Barger Administrator of estate of said John Michaels by deed dated July 29th A.D. 1869, to said William Michaels and further conveyed from said William Michaels & Sarah his wife to said Jacob C. Michaels by assignment dated the 13th day of July A.D. 1869, for the use, heirs and assigns of the said Sarah, which said deed and assignment are on file in the County aforesaid in Deed Book No 10th page 520th

Together with all and singular, the accoutings, improvements, ways, waters, water courses rights, liberties, privileges, hereditaments and appurtenances, whatsoever thereto in any wise appertaining, and the reversions, and remainders, and rents, issues and profits thereof,

all the estate, right, title, interest, property, claim and demand whatsoever, of the said parties of the first part in law, equity or otherwise, howsoever of, in, and to the same and every part thereof

To have and to hold the said Piece of Land hereinafter and premises hereby granted
 on _____ the appurtenances
 thereunto belonging unto the said Wharton Coal Co.
 heirs and assigns, to _____ and behoof of the said Wharton Coal Co.
 heirs and assigns forever.

And the said Jacob L. Michael, Trustee & William Michael for themselves their
 heirs, executors and administrators, do by these presents covenant, grant and agree to and with the said Wharton Coal Co.
 that they the said Jacob L. Michael, Trustee and William Michael their
 heirs, all and singular the hereditaments and premises herein above described and granted, or mentioned and intended so to be
 with the appurtenances, unto the said Wharton Coal Co.
 heirs, and assigns, against _____ the said Jacob L. Michael & William Michael
 their heirs, and against all and every other person or persons,
 whomsoever lawfully claiming or to claim the same or any part thereof, by _____
 SHALL and WILL _____ WARRANT and forever DEFEND.

In Witness Whereof, the said parties _____ to these presents _____ hereunto
 interchangeably set their hands and seals Dated the day and year first above written.

Sealed and Delivered
 in the presence of us } David H. Ward _____ Jacob L. Michael _____
 _____ Mary Crane _____ Sarah J. Michael _____
 _____ William W. Michael _____

Received the day of the date of the within or foregoing signature of the within named
Wharton Coal Co. the sum of Six Hundred dollars in full of the within mentioned consideration
 Witness } Daniel Howe } John L. Michael
 _____ } _____ } _____

State of Pennsylvania } ss.
 County of Clarfuton }
 On the first day of August Anno Domini 1870, before
 me the Subscriber personally appeared Jacob L. Michael and William Michael
 and in due form of law acknowledged to be their and each of their act and deed and as such the same might be received
 as such and the said William Michael being of full age and separate and apart from her
 said husband by me then or privately executed and the full contents of the
 above were being by me fictionally known unto her, and thereupon we have well
 say that she did voluntarily and of her own free will and a correct right mind and
 as her act and deed deliver the above written Invention here or to any person
 without any coercion or compulsion of her said husband. Witness my hand and
 seal the day and year above written.

I hereby Certify that the above Deed was duly stamped with U. S. Revenue
 Stamps, as required by law. Recorded _____ A. D., 1871 } _____ Recorder.

1887.

W. M. Cole wife
&
Clayton Hooster

This Indenture,

Made the 11th day of December in the year of our

Lord one thousand eight hundred and Seventy Six

between
W. M. Cole wife of Kankas Township
in the County of Blairfield and State of
Pennsylvania

of the one part, and Clayton Hooster of the Township County and
State of Pennsylvania

of the other part; Witnesseth, that the said W. M. Cole and wife

for and in consideration of the sum of Two hundred &
fifty dollars
lawful money of the United States

of America, well and truly paid by the said Clayton Hooster

at _____ before the sealing and delivery of these presents, the receipt
whereof is hereby acknowledged, have granted, bargained, sold, aliened, conveyed, released,
and confirmed, and by
these presents do grant, bargain, sell, alien, convey, release
and confirm, unto the said Clayton Hooster

his heirs and assigns, all that cer-
tain piece or parcel of land situate in Kankas Township in the
County and State of Pennsylvania and described as follows
beginning at a point on the James West line Thence East Sev-
enty five (75) Rods to Stone corner at the Township Road Thence
South along the Township Road & Geo Conways line 42 Rods
& Eleven feet to Stone corner Thence West seventy five (75) rods
& Black oak corner on line of John Michaels Thence North 42
Rods & Eleven feet to place of Beginning containing Twenty
(20) acres and being part of certain premises conveyed from Isaac
G. Berger administrator of Isaac Dice land by deed date July
29th A.D. 1869 to William Michaels and further conveyed from
William Michaels & Sarah his wife to Jacob C. Michaels by assign-
ment date the _____ day of _____ A.D. 1869 for the use however of the
said Sarah which said deed and assignment are recorded in
Blairfield County of Pennsylvania in Deed Book D.P. page 520 &c and
further conveyed from Jacob C. Michaels Trustee of the within de-
scribed premises for use of Sarah Michaels wife of William Mich-
aels & the said Sarah Michaels and William her husband to
W. M. Cole by deed date July 30th A.D. 1870 and recorded
in the office for recording deeds at Blairfield Feb 28th A.D. 1871 in
Deed Book 244 page 343. which upon examination will more
fully appear.

Together with all and singular buildings improvements ways waters, water-courses rights, liberties,
privileges, hereditaments and appurtenances, whatsoever them unto belonging or in any wise appertaining, and the reversion &
And remainder, &
And rents, issues and profits thereof,

all the estate, right, title, interest, property
claim and demand whatsoever, of W. M. Cole wife in law, equity or otherwise
howsoever of or due to the same and every part thereof.

To have and to hold the said piece of land, hereditaments and premises hereby granted or mentioned and intended as to be with

the appurtenances, unto the said Clayton Wooster his heirs and assigns, to hold for the only proper use, and behoof of the said Clayton Wooster his heirs and assigns forever,

And the said Wharton M. Cole for himself and his heirs, executors and administrators, do hereby by these presents covenant, grant and agree to and with the said Clayton Wooster his heirs and assigns, that they the said Wharton M. Cole and his heirs, all and singular the hereditaments and premises herein above described and granted, or mentioned and intended as to be with the appurtenances, unto the said Clayton Wooster and his heirs and assigns, against them the said Wharton M. Cole and his heirs, and against all and every other person or persons whomsoever lawfully claiming or to claim the same or any part thereof, by force or under them or any of them

SMALL and WILL by these presents WARRANT and forever DEFEND.

In Witness Whereof, the said part do to these presents have hereunto

W. H. Chapman, their hand and seal 3 Dated the day and year first above written.

Sealed and delivered in the presence of us } A. Banklin Wharton M. Cole (S) Henry Decker and Lanna M. Cole (S)

Received, the day of the date of the within named Clayton Wooster the sum of Two hundred and fifty dollars the consideration therein expressed Wharton M. Cole (S)

Clayton County ss On the 11th day of December Anno Domini 1876 before me a Justice of the Peace in and for said County personally appeared the above named Wharton M. Cole and Lanna his wife and under full of law acknowledged the above indenture to be their and each of their act and deed, and desired the same might be recorded as such, and the said Lanna being of full age and capable and apart from her said husband by me taken private examination and the full content of the above deed being by me put in view to her, did then and there declare and say that she did voluntarily and of her own free will and accord express and as her act and deed deliver the above written indenture, deed, or conveyance without any coercion or compulsion of her said husband Wharton M. Cole and official seal the day and year of aforesaid.

I hereby Certify that the above Deed was duly Recorded May 17 A D, 1880 } L. J. Morgan Recorder for Clerk

Claton Hossler vs
- Do -
Joseph Peary

his Indenture made the
day of _____ in the year of
our Lord one thousand eight hundred
and one Eighty Below Claton
Hossler and Frances his wife of
Kentucky Township of Campbell County
and State of Pennsylvania of the
first part and Joseph Peary of the

second part and State of Pennsylvania of the second part Whereas
the said the said party of the first part for and in consideration
of the sum of One hundred and sixty five (\$165) dollars being
money of the United States of America well and truly paid by the
said party of the second part to the said party of the first part
at and before the usual and delivery of these presents the
receipt whereof is hereby acknowledged have granted bargained
sold aliened enfeoffed released conveyed and confirmed and by
these presents do grant bargain sell alien enfeoff release con-
vey and confirm unto the said party of the second part his
heirs and assigns all that certain messuage or tenement con-
sist of lower situated in Kentucky Township of Campbell County
and State of Pennsylvania bounded and described as follows to-
wiz Beginning at a post on the James Lloyd line thence East sou-
thly four (4) perches to stone corner at the Township road thence
South along the Township road and through Cornerways line
party two (2) perches and Eleven (11) feet to stone corner thence
West southerly five (5) perches to a Black Oak corner on
line of John Michels thence North party two (2) perches
and eleven (11) feet to a post and piece of beginning Corn-
ers line twenty (20) acres It being the same premises which
the late M. Cole and Francis P. his wife by Indenture
bearing date the Eleventh day of December A.D. one thousand
eight hundred and seventy six for the consideration therein
mentioned did grant and confirm to the said Claton
Hossler party first here his heirs and assigns forever as in
and by the said indenture aforesaid made and recorded in the
Office for the recording of deeds at the County in records
for the County of Campbell in Deed Book No 26 26
page fifty seven relation being therein and more
partly and at large appears Together with all and singular
the buildings and improvements woods ways rights liberties privi-
leges tenements and appurtenances to the same belonging
in any case appertaining and the revenues and accessories
incidental and reverendous thereto and also all the estate
of any part and parcel thereof and also all the estate
rights title interest property possession claim and demand
whichever both in law and equity of the said party of the first
part of us and to the said premises with the appurtenances re-
serving and excepting out of and from all of the above
described piece of land all minerals under and upon said
described premises the same not being granted by this

Kings of Kentucky District of Columbia Co from the remaining
 balance of above piece of ground we transfer to Christian Zimmers
 of Kentucky District of Columbia County Tenn for the sum of
 one hundred and fifty dollars (\$150.00) to be paid in the regu-
 lar and delivery of this receipt to the said Christian
 Zimmer signed this 16 day of June A.D. 1853
 Nelson Priddy } Joseph Peary (Seal)
 Joseph Bibleman } Sarah Peary (Seal)
 W. Chatham

Rec Three Rows June 16 1853 of Christian Zimmer one hundred
 and fifty dollars consideration for the above in full
 1853
 Joseph Peary

Columbia County ss
 On the 16 day of January anno Domini 1853
 before me personally appeared the above named Joseph Peary
 and Sarah Peary his wife and in due form of law acknowl-
 edged the above instrument to be their own each of their acts and
 deeds and desired the same might be recorded as such and the
 said Sarah Peary being of full age and sound mind and spirit
 from her said husband by me then and specially examined
 and the full content of the above deed being by me first
 read to them and the said Christian Zimmer and say that
 she did voluntarily and of her own free will and accord sign
 seal and so her act and deed before the above written instru-
 ment did in consequence without any coercion or compulsion
 of the said husband neither may have nor seal the day and
 year aforesaid at Three Rows
 A. J. Lambert (Seal)
 J. J.

Entered of Record Oct. 3. 1853
 Recorded by Gen. M. Ferguson
 Recorder
 for Court.

W.C.C.

This Indenture,

Wharton M. Cole
 To
 Kathans Twp L. # 10,804

Made the Twenty first day of April in the year of our

Lord one thousand eight hundred and Eighty eight Between
 Wharton M. Cole and Lavinia R. his
 wife of the Township of Kathans County of
 Clearfield and State of Pennsylvania

of the first part and H. Kennedy, Neil Shaw and Henry C. Schuman Trustees of Knights of
 Labor Lodge No. 10,804 of Township, County & State aforesaid
 of the second part; Witnesseth, that the said parties of the first part

for and in consideration of the sum of Five dollars
 lawful money of the United States

and fifty cents
 of American m^o to them well and truly paid by the said parties of the second

at before the sealing and delivery of these presents, the receipt

whereof is hereby acknowledged, granted, bargained, sold, aliened, enfeoffed, released conveyed and confirmed, and by
 these presents to grant, bargain, sell, alien, enfeoff, release convey and confirm, unto the said parties of
 the second part with full power for the Knights of Labor their heirs and assigns, all that parcel
 or lot of ground situated and being in Kathans Township, Clearfield
 County, Pa. and described as follows: commencing in the southeast
 of June on the line of the Hyatt Hooper lot thence South 123 feet
 along the line of said Hooper to stone corner thence West 88 feet
 to stone corner thence South 123 feet to stone corner in middle
 of June thence East down said line 88 feet to stone corner and
 place of beginning, containing one fourth (1/4) acre more or less the
 same being part of the premises Decided by Osarah G. Bangor
 administrator of Isaac Price dec'd & William Murchack
 by deed dated July 29. A.D. 1869 and further conveyed by
 William Murchack and Sarah his wife to Jacob C. Murchack
 by assignment dated the day of A.D. 1869 for the use
 of said Sarah which deed and assignment are recorded
 in Clearfield in the office for the recording of Deeds in Book
 D.D. page 52 and from Jacob C. Murchack Trustee for the use
 of Sarah Murchack wife of William Murchack to Wharton M. Cole
 by deed dated the 30. day of July A.D. 1870 the same being
 recorded in the office for the recording of Deeds at Clear-
 field February 28. A.D. 1871 in Book C.C. page 343 which
 will upon examination more fully and at large appear.

Together with all and singular the buildings improvement, ways, water, water-courses, rights, liberties,
 privileges, hereditaments and appurtenances whatsoever therunto belonging or in any wise appertaining, and the reversions
 and remainders, rents, issues and profits thereof,
 all the estate, right, title, interest, property
 claim and demand whatsoever, of the said parties of the first part, in law
 equity or otherwise whatsoever of in and to the same and
 every part thereof.

To have and to hold the said descenta property with the exceptions of all the minerals contained therein which are hereby reserved, and not included in this deed hereinafter mentioned and premises hereby granted or mentioned, come with the appurtenances, unto the said parties of the second part their heirs and assigns, to ^{use for} the only proper use and behoof of the said parties of the first part as trustees, heirs and assigns forever,

And the said ^{Martha M. Cole and Lucretia} ~~Martha M. Cole and Lucretia~~ being the said parties of the first part for their heirs, executors and administrators, do hereby these presents covenant, grant and agree, to and with the said parties of the second part as trustees that they the said parties of the first part their heirs, and all singular the heirs and assigns hereinafore described and granted, or mentioned and intended do to be with the appurtenances, unto the said parties of the second part as trustees heirs and assigns, against them, the said parties of the first part their heirs, and against all and every other person or persons whomsoever lawfully claiming or to claim the same or any part thereof,

SHALL and WILL

WARRANT and forever DEFEND.

In Witness Whereof, the said parties of the first part to these presents hereunto set their hands and seals Dated the day and year first above written.

Sealed and delivered in the presence of us,

S. M. Rankin Martha M. Cole L.S.
A. Rankin Lucretia Cole L.S.
mark

Clearfield County ss
On this 21. day of April 1888 before me the subscriber a Justice of the Peace personally came the above named Lucretia F. Cole & Martha Cole who in due form of law acknowledged the foregoing instrument to be their act and deed and declared the same to be recorded as such she the said Lucretia F. being of full age, sound by her own mind separate and apart from her said husband, and the content of the said instrument being fully known to her, declared that she was of her own free will and accord signed and sealed and delivered the same without any coercion or compulsion of her said husband that on my hand and seal the day and year aforesaid
A Rankin JP

I hereby Certify that the above Deed was duly Recorded May 8th A. D. 1888

D. R. Fullerton Recorder.
for East

11211

162-282
This Indenture,

Wharton M. Cole,
to

Made the Sixteenth day of February, in the year of our
Lord one thousand nine hundred and SEVEN Between

John Savil

Wharton M. Cole, and Lovina his wife of Karthaus Township,
Clearfield county and State of Pennsylvania;

of the First part, and John Savil of the Township of Karthaus,
county of Clearfield and State of Pennsylvania,
of the second part: Witnesseth, That the said parties of the first part,
for and in consideration of the sum of
Fifty Dollars lawful money of the United States

of America well and truly paid by the said parties of the second part to the
said parties of the first part, at and before the sealing and delivery of these presents, the receipt
whereof is hereby acknowledged, have granted, bargained, sold, aliened, conveyed, released, conveyed and confirmed, and by these
presents do grant, bargain, sell, alien, enfeoff, release, convey and confirm, unto the said
party of the second part, his heirs and assigns,

All that Piece or Parcel of Land Situate and being in the Township of Karthaus
County of Clearfield and State of Pennsylvania; Bounded as Follows; Viz: Beginning
at a Stone Corner at or near Frank Michaels Barn on Line of Frank Michaels; Being
the north East Corner; Thence West along Land of Frank Michaels Twenty Eight (28) Rods
to Stone Corner on Land of W. M. Cole; Thence South along Land of Wharton M. Cole
Thirteen (13) Rods to Stone Corner at W. M. Cole's Land; Thence; East along said Coles
Land Fourteen (14) Rods to Stone Corner at K. of L. Hall. Thence along Said Lot north
Seven (7) Rods to Stone Corner Being corner of Knights of Labor Hall Lot; Thence
East along Said K. of L. Lot and along Road to Said K. of L. Lot; Fourteen (14) Rods
to Stone Corner at Lot of Mrs. W. T. Peavey's Thence north along Said Mrs. W. T.
Peavey's Lot Six (6) Rods to Stone Corner on Land of Frank Michaels and place of beginning
Containing one and Three fourth acres More or Less (1 3/4) This Being Part of a
larger tract of Land conveyed from G. Michael, Trustee, for Sarah Michael to Wharton
M. Cole by Deed dated August First A. D. 1870,
and recorded in the office for the recording of Deed at Clearfield Pa. Feb. 28 A. D.
1871 in Deed Book G. G. Page 343 which upon Examination will more and fully appear.

Together With, all and singular, the buildings, improvements, woods, ways, rights, liberties,
privileges, hereditaments and appurtenances to the same belonging, or in anywise appertaining, and the reversion
and reversions, remainder, and remainders, rents, issues and profits thereof, and of every part
and parcel thereof: And Also, all the estate, right, title, interest, ~~profit~~ Except all mineral are
reserved as they have been sold property possession,
both in law and equity, of the said part of the first part,
of, in and to the said premises, with the appurtenances:

EXHIBIT 5

112-282

To have and to hold The said premises with all and singular

the appurtenances

unto the said party of the second part, His heirs and assigns, to and for the only proper use benefit and behoof of the said party of the second part, His heirs and assigns, forever.

And the said Wharton M. Cole and Lovina His wife, Their heirs, executors and administrators, do hereby these presents covenant, grant and agree, to and with the said party of the second part, His heirs and assigns, forever. that they the said Wharton M. Cole and Lovina his wife their

heirs, all and singular, the hereditaments and premises hereinabove described and granted, or mentioned and intended so to be, with the appurtenances, unto the said party of the second part, His heirs and assigns, against them the said Parties of the First part Their heirs, and against all and every other person or persons whomsoever lawfully claiming or to claim the same or any part thereof,

SHALL and WILL WARRANT and forever DEFEND.

In Witness Whereof The said parties of the first part to these presents Have hereunto set their hand and seal. Dated the day and year first above written.

Signed, in presence of J. Wilson Rauch Maud Cole

Wharton M. Cole, her Lovina F. X Cole, mark



Received the day of the date of the above Indenture of the above named John Savil fifty Dollars being the Purchase money on the within.

Wharton M. Cole,

State of Pennsylvania, # SS. County of Clearfield, #

On this 16th day of February A. D. 1907, before me, a Justice of the Peace in and for Said County personally appeared the above named Wharton M. Cole and Lovina his wife and in due form of law acknowledged the above Indenture to be Their act and deed, and desired that the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid, J. Wilson Rauch J. P. (J. P. Seal) My Commission Expires May 3, 1909.

the foregoing instrument and that the same is their free
act and deed I further certify that I saw examine the same
Mary Ann Goas wife of said Adam Goas separate and apart
from her husband and was then and there made known
to her the contents of the foregoing instrument and upon her
examination declared that she was voluntarily signed
and acknowledged the same and that she is still
satisfied therewith. In testimony whereof I hereunto set
my hand and official seal the fourteenth day of February
A.D. 1889

J. H. Heber
Notary Public
Harrison Co. Ohio

Entered of Record May 13, 1889
Recorded by D. R. Fullerton
R. Cook
H. Cook

D & C
Wharton M. Cole vs
Do
Hyatt C. Wooster

This Indenture made the Twenty seventh
day of December in the year of our
Lord one thousand eight hundred
and eighty eight Between Wharton M.
Cole and Lavinia D. his wife of Harrison
Township Adams County, Indiana
of the first part and Hyatt C. Wooster
of the Township Adams County and State

of Indiana of the second part, Witnesseth, That the said parties
of the first part, for and in consideration of the sum of
Fifty dollars lawful money of the United States of America unto
them well and truly paid by the said party of the second part
at or before the sealing and delivery of these presents, the re-
ceipt whereof is hereby acknowledged have granted, conveyed, and
sold, aliened, enfeoffed released, conveyed and confirmed, and
by these presents do grant, convey, sell, alien, enfeoff, re-
lease, convey and confirm unto the said party of the
second part his heirs and assigns, all that certain par-
cel or piece of land situate and being in Harrison Town-
ship County of Adams and State of Indiana
bounded and described as follows to-wit Beginning at a
stone corner on line of said Wharton M. Cole on Town-
ship Road Thence north along said Road seven (7) Rods
and seven (7) feet to stone Thence west twenty two (22)
Rods to stone and corner N. of L. Tol. Thence South
along line of said Tol seven (7) Rods and seven
(7) feet to stone Thence East along line of said Wharton
M. Cole Twenty two (22) Rods to stone and place of beginning
containing one (1) acre more or less The same being part
of a larger tract of land out of Warrant No. 4023
conveyed by Deaugh & Berger administrators of Isaac

Price, given to W. Michaels and wife by deed dated July 29. A.D. 1869 and further conveyed by said W. Michaels and Sarah his wife to Jacob C. Michaels by assignment dated this day of A.D. 1869 for use however of the said Sarah, which said deed and assignment are recorded in the office for the recording of deeds in and for Calaveras County in Deed Book D.D. page 520 &c and from the said Jacob C. Michaels, trustee, and the said Sarah Michaels and William his husband to William M. Cole by deed dated July 30. A.D. 1870 the same being recorded in the Office for the Recording of Deeds and Calaveras July 28. A.D. 1871 in Deed Book L.B. page 343 which will upon examination fully and at large appear. Together with all and singular the hereditaments appurtenances, rights, claims, easements, liberties, franchises, tenements and appointments whatsoever thereto belonging and any and all appurtenances and the revenues and remainders, rents, issues and profits thereof and all the estate, right title, interest, property, claim and demand whatsoever of this said party of the first part, in law, equity or otherwise howsoever of or to the said and every part thereof. To have and to hold the said premises with the improvements thereon but all minerals under said described land is reserved and not included in this conveyance hereditaments and premises hereby granted, mentioned and intended so to be with the appurtenances unto the said party of the second part his heirs and assigns forever for the only proper use and behoof of the said party of the second part his heirs and assigns forever, and William M. Cole and Linnia his wife the said party of the first part for themselves and their heirs executors and administrators do by these presents covenant grant and agree to and with the said party of the second part his heirs and assigns that they the said parties of the first part their heirs and assigns the hereditaments and premises hereinafore described and granted, mentioned and intended so to be with the appurtenances, unto the said party of the second part his heirs and assigns against them the said parties of the first part and their heirs and assigns and against all and every other person or persons whatsoever lawfully claiming or to claim the same or any part thereof by force or violence, theirs or any of their heirs and assigns and forever defend on that behalf the said parties of the first part have to this presents set their hands and seals. Done the 29th day of July 1871 above written.

William M. Cole
Linnia Cole

Wm. Cole
Linnia Cole

Witness my hand and seal in the presence of us
Joseph A. ...

(Seal)

Recovers the duty of the debt of the above indentures of the above
name Hyatt C. Hooper the party named in the within in-
denture the sum of Fifty dollars lawful money of the
United States, being the sum of the money above mentioned
in fee
Wharton M. Cook

Hitties
A Rankin

Claripita County

On this 29th day of December A.D. 1888 before me
the undersigned a Justice of the Peace personally came the above
named Wharton Cook & Lavinia Cook who in due form of
law acknowledge the foregoing indenture to be their act
and deed and desired the same to be recorded as such. She
the said Lavinia Cook being of full age and by none insane
separat and apart from her said husband and the content
of the said indenture being first made fully known to her
claim that she does of her own free will and accord sign
and seal and as her act and deed without the same without
any coercion or compulsion of her said husband, at this
my hand and this day and year of 1888

A Rankin (Seal)
JP

Entered of Record May 13. 1889

Assignment

Hyatt C. Hooper vs

vs

Samuel Michael
made an assigning deed

Know all men by these presents
that we Hyatt C. Hooper and
Oliver J. his wife of Claripita
County Claripita Co. Pa. for and
in consideration of the sum
of Five hundred and fifty dol-
lars to them in hand paid
by Samuel Michael of same
place have assigned, transferred

and conveyed and by these presents do assign transfer
and convey all their interest acquired by virtue of the
deed hereto annexed in the described piece of land which
is fully described therein together with all the improvements
thereon Hitties our hands and seal this 29th day of
December A.D. 1888

Hitties
A Rankin

Hyatt C. Hooper (Seal)
Oliver J. Hooper (Seal)

State of Pennsylvania
Claripita County

Before me a Justice of the Peace in and
for said County personally came the above named

Nyatt C. Wooster and Olive J. his wife who in due form of law acknowledged the above instrument to be their and each of their, act and deed, and declare the same might be recorded as such, and the said Olive J. after the contents being made known to her, and declare and say that she did of her own free will sign this assignment without any coercion of her husband.

Witness my hand and seal this 13th day of May 1889
 Recorded by J. R. Fullerton
 Recorder
 J. P. (Seal)

Deed
 Emma J. Field
 — Do —
 Thos. A. Friedman

This Indenture, made the twenty sixth day of December in the year of our Lord one thousand eight hundred and eighty eight (1888) Between Emma J. Field of the Parish of Decatur County of California and State of Pennsylvania of the first part

and Thomas A. Friedman of the Parish of Eschscholtz County of California and State of Pennsylvania of the second part witnesseth that the said party of the first part for and in consideration of the sum of three hundred and fifty dollars, unto her in hand paid by the said party of the second part, at and before the sealing and delivery of these presents, the receipt and payment of which is hereby acknowledged has granted, bargained and sold, released and conveyed and by these presents do grant bargain and sell release and confirm unto the said party of the second part, his heirs and assigns, all that certain lot of ground situate in the Village of Jansville Parish of Eschscholtz County of California and State of Pennsylvania being eighty feet (80) by two hundred (200) feet and bounded as follows on the East by the lot owned and the West by Mrs. Manges on the South by an alley and on the North by Main Street It being the same property conveyed & granted by J. H. Knight and Mary his wife by their deed dated May 4, A.D. 1880 and Recorded in the Office for the Recording of Deeds in and for the County of California in Deed Book No. 47 page 492 Reference thereto being had will more fully and at large appear said Lot being known as Lot No. 24 in plan or plot of said Village together with all and singular the rights, liberties, privileges, her-

1869

This Indenture,

Wharton M. Cole
To

Made the twenty first day of April in the year of our
Lord one thousand eight hundred and eighty eight

Henry Coleman

Between
Wharton M. Cole and Lorenus F. his son,
of the township of Northons, County of Blaine,
State of Pennsylvania

of the first part, and Henry Coleman of the township, County and State
aforesaid

of the second part: Witnesseth, that the said parties of the first part
for and in consideration of the sum of Ten thousand, and
lawful money of the United States

well and truly paid by the said party of the second part -
at or before the sealing and delivery of these presents, the receipt

whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, conveyed and confirmed, and by these presents
grant, bargain, sell, alien, enfeoff, release, convey and confirm, unto the said party of the second part, his
heirs and assigns, All that certain piece

or parcel of lot of ground situated and lying in Northons township
County and State of Pennsylvania, bounded and well
described as follows, viz: in beginning, at a stone on the line of Wharton
M. Cole at the township road, thence north twenty eight (28) rods
to stone and corner of Mrs. Elizabeth Kennedy lot, thence west along
line of said lot forty (40) rods to stone, thence south twenty eight
(28) rods to stone, thence east forty (40) rods to stone and place
of beginning. Containing more (7) acres more or less. The same
being a part of some piece of land decreed to William McClintock by
Isaac S. Budget, Administrator of Isaac Price dec'd by ass. a. d. d. t.
July 24, A. D. 1869 and further by William McClintock and Sarah his
wife to Jacob G. McClintock by assignment dated the day of
A. D. 1869, for the use of said Sarah, which deed and assignment
are recorded in the office for the recording of Deeds in
County and State of Pa. page 520 and from said G. McClintock, Trustee for
use of Sarah McClintock, wife of William McClintock, to Wharton M. Cole,
by deed dated the 20th day of July, A. D. 1870. The same being
recorded in the office for the recording of Deeds at Camp Hill, Penn-
sylvania 28, 1871, in deed book S. S. page 343, which will sup-
ply a recitation more fully and at large apparent.

Together with all and singular the hereditaments, services, tenements, rights, liberties,
privileges, hereditaments and appurtenances whatsoever thereto belonging or in any wise appertaining, and the reversion &
remainders

and all the estate, right, title, interest, property
claim and demand whatsoever of the said party of the first part in, to, and by, and through
himself, or his heirs and assigns, and every of them.

57200

To have and to hold the said, described property with the exception of the several conditions in these which are hereby reserved and not included in this deed, the covenants and premises hereby granted or mentioned and intended as to be with the appurtenances, unto the said family of the second part, his heirs and assigns, to and for the only proper use and behoof of the said family of the second part his heirs and assigns forever,

And the said Abraham M. Cole, and Louisa his wife the said family of the first part for themselves, their heirs, executors and administrators, do hereby by these presents covenant, grant and agree, to and with the said family of the second part, his heirs and assigns, that they the said family of the first part their heirs, all and singular the hereditaments and premises hereinabove described and granted, or mentioned and intended, to be with the appurtenances, unto the said family of the second part, his heirs and assigns, against them the said family of the first part and their heirs, and against all and every other person or persons whomsoever lawfully claiming or to claim the same or any part thereof,

SHALL and WILL WARRANT and forever DEFEND. In Witness Whereof, the said parties of the first part have to these presents hereunto set their hands and seals Dated the day and year first above written.

Signed, Sealed and delivered in the presence of us
S. M. Rawlin
H. Rawlin
Abraham M. Cole
Louisa F. Cole
[S] [S]

Clearfield County ss: On this 21st day of April 1885 before me the undersigned a Justice of the Peace personally came the above named Abraham M. Cole, and Louisa F. Cole his wife, who in due form of law acknowledged the foregoing instrument to be their act and deed and desired the same to be recorded as such. She the said Louisa F. being of full age and by metacommunicate separate and apart from her said husband, well, the full contents of the said instrument being first made fully known to her, declared that she was of her own free will and accord sign and seal, and as her act and deed delivers the same without any coercion or compulsion of her said husband. Witness my hand and seal this 21st day and year of aforesaid
A. P. Rawlin J. P. [S]

May 11 1889

A. P. Rawlin Recorder

and will not accept any more money as her own and
clear deliver the same without any other compensation of
her said husband. It is my said and natural act the
day and year aforesaid

(Roy H. S. H. Case)
Notary Public

Commission Expires January 16th 1899

State of New York
County of Seneca

I, Wm. J. J. Clark of the District Court in and for said
County a Court of Record, using a seal of office and having common
law jurisdiction do hereby certify that Roy H. S. H. Case is
on the 16th day of January A.D. 1898 duly commissioned a Notary
Public and that his commission will expire on the 16th day of
January A.D. 1899 and that he is qualified according to law
and authorized to take acknowledgments and return them in
due form and to all other official acts as such full faith and
credence should be given. In Testimony whereof I have hereunto
subscribed my name and of office the 10th day of said Court in
Seneca in said County of Seneca this 30th day of March A.D.
1896

Wm. J. J. Clark
Clerk District Ct.

Entered of Record Nov. 17 1892
and Recorded by B. W. Berger
Recorder

D & E D
Wm. M. Cole
— So —
Frank Michaels

This Indenture made the Twenty
Ninth day of December in the year
of our Lord one thousand eight
hundred and eighty eight Between
Wm. M. Cole and Savina his
wife of Northaux Township Clearfield
County Penna. of the first part
and Frank Michaels of Seneca County

and State aforesaid of the second part Witnesses that the
said parties of the first part for and in consideration
of the sum of Thirty dollars lawful money of the United
States of America unto them well and truly paid by the
said party of the second part at or before the making and
delivery of these presents the receipt whereof is hereby
acknowledged here granted bargained sold aliened
conveyed released conveyed and confirmed and by these
presents do grant bargain sell alien convey release confirm
and confirm unto the said party of the second part his
heirs and assigns all that certain parcel or piece of
Land Situate and being in Northaux Township Clearfield
County Pennsylvania bounded and described as follow

beginning at the corner of Royal Hooster Lot
 Lot in Township Road, thence South Six 6 Rods and Ten 10
 feet to Stone and corner of the Hooley & Eisenman Lot thence
 West thence 13 Rods and four 4 feet to Stone corner thence
 South Six 6 Rods and Ten 10 feet to Stone corner on Line
 of the Hoyle Hooster Lot thence East thence 18 Rods and
 four 4 feet to Stone and Place of Beginning containing one
 half 1/2 acre more or less the same being part of a Deed
 Grant of Land out of Warrant No. 4022 conveyed by David
 G. Bensen Administrator of Isaac Price decd. to Wm.
 Michael and wife by Deed dated July 29th 1869 and further
 conveyed by said Wm Michael and Sarah his wife to Jacob
 E. Michael by assignment dated the day As. Surfer
 use hereon of the said Jacob and Decd and Assignant
 are recorded in the office for the recording of Deeds in
 and for the said County in Deed Book D. L. Page 520
 and also the said Jacob E. Michael and the said
 Sarah Michael and Wm. M. Hooster to Wm. M. Cole
 by Deed dated July 30th A. D. 1870 the same being recorded
 in the office at Newfield Feb. 25th A. D. 1871 in Deed
 Book S. L. Page 243 which will upon examination fully accord
 at large appear. Together with all and singular the Hereditaries
 improvements ways water water courses rights liberties privileges
 hereditaments and appurtenances whatsoever wheresoever belonging
 or in anywise appertaining and the revenues and accretions
 rents issues and profits thereof and all the other right title
 interest property claim and demand whatsoever of the said
 party of the first part in law equity or otherwise hereon
 of in and to the same and every part thereof so far as
 to hold the said Surface with improvements thereon but
 all minerals under said described Land is reserved and
 not included in this conveyance hereditaments and
 promise hereby granted or mentioned and inserted into
 with the appurtenances unto the said party of the second
 part this being and assign to and for the only proper use
 and behoof of the said party of the second part this being
 and assign forever and Wm. M. Cole and Sarah his wife
 the said party of the first part for themselves and their heirs
 Executors and Administrators do by these presents covenants grant
 and agree to and with the said party of the second part this
 being and assign that they the said party of the first part
 their heirs all and singular the Hereditaments and premises
 herein above described and granted or mentioned and intended
 so to be with the appurtenances unto the said party of the
 second part this being and assign against them the said
 party of the first part and their heirs and against all
 and every other person or persons who hereafter lawfully claiming
 or claiming the same or any part thereof by force or violence
 their or any of their shall and will warrant and forever defend

part. his heirs and assigns forever. Oliver McClelland and Elizabeth his wife, the said party of the first part, for themselves and their heirs, executors and administrators do hereby, their presents covenant, rent and agree to and with the said party of the second part, her heirs and assigns that they the said party of the first part and their heirs, all such singular the hereditaments and premises herein above described and upon both mentioned and intended do to be, with the apprehensions unto the said party of the second part, have and assign against them the said party of the first part, their heirs and assigns against all and every other person or persons whomsoever lawfully claiming or to claim, the same or any part thereof, shall and will warrant and forever defend in it and therein, the said party of the first part, here to, their presents, all their heirs and assigns, to hold the day and year first above written.

Sealed and Delivered in the presence of
H. W. 112 as do
Oliver McClelland
Robt. Gresser

Oliver McClelland
Elizabeth McClelland

Received the day of the date of the above Indenture of the above named Mary J. Suter, the sum of Twelve hundred \$2000 Dollars lawful money of the United States being the consideration money above mentioned in full

Witness
Robt. Gresser

Elizabeth McClelland

State of Pennsylvania
County of Allegheny

on this 15th day of November A.D. 1897 before me the undersigned Notary Public in & for said Co. Personally came the above named Oliver McClelland who in due form of law acknowledged the foregoing Indenture to be his act and deed and that the same might be recorded as such.

Witness my hand and seal this day and year aforesaid
Herbert C. Moore
Notary Public

State of Kansas
County of Neosho

on this 8th day of November A.D. 1897 before me the undersigned Notary Public in & for said County & State Personally came the above named Elizabeth McClelland who in due form of law acknowledged the foregoing Indenture to be her act and deed and stated that the same might be recorded as such. The said Elizabeth McClelland being of full age and by me examined separately and apart from her said husband and the contents of the said Indenture being first read fully in view she has declared that she did voluntarily of her

In Witness whereof, she said portion of the first part House to these parents at their last and only death the day and year first above written.

Signed, sealed and delivered in the presence of us
Joseph Coole
H. Rankin

W. Martin M. Cole
Servina F. Cole

Received the day of the date of the above Indenture of the above named Frank Rankin the sum of Thirty Dollars lawful money of the United States being the consideration money above mentioned in said Indenture.

Witness
W. Martin M. Cole

At Westfield County, N.Y.

on this 29th day of December A.D. 1888 before me, the undersigned Justice of the Peace Personally known the above named William M. Cole Servina Cole his wife who in due form of law acknowledged the foregoing Indenture to be their act and deed, and advised the same to be recorded as such. She the said Servina Cole being of full age and by me examined apart and apart from her said husband and the contents of the said Indenture being first made fully known to her declared that she did of her own free will and without any coercion or constraint or being in any manner the same without any coercion or constraint of her said husband at this my hand and seal the day and year aforesaid.

W. Rankin
J.P.

Entered of Record Nov 18 1892
and Recorded by Miss Hager

Witness

D & E D

Robert Brown Adam
— IC —
David Price

This Indenture made the nineteenth day of October in the year of our Lord one thousand eight hundred and ninety. Between Robert Brown guardian of William James Corney, and then Thomas Corney and Eliza Annis Corney minor heir of Thomas Corney deceased, of the first part, and David Price of the second part, all of the County of Westfield Pennsylvania. Whereas Thomas Corney became seized in his lifetime of a certain lot of land hereinafter described; and the said Thomas Corney died on the fourteenth day of June A.D. 1894 leaving to Survive

the first part, and David Price of the second part, all of the County of Westfield Pennsylvania. Whereas Thomas Corney became seized in his lifetime of a certain lot of land hereinafter described; and the said Thomas Corney died on the fourteenth day of June A.D. 1894 leaving to Survive

Received the day of the date of the above indenture of the above named Six hundred and fifty dollars, the sum of Dollars, lawful money of the United States, being the consideration money above mentioned in full.

Witness: Hugh Sunderland Eliza A. Sunderlin
Duly stamped U.S. Rev. \$1.00
State of Penna.)
County of Clearfield) SS

On this 22nd day of January A.D. 1918, before me, the subscriber, personally came the above named Eliza A. Sunderlin who in the form of law acknowledged the foregoing indenture to be her act and deed and desired that the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid.

C. B. Patriok (off. seal)
U.P.

My commission expires first Monday in January 1922.

Entered of Record Jul 15, 1919. 9-10 A.M.

Recorded and Compared by
Ed. B. Chase
W.C.
Recorder.

DEED) THIS DEED Made the day March in the year Nineteen hundred
MALCOLM COLE ET UX) and nineteen.
TO) BETWEEN Malcolm Cole of the Township of Girard, county of
JOHN SAVIL) Clearfield state of Pennsylvania and Pearl, his wife of the
one part, and John Savil of the county of Karthus, county and state aforesaid, of the other
part.

WITNESSETH, that in consideration of eleven hundred (\$1100.00) dollars hand paid, the receipt whereof is hereby acknowledged the said grantors do hereby grant and convey to the said grantee, all that certain lot or piece of ground situate in the Township of Karthus county of Clearfield and state of Pennsylvania, surveyed in pursuance of warrant No. 4023, and bounded and described as follows:

Beginning at a white oak, thence west 75 rods to a stone at southeast corner of John Michaels land; thence north 140 rods to a post; thence east along James Uzzell's line 75 rods to a post; thence south along line of George Conway and public road 140 rods to white oak and place of beginning. Containing 65 acres and 100 perches.

Being the same premises which Jacob C. Michaels, Trustee, by deed dated 13th of July 1870 and recorded in the office for the recording of deeds in and for Clearfield County in Deed Book 66 page 343 to Wharton Cole, and the said Wharton Cole died on the 8th day of December 1907, testate, and by will duly proved and recorded at Clearfield, in

Will Book G page 514, devised the above piece of land to Joseph And Malcolm Cole, and the said Joseph Cole conveyed his interest by deed dated Oct. 29th, 1917, recorded in Deed Book 224 page 227, to Malcolm Cole, above named grantor.

Excepting and reserving out of the same, however all the oils, coal fire clay iron ore and other minerals previously sold by said Wharton Cole to Weaver and Betts by agreement dated March 3rd, 1880 and recorded at Clearfield in Misc. Book 6 page 274-

Also excepting and reserving the following pieces or parcels of land previously sold by said Wharton Cole to the following named persons, viz: twenty acres to Clayton Wooster, by deed dated 11th December 1876, recorded in Deed Book 16, page 57. One fourth of an acre sold to Karthus R of L No. 10, 804 by deed dated April 21, 1888, recorded in Deed Book 46, page 310. One acre sold to Hyatt C. Wooster, by deed dated 29th December 1881, recorded in deed book No. 51 page 171. Seven acres sold to Henry Eisenman by deed dated April 21, 1888 recorded in deed Book No. 52, page 200. One half acre sold to Frank Michaels by deed dated 29th December 1888, recorded in Deed Book No. 98, page 204 and one and three fourths acres sold to John Savil, by deed dated 16th February 1907. recorded in deed Book No. 162 page 282 as reference thereto being had will more fully and at large appear.

AND the said grantors, do hereby covenant and agree to and with the said Grantee, that they the grantors, their heirs, executors and administrators shall and will warrant and forever defend the herein above described premises with the hereditaments and appurtenances unto the said grantee, his heirs and assigns, against the said grantors, and against every other person lawfully claiming or who shall hereafter claim the same or any part thereof.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Sealed and delivered Malcolm Cole (seal)
in the presence of Pearl Cole (seal)
Ed. B. Chase
State of Pennsylvania)
County of Clearfield) SS

On this 1st day of April A. D. 1919, before me a recorder of Deeds in and for Clearfield county came the above named Malcolm Cole and Pearl Cole, his wife, and acknowledged the foregoing deed to be their act and deed and desired the same to be recorded as such.

Witness my hand and official seal the day and year aforesaid.
Ed. B. Chase (off. seal)
Recorder of Deeds.
My commission expires 1920.

1950

Catawact coal

THIS AGREEMENT ^{W. R. C.}
JANUARY 1950

Made the first day of January, A. D. 1950, between LEWZIMONT
HKS. REALTY COMPANY, a corporation organized and existing
under the laws of the State of Pennsylvania, with principal
office and place of business in the Borough of Clearfield,
Clearfield County, Pennsylvania, and EDWARD REDDING of Altoona,
Pennsylvania, parties of the first part, hereinafter called
Lessors;

A
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FRANK J. HEITLICH of Karthaus, Karthaus Township, Clearfield
County, Pennsylvania, party of the second part, hereinafter
called Lessee.

W I T N E S S E T H:

(1) The Lessors for and in consideration of the sum of One
(\$1.00) Dollar in hand paid, the receipt whereof is hereby ack-
nowledged, for and in consideration of the rents, royalties,
covenants, stipulations and agreements hereinafter contained, by
the Lessee to be kept and performed, do hereby let, lease and
demise to the Lessee, the right and privilege to mine and take
away all the coal in, under and upon the following described
premises.

Lease for Catawact coal co. lands

All that tract of land located in Karthaus Township,
Clearfield County, Pennsylvania, containing approxi-
mately 1500 acres, formerly known as the Catawact Coal
Company lands, now belonging to the Lessors herein,
excepting from this lease that portion of the premises
now under lease to William Hoffman, being known as the
Savel tract of land, identified on the map prepared
by Henry F. VanValen, identified as the Wharton Coal
Tract, and that tract of land known as the Jerry Quince
tract under lease to Frank Albert.

In connection with this lease, the Lessors herein have
leased to the Catawact Coal Company, Inc., a certain
portion of the premises for a right of way to and
for railroad sidings and leading facilities, said portion
of the premises being excepted and reserved from this
lease agreement. provided, however, that the Lessee herein
is granted by the Lessors herein, the right and privilege
of using said right of way for the purpose of transport-
ing his coal from the demised premises, the Lessors
herein having distinctly made reservation of said right
of way in order that they may use the same for the mining

and removal of their coal, and they are granting the use of those rights to the Lessee herein. It is not intended by this lease to cover the tracts of land known as the Fielding or the Fielding and Smith tracts of land owned individually by Leitzinger Bros. Realty Company, one of the lessors herein, said tract of land being leased by a separate lease agreement.

* The Lessee herein shall have the right to transport the coal hereby leased over other premises owned by the Lessors herein, without payment of wheel toll or other charge, so long as said operation does not interfere with the use or operation on the property of the Lessors not covered by this agreement.

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(2). The Lessors further grant to the Lessee the right of ingress, egress and regress into, through and upon the above described land, for the purpose of examining, searching for, prospecting, mining, manufacturing and preparing said coal for market, and taking, storing, removing and transporting the same, and for these purposes the said Lessee shall have the right to mine and remove the said coal according to any and all known and modern methods, (together with the right of using and occupying so much of the surface of the aforesaid land for drifts, headings, openings, shafts, airshafts, triples, dumps, chutes, roads, tramroads, lateral railroads, electric power or transmission lines, improvements and other buildings), except miners' houses, upon, over, across and through said lands and the surface of the same, so far as may be necessary or convenient for the proper working of any mine or mines, for the removal of said coal, or the shipping of the same, together with the right to deposit dirt or waste from such mine or mines upon the surface thereof, insofar as the Lessors have the right to grant the same.

rface

(3). The Lessors hereby grant to the Lessee such rights in, upon and over the surface of the herein described premises as they have; Lessors further grant to the Lessee a release of all damages that may result to the surface, wells, springs, water or water courses, insofar as the said Lessors have the right to grant the same.

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(4). The Lessee is not obligated to mine and remove any coal that is unmerchantable and unminable, but the said Lessee shall have the right to mine and remove the same if he so desires. He shall pay therefor, if such right is exercised, royalty at the rate herein provided for the mining and removal thereof.

(5). The Lessee agrees to pay to the Lessors the sum of eighteen (18) cents per net ton of two thousand (2000) pounds for all coal mined and removed from the demised premises. Said royalty shall be paid monthly on the 20th day of the month following the mining and removal thereof, to Leitzinger Bros. Realty Company, at its place of business in the Borough of Clearfield, Pennsylvania, without demand, and all payments required to be made by way of royalty or otherwise, shall be paid in like manner. Accompanying each payment shall be a statement showing the period for which the payment is made and the number of tons mined and removed during said period. The weight of said coal shall be determined by the railroad scales, if the same is shipped by rail. In the event that the said coal is not shipped over any railroad, the weights shall be ascertained by the weights as shown by the weigh scales of the Lessee. The Lessee hereby covenants to provide and maintain proper scales for the weighing of said coal. Provided, however, that the Lessors shall not be bound by the said weights, but may use any proper method to determine the weight or amount of coal actually mined and removed from the demised premises.

(6). Commencing as of ^{JANUARY} ~~February~~ 1, 1949, the Lessee agrees to mine, remove or to pay for as if mined and removed, at the rate per ton stipulated in paragraph (5) hereof, at least sufficient tons of coal from the demised premises, each and every month

during the continuance hereof, so that the Lessors will have an income of at least One Hundred ^{Twenty-five (25.00) Dollars} ~~Dollars~~ per month from the premises, the subject of this agreement. In case of failure to mine the minimum requirements in any given month, the Lessee shall pay the Lessors the deficiency between royalty on coal actually mined from the demised premises and the minimum royalty computed at the rate per ton hereinbefore stipulated, on or before the 20th day of each and every month after the particular minimum month. It is further stipulated and agreed that the Lessee shall have the privilege of mining coal previously not mined but paid for under the minimum provisions hereof, in any succeeding month during the continuance of this lease after the minimum tonnage for the succeeding months and all intervening months has been mined and the royalty thereon paid, without interest on any payment made under the minimum provisions hereof.

(7). The Lessee hereby covenants and agrees to operate the mine by approved methods and in accordance with the mining laws of the United States of America, all subdivisions thereof and of the State of Pennsylvania, including the open pit mining law as to restoration of overburden, etc., so that all the merchantable and minable coal in the seam hereby leased under the demised premises that can be taken out consistent with safety, shall be taken out clean and entire. The Lessors or their representatives, shall also have the right to examine the mine books and to enter the mine at all reasonable times, and to inspect and examine the workings and make maps thereof, but in such manner and at such times as not to interfere unduly with the operations of the Lessee.

(8). The Lessee shall authorize and request the railroad company, if he ships the coal by rail, over which railroad the coal from the demised premises shall be shipped, to furnish the Lessors at any time said Lessors desire, a statement of the weight of all coal shipped from the demised premises. The Lessors, however, hereby agree to pay all charges made by the railroad company or its agents, for compiling such statement of tonnage.

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(9). On the termination of this lease, if it be for any cause other than the exhaustion of the coal herein demised, the Lessee agrees to leave the drainageways, haulageways, gangways, headings and all the workings in workable condition.

(10). Lessee and Lessors covenant and agree that the Lessee shall not be required to pay for more coal than is actually contained in the demised premises, and if the Lessee shall pay for all coal in said premises, excluding required pillars either by way of minimum royalty or otherwise, without having mined and removed the same, the Lessee shall have the right for the period of one year thereafter, without payment of minimum royalty hereunder required, or other charges, of any kind, except wheel toll if the same is due, to hold, possess and enjoy the herein demised premises with the rights and privileges herein granted, subject, however, to the terms and conditions hereof. Provided, however, that the Lessee shall promptly notify the Lessors when they have determined or are of the opinion that all the merchantable and minable coal has been mined and removed from the demised premises

(11). Lessee shall not remove the plant and equipment necessary for the proper operation of the mines, or any part thereof, during the term of this lease, but on the termination of this lease, Lessee shall have the right for thirty (30) days thereafter to remove all improvements erected by him; provided, however, that all rents or royalties due the Lessors and the other terms and obligations of the Lessee hereunder, shall have been fully paid and discharged before removal, it being expressly stipulated further that all such improvements not so removed within thirty (30) days as above stated, shall become and be the property of the Lessors.

(12). The Lessors hereby reserve the right to prospect and produce clay, oil, gas or other minerals in the premises herein described or on adjoining or adjacent lands owned by them or that may come under their control or the control of their Lessees, but such operations or prospecting shall not be conducted in such

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manner as to interfere with or injure the mines or operations of the Lessee.

(13). The Lessee herein is hereby granted the right to haul in, over, through or across the premises hereby demised, any coal which he may mine from other lands upon payment of the sum of two (2¢) cents wheel toll per net ton to the Lessors herein. Settlement shall be made monthly with the Lessors herein for said wheel toll or haulage right in the manner provided for the settlement of royalties for coal mined and removed, and it is understood and agreed that the Lessors shall have all the rights and remedies granted to them for the collection of royalties to enforce the collection of said wheel toll.

(14). It is hereby specifically understood and agreed between the parties hereto that any violation by the Lessee for thirty (30) days or more, of any of the covenants herein contained or his suffering his interest, or part of it, to be taken in execution, shall authorize the Lessors, at their option, to terminate this lease and resume possession of the demised premises without further proceeding in a summary way, and to recover royalty in arrears by distress, as provided by Landlord and Tenant Act or in any other manner authorized by law; and the Lessee hereby waives all benefits of the exemption laws of the State of Pennsylvania, exempting personal property from levy and sale on execution.

(15). Lessee shall pay any and all taxes, duties, charges, or assessments now imposed or that may be imposed during the continuance of this lease, by any laws of the United States or of the State of Pennsylvania, or by any subdivision thereof, upon improvements erected by it and upon coal mined and removed from said premises; and the Lessors shall pay all other taxes levied or assessed against the demised premises. In the event the Lessee

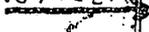
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fails to pay taxes and assessments, duties or charges as provided in this paragraph, when the same become due and payable, the Lessors are hereby authorized to pay any and all such taxes, assessments, duties or charges to either the United States or the State of Pennsylvania, or any county or municipal subdivision thereof, by or under the laws of the State of Pennsylvania, whereupon such amounts shall be considered as royalty for coal mined and past due, and the Lessors are privileged to take whatever action for the collection thereof that is hereunder permitted. Any removal or attempt at removal of any equipment or chattels from said premises by the Lessee while any portion of the minimum royalty for coal mined, taxes, assessments or charges as herein provided, shall remain unpaid, shall be deemed a fraudulent and clandestine removal and the whole minimum royalty for the entire term, together with any taxes or assessments as above set forth, shall be deemed to have fallen due and be collectible at once, and all equipment and chattels so removed may be followed for the space of thirty (30) days and seized for the collection of the same, by Landlord's Warrant. It is further agreed that as often as default shall be made in the payment of any minimum royalty, royalty for coal mined, taxes or assessments as hereinabove provided, and said default shall continue for the space of thirty (30) days after written notice to the Lessee, the Lessors may proceed by Landlord's Warrant if such default is not remedied or rectified within said thirty (30) days' period, and make collection of all such royalties or charges then due, with costs of such proceeding, the Lessee hereby waiving the benefit of all laws or usages exempting any property from liability for rent, and the Lessors not waiving any remedies given by existing laws. The Lessee hereby authorizes any attorney of any court of record, as often as default shall be made in the payment of said minimum royalty, royalty for coal actually mined or for taxes or charges assessed and herein referred to, and after the Lessors have given the Lessee thirty (30)

30 DAYS



30 DAY NOTICE



days' notice in writing, of said default, the Lessee neglects or refuses to remedy, rectify or make payment during said period of thirty (30) days, to appear for them and confess judgment or judgments against them for the amount of royalties or charges then due and unpaid, with attorneys' commission of ten per cent. costs of suit, without stay of execution, waiving inquisition and exemption. And on failure of the Lessee to pay the minimum royalty, rent, royalty on coal actually mined, and keep all the covenants of this lease, or remove from the premises at the determination of the same, then the Lessee hereby authorizes and empowers any attorney of any court of record in Pennsylvania, to appear in court and confess judgment in favor of the Lessors and against the Lessee, in an actionable action of ejectment for the premises above described, and authorizes the immediate issuance of a writ of habere facias possessionem, with clause of fi. fa. for rent, royalty or amount due under this lease, with cost of suit, and ten per cent. attorneys' commission or fees, to be released upon the payment of the amount due with costs and attorneys' commission, as herein provided, within five days from the confession of said judgment.

WRITTEN
CONSENT

(16). Lessee agrees not to mortgage or encumber with liens of any kind, or sell, assign or set over or sublet the whole or any part of the hereby demised premises or improvements, without the written consent of the Lessors thereunto first had and obtained. It is hereby agreed and provided that any lawful levy and sale on execution or other legal process, as well as any assignment or sale in bankruptcy, or insolvency or under any other compulsory proceedings, or any receivership created, shall be deemed and taken to be an assignment or subletting within the meaning of this agreement, and, at the option of the Lessors shall work an immediate forfeiture without notice, and thereupon possession may be immediately taken by Lessors without further formality, the Lessee may have the property or portions of it worked by contract or other persons, he, the said Lessee, shall,

however, remain liable at all times for all obligations under this lease. The Lessee herein, however, shall remain liable for the payment of royalties and for the carrying out of the terms and conditions of this agreement, notwithstanding that he may contract operations on any part of the herein demised premises.

(17). It is expressly understood and agreed between the parties hereto that this lease and the grants hereunder are made subject to all restrictions, conditions, reservations, exceptions, covenants and agreements under any and all the several deeds, grants and conveyances by virtue of which Lessors hold title to the leased premises aforesaid, and the Lessors are only granting such rights as they have the right to grant under and by virtue of said instruments of conveyance.

(18). Lessee herein covenants and agrees to furnish Lessors herein copies of any and all drill records, analysis of coal and other data in respect to the amount and quality of the coal contained in the demised premises during the term of this lease.

ALL THE COAL

(19). The term of this lease shall be from ~~December 1st~~ ^{JANUARY 1st} 1950 to the exhaustion of the merchantable and minable coal, unless it is sooner terminated or determined under the provisions hereof.

(19). This agreement shall be binding upon and shall inure to the benefit of all persons, natural or artificial, lawfully claiming under the parties hereto, respectively, in whatsoever capacity, as if they were in each instance specifically named throughout.

IN WITNESS WHEREOF, LEITZINGER BROS. REALTY COMPANY has caused this agreement to be signed by its proper officers, EDWARD REDDING and FRANK J. HERTLEIN have hereunto set their hands and seals the day and year first above written.

ATTEST:

SECRETARY

LEITZINGER BROS. REALTY COMPANY
BY *William A. Kofke*
PRESIDENT

WITNESSED BY:

S. E. Dishon

James A. Loggell

Edward Redding (SEAL)
(Edward Redding) LESSORS

Frank G. Hertlein (SEAL)
(Frank G. Hertlein) LESSEE

STATE OF PENNSYLVANIA:
COUNTY OF CLEARFIELD : SS:

On this the 9 day of ~~January~~ ^{March} 1950, before me the undersigned officer, personally appeared WILLIAM A. E. LEITZINGER, who acknowledged himself to be the President of Leitzinger Bros. Realty Company, a corporation, and that he as such President, being authorized to do so, executed the foregoing agreement of lease for the purposes contained therein, by signing the name of the corporation by himself as President.

WITNESS my hand and official seal the day and year aforesaid.
Wm. A. Mullen
RECORDED OF DEEDS My Commission Expires First Monday in January 1952
STATE OF PENNSYLVANIA :
COUNTY OF ^{Lebanon} : SS:

On this the 3rd day of ~~January~~ ^{June} 1950, before me the undersigned officer, personally appeared EDWARD REDDING, known to me to be the person whose name is subscribed to the within Agreement of Lease, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal the day and year aforesaid.
NOTARY PUBLIC
My Commission Expires March 3, 1951
Mary J. Mussina

STATE OF PENNSYLVANIA:
COUNTY OF ^{Gutter} : SS:

On this the 24th day of ~~January~~ ^{March} 1950, before me the undersigned officer, personally appeared FRANK J. HENNINGER known to me to be the person whose name is subscribed to the within Agreement of Lease, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal the day and year aforesaid.
Wm. A. Mullen
RECORDED OF DEEDS My Commission Expires First Monday in January 1952
STATE OF PENNSYLVANIA :
COUNTY OF ^{Gutter} : SS:

JUL 01 2005

LEASE AND SUBLEASE AGREEMENT

This coal lease and agreement (hereinafter sometimes referred to as the "Lease" or "Agreement") is made and entered into as of this 14th day of MARCH, 2005,

BY AND BETWEEN

Leitzinger Land Company, Inc., of 404 West Seventh Avenue, Clearfield, Pennsylvania 16830, hereinafter referred to as "**First Lessors**";

AND

Robert E. Hoover, Jr., successor in M. Lillian Buckius interest, of 228 Sunrise Avenue, Southeast, Ocean Shore, Washington 98569, of the one part, and **Mary A. Lee**, of Spruce Cabin Road, P.O. Box 194, Mountainhome, Pennsylvania 18342, successor in interest to Elizabeth Smith, of the other part, said parties being the present owners of the Edward Redding (Cataract Coal Company) interest, hereinafter being jointly referred to as "**Additional Lessors**";

AND

Louise Kirkwood, Eva Jane Hertlein, Edith Hertlein, Patsy L. Kimble, Frank T. Hertlein, Glenn R. Hertlein, Timothy Hertlein and G. Lee Hertlein, being all of the children and successors in interest to Frank T. Hertlein and Ivy E. Hertlein, deceased hereinafter referred to as "**Sublessors**";

AND

River Hill Coal Company, Inc., a Pennsylvania Corporation with offices in Kylertown, Pennsylvania, hereinafter referred to as "**Lessee**".

First Lessors, Additional Lessors and Sublessors being collectively referred to herein as "**Lessors**".

RECITALS

WHEREAS, First Lessor is the successor in interest to Leitzinger Brothers Realty Company by deed recorded at Clearfield County Instrument Number 200220045 by which First Lessor became the owner of 6/16 undivided interest of Cataract Coal Company in the surface and underlying strata and of all the coal in, upon and underlying that certain tract of land described in paragraph 1 of this Sublease and Agreement, which tract contains approximately 1833 acres and is situate in Karthaus Township, Clearfield County, Pennsylvania; and

WHEREAS, Additional Lessors are each the owner of a 5/16 (for a total of 10/16) of an undivided interest of Cataract Coal Company in the surface and underlying strata and of all the coal in, upon and underlying that certain tract of land described in paragraph I of this Sublease and Agreement, which tract contains approximately 1833 acres and is situate in Karthaus Township, Clearfield County, Pennsylvania; and

WHEREAS, Edward J. Redding, T/A Cataract Coal Company (Additional Lessors' predecessor in interest) and Leitzinger Bros. Realty Company, as Lessors, entered into a certain Agreement dated January 1, 1950 (sometimes for convenience hereinafter referred to as the "1950 Agreement") with Frank T. Hertlein as aforementioned, as Lessee, which 1950 Agreement leased to Sublessor the property described in paragraph 1 of this Lease and Sublease Agreement; and

WHEREAS, subsequently by agreement dated November 28, 1978, Leitzinger Bros. Realty Company, as "First Lessor"; the Estate of Lillian Buckius as owner of a 1/2 interest as heir of Edward Redding as "Additional Lessor"; and Ivy E. Hertlein and her children as "Sublessors"; and River Hill Coal Company, Inc. as "Lessee" entered in an agreement entitled "Sublease, Joinder and Amended Agreement" for lease of the surface and coal rights of the following lands in Karthaus Township, Clearfield County as set forth in paragraph I herein; and

WHEREAS, by subsequent agreement dated December 29, 1978, the "First Lessor", (Leitzinger Bros.), the then "Sublessors", (Ivy Hertlein, et al) and the "Lessee", (River Hill Coal Company, Inc.) entered into another agreement for the same lands, this time, however, with Elizabeth Smith, single, as owner of the other 1/2 interest of Edward Redding; and

WHEREAS, First Lessor (Leitzinger Brothers) and Additional Lessors (Hoover and Lee), previously consented to Sublessors (Hertleins) subletting or assigning Sublessors' (Hertleins) rights under the "1950 Agreement" to Lessee (River Hill Coal Company, Inc.); and

WHEREAS, it is the purpose of the within Agreement that the parties to the previous Agreements restate the terms of those Agreements to be consistent with the current market value of their interests in the surface and coal of the premises hereinafter described.

LEASE AGREEMENT

NOW THEREFORE, for and in consideration of the sum of One and 00/100 (\$1.00) Dollar each in hand paid herewith by Lessee to First Lessor, Additional Lessors and Sublessors, the receipt of which is hereby respectively acknowledged and for and in consideration of the mutual covenants and agreements hereinafter set forth, the adequacy of which is hereby acknowledged by First Lessor, Additional Lessors, Sublessors and Lessee, the parties do hereby covenant and agree as follows, vis:

1. **LEASED PREMISES:** First Lessors, Additional Lessors and Sublessors do hereby let, demise and lease to the Lessee all of their respective right, title and interest in and to the surface, underlying strata and all coal and mining rights (and any substances mixed with coal) upon, in and underlying the land described on Schedule A which is attached hereto and incorporated herein by reference.

Schedule A also states the relative ownership interest of each party to this lease as to each particular parcel leased by this agreement.

The leased premises are believed to contain 1,833 acres, more or less.

Hereinafter referred to as the "premises" or "leased premises" for the purpose of going upon the same and removing coal underlying said premises by the strip mine method, including the right to strip mine and/or auger drill and otherwise to develop, work and process for market said coal and other coal now owned or hereafter acquired by Lessee, its successors or assigns, by mining methods or machinery now or hereafter employed, including the free and uninterrupted right and right-of-way into, upon, over, across, under and through the leased premises at such points and in such manner as may be convenient or necessary for the purpose of all operations in connection therewith and in the horizons of said coal and in the strata above or below the same and other coal now owned or hereafter acquired by Lessee, its successors or assigns, in, on or underlying the leased premises and other premises in the surrounding area, including but not limited to the transportation of personnel, supplies and equipment, and the right to explore, test drill, dig, mine, drain, transport and carry away said coal and other materials and other coal and materials now owned or which may be hereafter acquired by Lessee, its successors or assigns, in, on, from or underlying the leased premises and to erect and maintain on the premises such structures, improvements and facilities as may be necessary or convenient to said operations, and without being required to lease or provide subjacent or lateral support for the overlying strata or surface or anything therein, thereon or thereunder, including structures or improvements now or hereafter erected thereon and, in connection with strip mining, auger mining, excavation or similar mining, the right and privilege to excavate, drill, remove and displace any or all of the earth, rock and other strata or materials in, upon or about said coal and said other coal and the horizons thereof and to deposit the same on or off the premises, and Lessor, Additional Lessors and Sublessors, for themselves, their heirs and assigns, for the consideration aforesaid, do hereby covenant to **WAIVE AND RELEASE** all surface damages and damages of any sort howsoever caused, arising from the removal of and all operations in said coal, and said other coal

and materials or the horizons thereof by Lessee, its successors or assigns, or arising from any and all physical conditions now present or which may hereafter develop in, about and/or above the same.

2. **LESSORS' INTERESTS:** The within lease is for all of the surface (right of surface support) and coal mining rights (as set forth in paragraph 1 above) of the First Lessor, Additional Lessors and Sublessors in the leased premises. It is understood that the First Lessors, Additional Lessors and Sublessors (hereinafter collectively referred to as "Lessors") have varied and various surface and coal interests in many of the properties which collectively are referred to as the "leased premises".

The Lessors individually warrant unto the Lessee that their interest in the premises relative to one another are as stated on Schedule A which is attached hereto and incorporated herein by reference.

3. **NO WARRANTY OF TITLE:** Lessors make no warranty of title beyond that stated in the foregoing paragraph as to their relative interests.

4. **TERM OF LEASE:** This Lease shall commence upon its execution and continue unless canceled for a period of ten (10) years and as long thereafter as the Lessee is continuously and substantially operating the premises, unless prevented from so operating by causes beyond its control. For the purpose of construing this clause, "continuously" shall mean at least seven (7) months' operation in any given lease year.

The continuance of this lease is also continued upon Lessee making delay or actual royalty payments to the Lessors, without demand, on or before the 25th day of each month. This requirement shall apply to the initial ten (10) year term of this lease and any continuation or extension thereafter. Actual royalty shall be calculated according to paragraph five (5) which follows. Delay royalties shall be in the amount of \$350.00 per month which shall be apportioned among the Lessors according to

the following formula: Leitzinger Land Company, Inc. - 6/16 of ½ or \$65.64; Robert E. Hoover, Jr. - 5/16 of ½ or \$54.70; Mary A. Lee - 5/16 of ½ or \$54.70; Hertleins - \$175.00 per month.

It is further agreed between the parties that the Lessee may, at any time, cancel this Agreement with or without cause, provided it is not in default and has paid in full all royalties due hereunder, by sending to the Lessors written notice of cancellation.

5. **MINING ROYALTIES:**

A FUTURE ROYALTIES- Lessee shall pay each Lessor its proportionate share as actual royalty for each ton of 2000 pounds of coal mined and removed from the leased premises the greater of ten (10%) percent of sales price per ton of like quality coal or \$2.00 per ton. This new royalty rate will commence on May 1, 2003. In the event that a sale is not to a bona fide third

party or an arms-length transaction, then the sales price shall be based on Lessee's most recent sale, preferably during the same royalty period, of coal of comparable quality in a bona fide, arms-length transaction. No deduction shall be made from the sales price for the transportation, brokerage fees, taxes or similar expenses.

Lessee shall stockpile all cannel coal mined and removed from the demised premises separately from all cannel coal mined from properties belonging to a Lessor other than Leitzinger, Redding or Hertlein. Lessee shall pay to Lessors \$.50 per ton for all waste, binder, cannel, or similar quality coals mined, sold and removed from the demised premises where Lessors are the owners of the surface and mineral. The royalty to be paid by Lessee to Lessors shall be \$.25 per ton where Lessors own the coal or surface but not both. It is agreed, however, that the royalty to be paid by Lessee to Lessors as set forth herein shall be paid to Lessors based upon 10% of the selling price of said coal should the selling price of said waste, binder, cannel, or similar quality coals exceed \$8.00 per ton. In the event that a sale is not to a bona fide third party or an arms-length transaction, then the

selling price shall be based upon Lessee's most recent sale of coal of comparable quality in a bona fide arms-length transaction. No deduction shall be made from the selling price for the transportation, brokerage fees, taxes or similar expenses.

All of the above payments are based on the Lessors collectively owning 100% of the surface (right of surface support) and 100% of the coal of the property being mined. To the extent that third parties may own the said surface of coal or a part thereof of either or both, then in said event the payments to the Lessors would be reduced in proportion to their ownership interests. By way of example only, if the Lessors collectively own no surface rights but only the coal, the royalty payments would be 5% of the sale price of the coal or \$1.00, whichever is the greater, i.e. the owners would receive collectively 50% of 5% of the selling price or \$.50, whichever is the greater, and the Hertleins as Sublessors would receive the other 50% of 5% of the selling price of the coal or \$.50 whichever is greater.

All royalties due under the terms of this Lease shall be payable as follows:

- (a) One-half (1/2) of the royalty to Sublessors; and
- (b) One-half (1/2) of the royalty to First Lessors and Additional Lessors in proportion to their interest in surface, minerals or the surface and minerals as the case may be.

B. **BACK ROYALTIES-** Lessee shall pay to Lessors, a total of \$38,960.00 upon exchange of wholly executed counterparts of this agreement. Lessors shall divide this payment according to their interest as stated in paragraph four (4) above. The parties agree that this additional payment shall compensate Lessors for all back royalties which they claim are due under prior agreements as recited above. As additional consideration for this payment Lessors, for themselves, their heirs, successors and assigns, hereby release, discharge, forgive and waive any other claim, counterclaim, damages, right of action or liability accruing to them against the Lessee because of the prior agreements or the Lessee's extraction of coal on the premises.

6. **ROYALTY PAYMENTS AND RECORDS:**

Lessee agrees as follows:

(a). To pay to the Lessors, without demand, each actual royalty payment on or before the **25th** day of the month following the month of mining and removal.

(b). All coal removed from its original bed or strata will be loaded onto trucks to be weighed on licensed scales certified by a duly authorized public agency, said certification to be current. No coal will be hauled on vehicles where the net or gross weight is estimated.

(c). Each and every truck load shall be reported and accounted for on an exact duplicate truck weight sheet indicating the following:

1. Name of weighmaster;
2. Date of delivery over said scales;
3. Identification of said truck and name of owner;
4. Tract identification or point of origin of each load and point of delivery;
5. Current truck tare empty and exact loaded weight of each truck load. Weights will be exact off to the nearest on hundred (100).

(d). No coal will be hauled from the original bed or strata and co-mingled with any other coal of different tract origin, different rate of royalty or value, nor stockpiled off the demised premises, unless said coal is first weighed and accounted for in the preceding manner.

(e). The following exceptions may be allowed in the event that labor disputes, lack of transportation facilities or severe weather may prohibit the immediate delivery of coal to market destination, to wit; Said coal may be stockpiled on

the leased premises provided that such coal is not co-mingled with coal from other tracts and that coals of different values or from different strata are separated into different stockpiles.

(f). Said duplicated truck weight slips will be provided to Lessor, Lee Hertlien, one of the Lessors, to his address which appears at the end of this agreement on or before the 25th day of each month for all coal mined and removed from the premises for the preceding month. Additionally, Lessee shall provide daily tonnage information to Lessor or its agent as such times as a telephone call would be made to Lessee. Finally, Lessee shall provide Lessor with a copy of all coal sale receipts upon which Lessee calculated the selling price of the coal for the purpose of determining the royalty rate due to Lessor.

(g). A report of all coal hauled from the leased premises which shows daily tonnages, total tonnages for the reporting month, tract of origin of all tonnages and royalty rates applicable to said tonnages shall be delivered with the royalty payments at times specified herein.

(h). Any Lessor shall have the free and uninterrupted right, through Lessors' agents, servants, employees, engineers, accountants, market experts or attorneys, to examine and copy all of the records, maps, invoices or other matters necessary, in the sole opinion of the Lessors, to verify the Lessee's compliance with any or all of the terms of this Lease, but the rights set forth in this Paragraph (c) shall be limited to Lessee's records, maps, invoices or other matters which are of, or relate to, the properties (and the coal produced therefrom) which are subject to this Agreement.

This right may be exercised in whole or in part from time to time at any office of the Lessee during regular business hours, but exercised in a manner so as not to unreasonably interfere with the business of the Lessee.

7. **1950 AGREEMENT:** During the term of this Lease and Sublease Agreement, Sublessors will not be required to pay the minimum royalties set forth in the 1950 Agreement, but, at the time the Lease and Sublease Agreement is terminated for any reason, First Lessor, Additional Lessors and Lessee shall each notify Sublessors that such agreement is terminated, and at that time, Sublessors shall have the option to again begin to pay the minimum royalties to First Lessor and Additional Lessors which are provided in the 1950 agreement, and should Sublessors pay such minimum royalties as provided in the 1950 agreement, then the 1950 agreement shall continue in full force and effect as between First Lessor, Additional Lessors and Sublessors, but inasmuch as this Agreement will have been terminated, Lessee shall have no further rights, obligations and/or liabilities under this Agreement or by virtue of any other Agreement shall Lessee have any rights, obligations or liabilities at this time or at any other time by virtue of or under that certain Agreement dated January 1, 1950 between Leitzinger Bros. Realty Company and Edward Redding as Lessors and Frank J. Hertlein (Frank T. Hertlein) as Lessee.

8. **RIGHT OF ENTRY:** Lessee is hereby granted the right of ingress and egress over or through the lands which are the subject of this Agreement for any purpose whatsoever consistent with the development of the leased premises during the term and extensions of this lease. Lessee may also re-enter the premises for five (5) years following termination of this lease but solely for the purpose of complying with the orders of regulations of the Pennsylvania Department of Environmental Protection or other duly authorized government entity.

9. **MINING METHODS:** Lessee agrees to use, at any given time, modern

and commercially reasonable methods of mining to the end that a reasonable commercial yield from the leased premises is secured.

10. **MINING LAW COMPLIANCE:** As a direct inducement to the Lessors to enter into this Lease, the Lessee agrees, at its sole expense, to comply promptly and fully with any provision, present or future, of any law relating and applicable to the removal of coal by any mining method used and the restoration of disturbed areas. For the purpose of this provision, the word "law" shall mean any applicable statute, regulation, and decision of any Court or regulatory body of the United States, the Commonwealth of Pennsylvania or any subdivision of either.

11. **LIABILITY INSURANCE:** Lessee covenants that it is an independent contractor and does control the manner and means of performing all work in connection with the removal, mining, processing or transporting of said coal from the demised premises. Lessee covenants to carry not less than \$1,000,000.00 of comprehensive liability insurance during the continuance of this Lease insuring against loss to person or property from Lessee's use of the demised premises with a reputable insurance company qualified to do business in the Commonwealth of Pennsylvania insuring the Lessee and the Lessor from any claim for damages, as their interest may appear. Said policy of insurance shall specifically protect against loss to person or property resulting from the use of explosives.

12. **REAL ESTATE TAXES:** Each Lessor herein agrees to pay all local real estate taxes assessed against its particular interest in the leased premises; provided, however, that Lessee agrees to pay all local real estate taxes against improvements which are erected by Lessee upon said premises.

13. **HOLD HARMLESS:** Lessee does herewith agree to indemnify the Lessors individually and collectively, and, at the Lessee's sole expense, to hold the Lessors

harmless from any claim by any third party for any reason arising directly or indirectly from the Lessee's activities hereunder.

14. **RIGHT OF RE-ENTRY:** Lessee shall have the right, at any time during or within six (6) months after the expiration of this Lease, to remove any and all machinery, equipment, property and fixtures placed by the Lessee on the leased premises; provided, however, that Lessee shall be entitled to make re-entry into the leased premises with machinery and equipment after the formal termination of the term hereof for any purposes of compliance with Federal, State or other governmental or regulatory requirements.

15. **MINING: ADVANCE NOTICE:** Lessee shall give to the Lessors, in writing, ninety (90) days' advance notice of areas that the Lessee proposes to disturb so that the Lessors may cause to be removed any merchantable timber owned by Lessors from the areas in question. Lessors shall exercise this right so as not to impede or interfere with the Lessee's rights hereunder. The within notice shall apply only to those areas in which the Lessors have an ownership interest in the surface (exclusive of the right of surface support).

16. **ASSIGNMENT OF LEASE:** This Lease shall not be assignable by the Lessee without the prior written consent of the Lessors for this purpose, provided that Lessee may make such assignment of its rights and obligations under this Agreement, including the right to receive the proceeds thereof, as may be necessary pursuant to Lessee's security arrangements related to financing. Any sale of corporate securities, any reorganization as defined under the Securities Act of the United States of 1933, as amended, or as defined under Section 331 et seq. of the Internal Revenue Code of the United States which results in a change or control of ownership of the Lessee, regardless of form, shall be considered in substance an assignment and shall require the prior consent of the Lessor. No consent to assignment shall be unreasonably withheld.

Lessors may assign their interests and shall promptly give Lessee written notice thereof.

17. **RESERVATION OF OIL AND GAS AND OTHER MINERALS:** Lessors reserve to the Lessors, Lessors successors and assigns, or the Lessors' heirs, as the case may be, all clay, oil, gas, surface, timber or other minerals, excepting the coal and the rights heretofore granted, together with the right to develop the same by any presently known or hereafter known method so long as said development does not interfere unreasonably with the operations of the Lessee hereunder. It is understood that Sublessors have no ownership interest in the foregoing mineral rights and oil and gas and the provisions set forth herein are not applicable to the Sublessors.

18. **DEFAULT:** If any default occurs hereunder, Lessor, Additional Lessors and/or Sublessors shall give the Lessee thirty (30) days' written notice specifying the default, during which period the Lessee may rectify the default, except a default under Paragraph 16 hereof and shall cause an immediate forfeiture of this Lease. Any default, claim or dispute shall be subject to the jurisdiction of the Court of Common Pleas of Clearfield County, Pennsylvania.

19. **NOTICES:**

(a). All notices, requests, demands, consents, documents and other communications required or permitted hereunder shall be in writing and may be delivered either personally or by certified or registered mail (return receipt requested) at the following addresses (provided, however, that any of the parties hereto may from time to time change their address by giving written notice as aforesaid of the new or changed address):

Leitzinger Land Company, Inc.
404 West Seventh Avenue
Clearfield, Pennsylvania 16830

Robert E. Hoover, Jr.
228 Sunrise Avenue, Southeast
Ocean Shore, Washington 98569

Mary A. Lee
Spruce Cabin Road
P.O. Box 194
Mountainhome, Pennsylvania 18342

Louise E. Kirkwood
H.C. 1, Box 41
Karthaus, Pennsylvania 16845

Eva Jane Hertlein
R.R. #1, Box 61
Frenchville, Pennsylvania 16836

Edith M. Hertlein
P.O. Box 203
Frenchville, Pennsylvania 16836

Patsy L. Kimble
R.R. #1, Box 36
Frenchville, Pennsylvania 16836

Frank T. Hertlein, Jr.
H.C. 1, Box 38
Karthaus, Pennsylvania 16845

Glenn R. Hertlein
H.C. 1, Box 16845
Karthaus, Pennsylvania 16845

G. Lee Hertlein
R.R. # 1 Box 77
Frenchville, PA 16836

Timothy L. Hertlein
P.O. Box 142
Drifting, Pennsylvania 16834

20. **MEMORANDUM OF LEASE:** Lessor and Lessee covenant and agree to execute and acknowledge a Memorandum of this Lease suitable for recording. In the event that this Lease and the term hereof shall be terminated for any reason, Lessee covenants and agrees to execute such release and assurance in recordable form as may be reasonably requested by Lessor. However, upon termination of this Lease, Lessee shall have the option to retain the mining rights and releases provided herein for so long as Lessee continues active operations upon the adjacent properties or other properties in the area in reasonable proximity to the leased premises.

This Lease and Agreement and all of its terms, covenants, conditions and provisions shall extend to and be binding upon and inure to the benefit of not only the parties hereto but each of their

respective heirs, representatives, executors, administrators, successors and assigns, except as may be specifically provided otherwise in Paragraph 15 of this Agreement.

21. **SUPPLEMENTAL C:** Lessors agree to execute, acknowledge and deliver unto Lessee, within ten (10) days after written notice from Lessee, the consents of landowner designated as "Supplemental C" required by the Commonwealth of Pennsylvania in order for Lessee to obtain a mining permit for the premises. The within lease involves various different parcels of land and the within provision shall relate to each said parcel for which a "Supplemental C" is required. Said consent shall be executed and acknowledge by Lessors in four (4) originals as required by DEP.

22. ***GENERAL PROVISIONS:***

- A) This Agreement shall be governed by the laws of Pennsylvania. Jurisdiction and venue shall rest in the Court of Common Pleas of Clearfield County, Pennsylvania, for all suits and claims.
- B) This Lease shall bind and inure to the benefit of LESSORS and LESSEES, their respective heirs, successors and assigns.
- C) This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. This agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this agreement to be drafted. All terms and words used in this agreement, regardless of the number or gender, in which they are used, shall be deemed to include any other number and any other gender as the context may require.
- D) In construing this Agreement, "LESSEES" and "LESSORS" shall mean, wherever applicable, an individual, partnership, estate, trust or corporation, as the case may be;
- E) This Agreement can only be modified or amended by the prior written consent of all parties hereto.
- F) Failure by the LESSORS to take any action, assert any right or declare any breach of this lease shall not constitute a waiver of any rights of LESSORS.
- G) In the event of litigation, mediation or arbitration of a dispute between the parties, concerning this agreement or the parties' earlier agreements are recited above, the prevailing party shall recover, as part of its damages,

attorneys fees, expert witness fees and other costs reasonably and actually incurred by the prevailing party in conjunction with the litigation, mediation or arbitration.

IN WITNESS WHEREOF, the parties hereto have properly executed this Agreement the day and year first above written.

WITNESS:

Francis K Leitzinger

WITNESS:

WITNESS:

Lee Hertlein

Lee Hertlein

Lee Hertlein

Lee Hertlein

Lee Hertlein

FIRST LESSORS:

LEITZINGER LAND COMPANY, INC.

James J. Leitzinger
James J. Leitzinger, President

Thomas Leitzinger
Thomas Leitzinger, Secretary

ADDITIONAL LESSORS:

Robert E. Hoover, Jr.

Mary A. Lee

SUBLESSORS:

Louise Kirkwood
Louise Kirkwood

Eva Jane Hertlein
Eva Jane Hertlein

Edith Hertlein
Edith Hertlein

Patsy L. Kimble
Patsy L. Kimble

Frank T. Hertlein
Frank T. Hertlein

Lee Hertlein

Glenn R. Hertlein
Glenn R. Hertlein

Lee Hertlein

Timothy Hertlein
Timothy Hertlein

Mary Amy Conaway

G. Lee Hertlein
G. Lee Hertlein

WITNESS:

LESSEE:
RIVER HILL COAL COMPANY, INC.

Larry Kanou

Harry I. Blanchard
Harry I. Blanchard, President

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G

343

DEED

This Indenture,

Jacob G. Michaels Trustee

To

William Michaels wife
Wharton Cole

Made the thirteenth day of July in the year of our Lord one thousand eight hundred and seventy Between Jacob G. Michaels, Trustee of the herein after described premises for the use of Sarah Michaels wife of William Michaels and the said Sarah Michaels and William her husband and all of their heirs and assigns of the one part, and Wharton Cole of Belmont County Pennsylvania

of the other part: Witnesseth, That the said parties of the first part for and in consideration of the sum of Five Hundred and fourteen lawful money of the United States of America, well and truly paid by the said Wharton Cole at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, and confirm, unto the said Wharton Cole, his heirs and assigns all that certain

piece of land Situate in the Township of Harrison and County of Clarke aforesaid being part of a larger tract of land surveyed in pursuance of a warrant numbered No 4003 and being bounded as follows, Beginning at a White oak, thence North seventy five rods to a stone at South East corner of John Michaels land, thence North one hundred and forty rods to a Post, thence East along James Wappels line, seventy five rods to a post, thence South along line of Perry Conroy and the public road one hundred and forty rods to White Oak a place of beginning, containing sixty five acres and one hundred perches and being same premises conveyed from Leajah H. Barger Administration of Deed Book 120 by Deed dated July 29th AD 1869, to said William Michaels and further conveyed from said William Michaels & Sarah his wife to said Jacob G. Michaels by assignment dated the day of AD 1869, for the use and behoof of the said Sarah, which said Deed and assignment in Belmont County aforesaid in Deed Book 120 page 132nd

Together with all and singular, the several improvements ways water rights liberties, privileges, hereditaments and appurtenances, whatsoever thereunto belonging, or in any wise appertaining, and the reversion and remainder, rents, issues and profits thereof, all the estate, right, title, interest, property, claim and demand whatsoever, of the said parties of the first part in law equally or otherwise whatsoever of, in, and to the same and every part thereof.

To have and to hold the said Piece of Land Wharton's Lot and premises hereby granted

on conditions and covenants as to be with the appurtenances, Wharton's Lot unto the said Wharton's Lot heirs and assigns, to the only proper use, and behoof of the said Wharton's Lot heirs and assigns forever.

And the said Jacob & Michael Imster & William Michael for themselves their heirs, executors and administrators, do by these presents covenant, grant and agree to and with the said Wharton's Lot that they the said Jacob & Michael Imster and William Michael their heirs, all and singular the hereditaments and premises herein above described and granted, or mentioned and intended to be with the appurtenances, unto the said Wharton's Lot heirs, and assigns, against themselves the said Jacob & Michael Imster & William Michael whosoever lawfully claiming or to claim the same or any part thereof, by force or arms or any of them.

SHALL and WILL WARRANT and forever DEFEND.

In Witness Whereof, the said parties to these presents do hereunto interchangeably set their hands and seals Dated the day and year first above written.

Scaled and Delivered in the presence of Daniel Moore Mary Case

Jacob & Michael Imster William Michael Sarah K. Michael

Witness Daniel Moore Sarah K. Michael

State of Pennsylvania } ss. County of Berks

On the first day of August Anno Domini 1870, before me the undersigned personally appeared Jacob & Michael Imster and William Michael and in and form of law acknowledged the above recitation to be their and each of their set and done and used with the same might he possessed as such, and the said Sarah being of full age and separate and apart from her said husband by me then or privately executed and the full contents of the above were being by me first made known unto her, and she upon her own free will and of her own free will and as her act and deed delivered the above written instrument. None or consequence without any coercion or compulsion of her said husband. Witness my hand and seal the day and year aforesaid.

I hereby Certify that the above Deed was duly stamped with U. S. Revenue Stamps, as required by law. Recorded Philadelphia A. D., 1870

C. H. L. L. Recorder

Commonwealth of Pennsylvania

County of Clarion

} Su:

On this, the 15 day of August 1955 before me

the undersigned officer, personally appeared GEORGE L. FOLSER and FRANCES M. FOLSER

known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and

W. Edward King

Notary Public, Clarion Borough, Venango County

My Commission Expires March 16, 1959

My Commission Expires

Affidavit No. 2057

Commonwealth of Pennsylvania

County of

31st

10 1955

8:10 am

Dick Reed, Recorder

This Deed,

Made the 30th day of October in the year Nineteen

Hundred and Forty-eight

Between GUST SAVEL, and MARGARET SAVEL, his wife of Saint Marys, in the County of Elk, and State of Pennsylvania, Grantors,

AND

STEPHEN SAVEL and MARGARET SAVEL, his wife, of the Township of Karthaus, in the County of Clearfield, and State of Pennsylvania, Grantees,

Witnesseth, that in consideration of

ONE (\$1.00)

Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantor or do

hereby grant and convey to the said grantees

All Tracts four (4) certain four tracts, or pieces of land, situate in the Township of Karthaus, County of Clearfield, and State of Pennsylvania, which are bounded and described as follows:-

NO. 1. BEGINNING at a white oak; Thence west, seventy-five (75) rods to a stone at the south-east corner of John Michael's Lot; Thence north, one hundred and forty (140) rods to a post; Thence East along line of Uzile Landis, seventy-five (75) rods to a post; Thence south with line of George Conway, and the Township road, one hundred and forty (140) rods to place of beginning, excepting and reserving all minerals underlying the said tract; Also excepting and reserving 21 acres previously sold; One-fourth acre; One Acre; Seven Acres; One-half acre, and One and three-fourths acres, leaving about 34 acres, more or less.

NO. 2. BEGINNING at a post, the north-west corner of Lot No. 5; Thence North, ten and one-third (10 1/3) rods to a post; Thence East, twelve and one-half (12 1/2) rods to a post; Thence South,

235/330

#2

Will Book G page 514, devised the above piece of land to Joseph and Malcolm Cole, and the said Joseph Cole conveyed his interest by deed dated Oct. 29th, 1917, recorded in Deed Book 224 page 227, to Malcolm Cole, above named grantor.

Excepting and reserving out of the same, however all the oils, coal fire clay iron ore and other minerals previously sold by said Wharton Cole to Wearer and Betts by agreement dated March 3rd, 1880 and recorded at Clearfield in Misc. Book 6 page 274

Also excepting and reserving the following pieces or parcels of land previously sold by said Wharton Cole to the following named persons, viz: twenty acres to Clayton Wooster, by deed dated 11th December 1876, recorded in Deed Book 16, page 57. One fourth of an acre sold to Karthus E of L No. 10, 804 by deed dated April 21, 1888, recorded in Deed Book 46, page 310. One acre sold to Hyatt C. Wooster, by deed dated 29th December 1881, recorded in deed book No. 51 page 171. Seven acres sold to Henry Eisenman by deed dated April 21, 1888 recorded in deed Book No. 52, page 200. One half acre sold to Frank Michaels by deed dated 29th December 1888, recorded in Deed Book No. 98, page 204 and one and three fourths acres sold to John Savil, by deed dated 16th February 1907. recorded in deed Book No. 162 page 282 as reference thereunto being had will more fully and at large appear.

AND the said grantors, do hereby covenant and agree to and with the said grantee, that they the grantors, their heirs, executors and administrators shall and will warrant and forever defend the herein above described premises with the hereditaments and appurtenances unto the said grantee, his heirs and assigns, against the said grantors, and against every other person lawfully claiming or who shall hereafter claim the same or any part thereof.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Sealed and delivered
in the presence of
Ed. B. Chase)
State of Pennsylvania) SS
County of Clearfield)
Malcolm Cole (seal)
Pearl Cole (seal)

On this 1st day of April A. D. 1919, before me a recorder of Deeds in and for Clearfield county came the above named Malcolm Cole and Pearl Cole, his wife, and acknowledged the foregoing deed to be their act and deed and desired the same to be recorded as such.

Witness my hand and official seal the day and year aforesaid.
Ed. B. Chase (off. seal)
Recorder of Deeds.
My commission expires 1920.

Duly stamped U. S. Rev. \$1.50

AGREEMENT OF LEASE made this ^{30th} day of October, 1953, between LEITZINGER BROS. REALTY COMPANY, a corporation organized and existing under the laws of the State of Pennsylvania, with principal office and place of business in the Borough of Clearfield, County of Clearfield and State of Pennsylvania, and MAY C. REDDING, of the City of Altoona, Pennsylvania, parties of the first part, hereinafter called Lessors, and JAMES E. HOFFMAN of the Village of Karthaus, Karthaus Township, Clearfield County, Pennsylvania, party of the second part, hereinafter called Lessee.

W I T N E S S E T H:

1. The Lessors for and in consideration of the sum of One (\$1.00) Dollar in hand paid, the receipt whereof is hereby acknowledged, for and in consideration of the rents, royalties, covenants, stipulations and agreements hereinafter contained by the Lessee to be kept and performed, do hereby let, lease and demise to the Lessee, the right and privilege to mine and take away all the coal under the property known as the John Savel Place or Wharton Cole premises situate on Cataract Hill in Karthaus Township, Clearfield County, Pennsylvania.

Giving and granting unto the said Lessee the uninterrupted enjoyment of the above leased premises, except as herein provided, for a period of five years from the date hereof, with the privilege or option on the part of the said Lessee of extending this lease for a further term or period of five years on the same terms and conditions, by giving notice thereof in writing to the said Lessors, their successors, executors or assigns, at least ninety (90) days before the end of the term of this lease.

The Lessee shall have the right at any time to cancel and terminate this agreement by giving the Lessors ninety

(90) days notice in writing, provided the Lessee is not in default under the terms of this agreement.

At the expiration of this lease or any renewal thereof, as above provided, said Lessee shall have the right to remove within ninety (90) days thereafter, all improvements made by him on said premises, as a result of this lease; provided, however, all royalties are fully paid. If said equipment and improvements are not removed from the premises herein demised, within the said period of ninety (90) days, then said improvements and equipment shall become the absolute property of the Lessors.

2. In consideration whereof, the said Lessee does hereby covenant and agree to pay and yield to the said Lessors, as a rent for the rights and privileges hereby granted and as royalty for the said coal hereinbefore named, royalty as follows: Fifteen (15¢) cents per ton for each and every ton of two thousand (2000) pounds of coal mined by the strip method. Said rent or royalty to be paid monthly to F. U. Leitzinger, at Clearfield, Pennsylvania, who is hereby designated as agent to make collections for the said Lessors, on the 20th day of each month for the preceding month, without demand.

3. The test of the quantity of coal mined and taken away shall be the weight of the railroad scales over which the coal is shipped, if practicable; however, if the coal mined is loaded into railroad cars with coal from other properties, then mine scale weight shall be furnished for coal mined and shipped under those circumstances, the mine scale weight shall be furnished for all coal mined and used which is not shipped by railroad, which weights the Lessors to have all reasonable means and rights of ascertaining from time to time.

4. Further, the Lessee to furnish to the Lessors the railroad scale weights of each car shipped; together with the railroad number of each car, the railroad initials of each car

and the date of shipment thereof, when the railroad weight is to be furnished, as hereinbefore set forth, and for all coal shipped or used where mine scale weight is to be furnished to the Lessors, the Lessee to give a statement of the weight of coal from the mine scale weights, said statement furnished to set forth each day's mine scale weight, if requested. Said weights and statements of weights to be furnished to the Lessors at the times provided for the payment of royalties herein and to cover the period of time for which the royalties are being paid. However, this method of weight is not to be conclusive test of the weights but either the Lessors or the Lessee may resort to any other method of ascertaining the weights, And further, the Lessee hereby agrees and directs the railroad company to give to the Lessors, their successors or assigns, at any time upon demand of the Lessors, their successors or assigns, or agents, a statement of the weight of coal shipped covering any period of time which the said Lessors, their successors or assigns, request, and further Lessors, their successors or assigns, to have the right to demand and examine the mine books or sheets which show the weight of the coal, weighed at the mine scales at any time upon request.

5. The said Lessee covenants to commence mining operations as promptly as possible, and to continue the said mining operations during the term of this agreement, and during each and every month of this agreement, commencing as of , 1953, and Lessee agrees to mine and remove from the demised premises, or pay therefor as if mined, by way of minimum royalty at least two hundred (200) net tons of coal per month. Settlement for said monthly royalty shall be on the basis of fifteen (15¢) cents per net ton, and settlement for said monthly royalty shall be made on the 20th day of each month following the particular month. In case coal shall be paid for that is

not taken out under this clause, then the Lessee is to be permitted to take same during the next succeeding month or months, during the continuance of this lease or renewal, but shall not at any time be released from the payment of the monthly minimum royalty herein provided for during the continuance of this lease or a renewal thereof.

6. It is hereby further agreed and understood that the said Lessee shall have the privilege of using and occupying so much of the surface (that is owned by the Lessors) of the above described tract of land, as may be necessary to build tramways, railroads, dumps, chutes, and chutes, roads, improvements and buildings that may be necessary or convenient, for the purpose of examining, searching for, prospecting, mining, manufacturing and preparing the said coal for market, and taking, storing, removing and transporting the same, and for these purposes the said Lessee shall have the right to mine and remove said coal according to any and all known and modern methods, including the right to strip the surface (but not to include tenement houses or other houses for the use of the Lessee's employees), for the proper working of said mine or mines, and the shipping of said coal with the right to deposit refuse from the said mine or mines on the land covered by this lease, free and clear of all claims for damages; provided, that the mines are operated in such a manner as to utilize all the merchantable coal as the work progresses and the mine is developed and so as to work the least injury to the surface of said land; but the Lessee is not to be held liable for the drainage of springs or the changing of water courses or damage to the surface of said land caused by the proper working of said mine in accordance with the law and Rules of the State of Pennsylvania, as to proper working of coal mines, now in force or hereafter passed approved or to be adopted.. Except that the rights hereunder granted are subject to any rights which the said Lessors may have already conveyed, the intent and purpose of the concessions under this paragraph being to give to the Lessee such rights herein granted providing the Lessors at the making of this lease enjoy the same.

7. It is further agreed that the said Lessee is to pay all taxes on any and all improvements erected by him on said land and also to pay all taxes, duties or levies upon the mined coal at the mouth of the pit or elsewhere at any time, whether the taxes, duties or levies be Township, County, State or Federal.

8. It is further agreed that the Lessors shall have the right and privilege of examining all cores and evidences of coal or other minerals secured by the Lessee from the drilling or prospecting on the leased premises herein, and in case the Lessee shall drill said premises, to notify the Lessors at the time that the said drilling is being done in order that the said Lessors may be present to examine all cores and evidences secured from said drilling or prospecting. And further, the Lessors, by themselves, their agents or assigns, shall have the right to be present during the drilling and examine all cores which may be secured as a result of drilling and be allowed to take any measurements that they may desire. And further, the said Lessee shall keep the mine surveyed in accordance with the mining rules and laws of Pennsylvania, and furnish to the Lessors, their assigns, successors or agents, blue prints of all surveys so made by the Lessee of the mines operated under this lease. And further, the Lessors shall have the right to examine all maps and blue prints of the mines which may be in the possession of the Lessee at any time upon request of the Lessors.

9. It is further agreed that if the Lessors, their successors, assigns or agents or engineers desire to inspect or survey the mine or mines of the Lessee upon the above described premises, they shall have the right and privilege to do so at any time, and no rights granted under this lease shall in any way interfere with the said rights of the said Lessors, their successors or assigns, to prospect for or to operate coal or any

other minerals, except the coal herein leased or the lands adjoining owned by them or which may come under their control, that said operations or prospecting is not to be done in any way that will work needless injury to the Lessee and shall not interfere with the actual operations then being worked by the Lessee under this lease, unless necessary for the operation and removal of said minerals.

10. It is further agreed that the said Lessee shall have the right of wheelage over and under the premises herein leased for the purpose of hauling coal from adjoining or adjacent lands and in consideration of said right, shall pay to the Lessors, their successors or assigns, the sum of one cent for each and every ton of coal of 2000 pounds hauled over or under the above leased premises from adjoining or adjacent lands, the said Lessee to pay the wheelage royalties on the date set for the payment of other royalties under this lease, and to furnish to the Lessors on the date set for payment, a copy of the mine scale weights showing the amount of coal hauled from adjoining or adjacent lands for a period of time for which the payment is being made, the said Lessors to have the same rights of ascertaining the weights on which wheelage is being paid, as they have for ascertaining the weights of coal shipped under this lease.

11. It is further agreed that any default in the payment of the minimum royalty or any other royalties due, if in excess of the minimum in the manner provided herein, for thirty (30) days after the monthly payment is due, shall work an immediate forfeiture of this lease, at the option of the Lessors, their successors or assigns; however, such forfeiture not to take place until after fifteen days written notice is given to the Lessee that such forfeiture will take place unless the royalties are immediately paid. In case of forfeiture said Lessee shall have the right to remove all improvements

within ninety (90) days after said forfeiture by paying in advance all royalties in arrears and the minimum royalty for a further period of ninety (90) days.

12. It is further agreed that the Lessors shall have all the rights and privileges granted by the Landlord and Tenant Laws now in force or which may be in force at any time during the life of this lease agreement for the purpose of enforcing payment of any royalties due hereunder on default made. This to be in addition to the right of forfeiting this lease.

13. The said Lessee, at the option of the said Lessors, does hereby authorize and empower any attorney upon default of the Lessee for a period of thirty (30) days in the payment of any royalties as aforesaid, to appear for him and enter an amicable action of ejectment, and therein confess a judgment of ejectment for the premises herein described, and does authorize the immediate issuing of an execution and writ of habere facias possessionem, and confess judgment thereon of possession, without asking leave of Court, with clause of fi. fa. for costs, hereby waiving all stays, inquisition and exemption laws. And further, the Lessee does hereby empower any attorney to confess a judgment in favor of the said Lessors, their successors or assigns, for any minimum royalty, or royalty in excess of the minimum and wheelage, that the said Lessee may be in arrears with interest, costs and ten per cent attorneys' commission, hereby waiving inquisition, stay of execution and all exemption laws now in force or that may hereafter be passed. Provided, however, that no such judgment shall be entered until after fifteen (15) days written notice is given to the Lessee that such judgment will be entered until the royalties are paid in said fifteen day period.

14. This lease shall not be assigned or sub-let in any way by the Lessee, except with the consent in writing first had and obtained from the said Lessors.

15. It is further agreed that any execution or similar proceeding against the rights and privileges secured to the said Lessee under this lease, shall immediately work a forfeiture of all rights and privileges granted hereunder, and the said Lessors shall have the right of immediate possession of any property connected with the said mine or operations, as security for any royalty due or damage done to said Lessors, in violation of any of their rights herein granted.

16. It is expressly understood and agreed between the parties hereto that this lease and the grants hereunder are made subject to all restrictions, conditions, reservations, exceptions, covenants and agreements under any and all the several deeds, grants and conveyances by virtue of which Lessors hold title to the said leased premises aforesaid, and the Lessors are only granting such rights as they have the right to grant under and by virtue of said instruments of conveyance.

17. This agreement shall be binding upon and shall enure to the benefit of all persons, natural or artificial, lawfully claiming under the parties hereto, respectively, in whatsoever capacity.

IN WITNESS WHEREOF, LEITZINGER BROS. REALTY COMPANY has caused this agreement to be signed by its proper officers, and its corporate seal, duly attested, to be hereunto affixed, and the other parties have hereunto set their hands and seals, the day and year first above written.

ATTEST:

M. Guzman
Secretary

LEITZINGER BROS. REALTY COMPANY

By

Wm. B. Leitzinger
President

Witnessed by:

Marathy Curry

May C. Redding (SEAL)
May C. Redding

James E. Hoffman (SEAL)
James E. Hoffman

BC
CITRUS

M

James R. Hoffman

8/4/45

19

*B*o. Leitzinger & Redding's.

*D*r.

1945 July Cdal removed from Savel & Lucas Properties, 3956, 2 N. T's. \$514.31

5/8 of 514.31

= 321.44 Prop Redding

089-4-45 OR 5-62

2/8 of 514.31

= 192.87 - L. Lucas Property

514.31

Sept 4, 1945

Mrs. Sarah Redding

Altoona Pa.

Dear Mrs. Redding

I received a check from Mr Hoffman to-day for \$ 513.41 for 3956 tons of coal mined from our Savel Tract during the month of July. I am enclosing your check for \$ 321.54 which is your share. I think that Mr. Hoffman is doing pretty good down there . Mr. Geo. Gould tried to tell me that this man Hoffman could not do anything worth bothering about. It looks to me like Goulds will have to step on it to keep with Hoffma n.

Sincerely

Jed Lutzinger

EXHIBIT K

DAVID S. AMMERMAN

Attorney at Law
310 East Cherry Street
Clearfield, Pennsylvania 16830

AUG 31 2006

(814) 765-1701 (Phone)

(814) 765-1703 (Fax)
email: ammerman@clearnet.net

August 28, 2006

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, Pennsylvania 16830

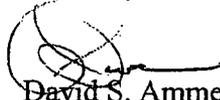
RE: Hertlein, et al vs. River Hill Coal Company/Leitzinger Land Company, Inc.

Dear Jim:

Enclosed you will find the tonnage reports for the coal mined by River Hill from the disputed area plus copies of two checks (4/20/06 for \$9,531.58 and 7/20/06 for \$8,290.22) paid to Leitzinger Land Company as royalty.

What further information do you need? Please advise.

Sincerely,



David S. Ammerman

DSA/asy

Encl.

Cc: River Hill Coal Company
Peter F. Smith, Esquire

RIVER HILL COAL CO., INC.

Detailed Tonnage and Charge Report

All Transactions From All Sites By Job (1)
From 1/1/2006 to 6/30/2006

HEMLOCK PIT / NAREHOOD 1

Site	Ticket	Date	Account	Truck	Code	Qty	----- Fees -----			Add Chg	Sales Tax	Total Charge	Paid
							Per Qty	Per Load					
A	17839	3/ 6/2006	POT#1	HT7190	HAU	26.72	\$1.23	\$0.00	\$0.00	\$0.00	\$32.87	\$0.00 (E)	
A	17840	3/ 6/2006	POT#1	HT7190	HAU	27.09	\$1.23	\$0.00	\$0.00	\$0.00	\$33.32	\$0.00 (E)	
A	17842	3/ 6/2006	POT#1	TMT602	HAU	27.36	\$1.23	\$0.00	\$0.00	\$0.00	\$33.65	\$0.00 (E)	
A	17843	3/ 6/2006	POT#1	MM122	HAU	34.41	\$1.23	\$0.00	\$0.00	\$0.00	\$42.32	\$0.00 (E)	
A	17844	3/ 6/2006	POT#1	HT7190	HAU	27.30	\$1.23	\$0.00	\$0.00	\$0.00	\$33.58	\$0.00 (E)	
A	17847	3/ 6/2006	POT#1	RST106	HAU	28.17	\$1.23	\$0.00	\$0.00	\$0.00	\$34.65	\$0.00 (E)	
A	17848	3/ 6/2006	POT#1	TMT602	HAU	28.38	\$1.23	\$0.00	\$0.00	\$0.00	\$34.91	\$0.00 (E)	
A	17850	3/ 6/2006	POT#1	MM122	HAU	36.91	\$1.23	\$0.00	\$0.00	\$0.00	\$45.40	\$0.00 (E)	
A	17851	3/ 6/2006	POT#1	HT7190	HAU	26.46	\$1.23	\$0.00	\$0.00	\$0.00	\$32.55	\$0.00 (E)	
A	17853	3/ 6/2006	POT#1	RST106	HAU	27.48	\$1.23	\$0.00	\$0.00	\$0.00	\$33.80	\$0.00 (E)	
A	17854	3/ 6/2006	POT#1	TMT602	HAU	28.77	\$1.23	\$0.00	\$0.00	\$0.00	\$35.39	\$0.00 (E)	
A	17855	3/ 6/2006	POT#1	MM122	HAU	36.13	\$1.23	\$0.00	\$0.00	\$0.00	\$44.44	\$0.00 (E)	
A	17856	3/ 6/2006	POT#1	RST107	HAU	25.38	\$1.23	\$0.00	\$0.00	\$0.00	\$31.22	\$0.00 (E)	
A	17857	3/ 6/2006	POT#1	HT7190	HAU	28.61	\$1.23	\$0.00	\$0.00	\$0.00	\$35.19	\$0.00 (E)	
A	17858	3/ 6/2006	POT#1	RST106	HAU	30.20	\$1.23	\$0.00	\$0.00	\$0.00	\$37.15	\$0.00 (E)	
A	17860	3/ 6/2006	POT#1	TMT602	HAU	27.63	\$1.23	\$0.00	\$0.00	\$0.00	\$33.98	\$0.00 (E)	
A	17861	3/ 6/2006	POT#1	MM122	HAU	37.12	\$1.23	\$0.00	\$0.00	\$0.00	\$45.66	\$0.00 (E)	
A	17862	3/ 6/2006	POT#1	RST107	HAU	26.59	\$1.23	\$0.00	\$0.00	\$0.00	\$32.71	\$0.00 (E)	
A	17863	3/ 6/2006	POT#1	HT7190	HAU	28.34	\$1.23	\$0.00	\$0.00	\$0.00	\$34.86	\$0.00 (E)	
A	17864	3/ 6/2006	POT#1	RST106	HAU	27.84	\$1.23	\$0.00	\$0.00	\$0.00	\$34.24	\$0.00 (E)	
A	17866	3/ 6/2006	POT#1	TMT602	HAU	28.34	\$1.23	\$0.00	\$0.00	\$0.00	\$34.86	\$0.00 (E)	
A	17867	3/ 6/2006	POT#1	MM122	HAU	38.95	\$1.23	\$0.00	\$0.00	\$0.00	\$47.91	\$0.00 (E)	
A	17868	3/ 6/2006	POT#1	RST107	HAU	27.12	\$1.23	\$0.00	\$0.00	\$0.00	\$33.36	\$0.00 (E)	
A	17870	3/ 6/2006	POT#1	HT7190	HAU	28.88	\$1.23	\$0.00	\$0.00	\$0.00	\$35.52	\$0.00 (E)	
A	17871	3/ 6/2006	POT#1	RST106	HAU	30.71	\$1.23	\$0.00	\$0.00	\$0.00	\$37.77	\$0.00 (E)	
A	17873	3/ 6/2006	POT#1	TMT602	HAU	29.38	\$1.23	\$0.00	\$0.00	\$0.00	\$36.14	\$0.00 (E)	
A	17875	3/ 6/2006	POT#1	MM122	HAU	39.94	\$1.23	\$0.00	\$0.00	\$0.00	\$49.13	\$0.00 (E)	
A	17877	3/ 6/2006	POT#1	RST107	HAU	27.32	\$1.23	\$0.00	\$0.00	\$0.00	\$33.60	\$0.00 (E)	
A	17878	3/ 6/2006	POT#1	RST106	HAU	28.42	\$1.23	\$0.00	\$0.00	\$0.00	\$34.96	\$0.00 (E)	
A	17879	3/ 6/2006	POT#1	HT7190	HAU	29.49	\$1.23	\$0.00	\$0.00	\$0.00	\$36.27	\$0.00 (E)	
A	17882	3/ 6/2006	POT#1	TMT602	HAU	29.23	\$1.23	\$0.00	\$0.00	\$0.00	\$35.95	\$0.00 (E)	
A	17883	3/ 6/2006	POT#1	MM122	HAU	39.03	\$1.23	\$0.00	\$0.00	\$0.00	\$48.01	\$0.00 (E)	
A	17884	3/ 6/2006	POT#1	RST107	HAU	28.34	\$1.23	\$0.00	\$0.00	\$0.00	\$34.86	\$0.00 (E)	
A	17885	3/ 6/2006	POT#1	RST106	HAU	27.52	\$1.23	\$0.00	\$0.00	\$0.00	\$33.85	\$0.00 (E)	
A	17886	3/ 6/2006	POT#1	HT7190	HAU	27.67	\$1.23	\$0.00	\$0.00	\$0.00	\$34.03	\$0.00 (E)	
A	17890	3/ 6/2006	POT#1	MM122	HAU	36.25	\$1.23	\$0.00	\$0.00	\$0.00	\$44.59	\$0.00 (E)	
A	17892	3/ 6/2006	POT#1	RST107	HAU	24.71	\$1.23	\$0.00	\$0.00	\$0.00	\$30.39	\$0.00 (E)	
A	17893	3/ 6/2006	POT#1	RST106	HAU	28.93	\$1.23	\$0.00	\$0.00	\$0.00	\$35.58	\$0.00 (E)	
A	17895	3/ 6/2006	POT#1	HT7190	HAU	28.91	\$1.23	\$0.00	\$0.00	\$0.00	\$35.56	\$0.00 (E)	
A	17898	3/ 6/2006	POT#1	TMT602	HAU	29.42	\$1.23	\$0.00	\$0.00	\$0.00	\$36.19	\$0.00 (E)	
A	17899	3/ 6/2006	POT#1	MM122	HAU	39.74	\$1.23	\$0.00	\$0.00	\$0.00	\$48.88	\$0.00 (E)	
A	17901	3/ 6/2006	POT#1	RST107	HAU	26.12	\$1.23	\$0.00	\$0.00	\$0.00	\$32.13	\$0.00 (E)	
A	17902	3/ 6/2006	POT#1	RST106	HAU	29.53	\$1.23	\$0.00	\$0.00	\$0.00	\$36.32	\$0.00 (E)	
A	17903	3/ 6/2006	POT#1	HT7190	HAU	28.12	\$1.23	\$0.00	\$0.00	\$0.00	\$34.59	\$0.00 (E)	
A	17905	3/ 6/2006	POT#1	TMT602	HAU	29.11	\$1.23	\$0.00	\$0.00	\$0.00	\$35.81	\$0.00 (E)	
A	17906	3/ 6/2006	POT#1	MM122	HAU	40.65	\$1.23	\$0.00	\$0.00	\$0.00	\$50.00	\$0.00 (E)	
A	17907	3/ 6/2006	POT#1	RST107	HAU	26.17	\$1.23	\$0.00	\$0.00	\$0.00	\$32.19	\$0.00 (E)	
A	17908	3/ 6/2006	POT#1	RST106	HAU	25.29	\$1.23	\$0.00	\$0.00	\$0.00	\$31.11	\$0.00 (E)	
A	17911	3/ 6/2006	POT#1	HT7190	HAU	24.33	\$1.23	\$0.00	\$0.00	\$0.00	\$29.93	\$0.00 (E)	
A	17912	3/ 6/2006	POT#1	TMT602	HAU	28.22	\$1.23	\$0.00	\$0.00	\$0.00	\$34.71	\$0.00 (E)	
A	17913	3/ 6/2006	POT#1	TMT602	HAU	29.55	\$1.23	\$0.00	\$0.00	\$0.00	\$36.35	\$0.00 (E)	
A	17914	3/ 6/2006	POT#1	MM122	HAU	39.24	\$1.23	\$0.00	\$0.00	\$0.00	\$48.27	\$0.00 (E)	
A	17943	3/ 7/2006	POT#1	TMT602	HAU	27.79	\$1.23	\$0.00	\$0.00	\$0.00	\$34.18	\$0.00 (E)	

Print Date 8/22/2006

Legend: I = Imported, E = Edited, M = Minimum Charge

RIVER HILL COAL CO., INC.

Detailed Tonnage and Charge Report

All Transactions From All Sites By Job (1)

From 1/1/2006 to 6/30/2006

A	17944	3/ 7/2006	POT#1	HT7190	HAU	28.82	\$1.23	\$0.00	\$0.00	\$0.00	\$35.45	\$0.00 (E)
A	17946	3/ 7/2006	POT#1	RST106	HAU	28.56	\$1.23	\$0.00	\$0.00	\$0.00	\$35.13	\$0.00 (E)
A	17947	3/ 7/2006	POT#1	MM122	HAU	39.57	\$1.23	\$0.00	\$0.00	\$0.00	\$48.67	\$0.00 (E)
A	17948	3/ 7/2006	POT#1	RST107	HAU	25.73	\$1.23	\$0.00	\$0.00	\$0.00	\$31.65	\$0.00 (E)
A	17949	3/ 7/2006	POT#1	HT7190	HAU	29.14	\$1.23	\$0.00	\$0.00	\$0.00	\$35.84	\$0.00 (E)
A	17950	3/ 7/2006	POT#1	RST106	HAU	29.47	\$1.23	\$0.00	\$0.00	\$0.00	\$36.25	\$0.00 (E)
A	17951	3/ 7/2006	POT#1	MM122	HAU	38.76	\$1.23	\$0.00	\$0.00	\$0.00	\$47.67	\$0.00 (E)
A	17952	3/ 7/2006	POT#1	RST107	HAU	27.45	\$1.23	\$0.00	\$0.00	\$0.00	\$33.76	\$0.00 (E)
A	17953	3/ 7/2006	POT#1	TMT602	HAU	28.93	\$1.23	\$0.00	\$0.00	\$0.00	\$35.58	\$0.00 (E)
A	17954	3/ 7/2006	POT#1	HT7190	HAU	29.69	\$1.23	\$0.00	\$0.00	\$0.00	\$36.52	\$0.00 (E)
A	17955	3/ 7/2006	POT#1	RST106	HAU	29.11	\$1.23	\$0.00	\$0.00	\$0.00	\$35.81	\$0.00 (E)
A	17956	3/ 7/2006	POT#1	MM122	HAU	40.85	\$1.23	\$0.00	\$0.00	\$0.00	\$50.25	\$0.00 (E)
A	17957	3/ 7/2006	POT#1	RST107	HAU	26.92	\$1.23	\$0.00	\$0.00	\$0.00	\$33.11	\$0.00 (E)
A	17958	3/ 7/2006	POT#1	TMT602	HAU	28.66	\$1.23	\$0.00	\$0.00	\$0.00	\$35.25	\$0.00 (E)
A	17959	3/ 7/2006	POT#1	HT7190	HAU	28.86	\$1.23	\$0.00	\$0.00	\$0.00	\$35.50	\$0.00 (E)
A	17960	3/ 7/2006	POT#1	MM122	HAU	39.86	\$1.23	\$0.00	\$0.00	\$0.00	\$49.03	\$0.00 (E)
A	17961	3/ 7/2006	POT#1	RST107	HAU	24.89	\$1.23	\$0.00	\$0.00	\$0.00	\$30.61	\$0.00 (E)
A	17962	3/ 7/2006	POT#1	TMT602	HAU	28.82	\$1.23	\$0.00	\$0.00	\$0.00	\$35.45	\$0.00 (E)
A	17963	3/ 7/2006	POT#1	HT7190	HAU	26.84	\$1.23	\$0.00	\$0.00	\$0.00	\$33.01	\$0.00 (E)
A	17964	3/ 7/2006	POT#1	MM122	HAU	39.24	\$1.23	\$0.00	\$0.00	\$0.00	\$48.27	\$0.00 (E)
A	17965	3/ 7/2006	POT#1	RST107	HAU	25.10	\$1.23	\$0.00	\$0.00	\$0.00	\$30.87	\$0.00 (E)
A	17966	3/ 7/2006	POT#1	TMT602	HAU	29.50	\$1.23	\$0.00	\$0.00	\$0.00	\$36.29	\$0.00 (E)
A	17967	3/ 7/2006	POT#1	HT7190	HAU	26.86	\$1.23	\$0.00	\$0.00	\$0.00	\$33.04	\$0.00 (E)
A	17968	3/ 7/2006	POT#1	MM122	HAU	38.99	\$1.23	\$0.00	\$0.00	\$0.00	\$47.96	\$0.00 (E)
A	17969	3/ 7/2006	POT#1	RST107	HAU	25.72	\$1.23	\$0.00	\$0.00	\$0.00	\$31.64	\$0.00 (E)
A	17970	3/ 7/2006	POT#1	ST4	HAU	26.26	\$1.23	\$0.00	\$0.00	\$0.00	\$32.30	\$0.00 (E)
A	17971	3/ 7/2006	POT#1	TMT602	HAU	28.88	\$1.23	\$0.00	\$0.00	\$0.00	\$35.52	\$0.00 (E)
A	17972	3/ 7/2006	POT#1	HT7190	HAU	26.27	\$1.23	\$0.00	\$0.00	\$0.00	\$32.31	\$0.00 (E)
A	17973	3/ 7/2006	POT#1	MM122	HAU	37.92	\$1.23	\$0.00	\$0.00	\$0.00	\$46.64	\$0.00 (E)
A	17974	3/ 7/2006	POT#1	RST107	HAU	25.07	\$1.23	\$0.00	\$0.00	\$0.00	\$30.84	\$0.00 (E)
A	17975	3/ 7/2006	POT#1	ST4	HAU	26.05	\$1.23	\$0.00	\$0.00	\$0.00	\$32.04	\$0.00 (E)
A	17976	3/ 7/2006	POT#1	RST106	HAU	27.17	\$1.23	\$0.00	\$0.00	\$0.00	\$33.42	\$0.00 (E)
A	17978	3/ 7/2006	POT#1	TMT602	HAU	28.16	\$1.23	\$0.00	\$0.00	\$0.00	\$34.64	\$0.00 (E)
A	17979	3/ 7/2006	POT#1	HT7190	HAU	27.05	\$1.23	\$0.00	\$0.00	\$0.00	\$33.27	\$0.00 (E)
A	17980	3/ 7/2006	POT#1	MM122	HAU	39.21	\$1.23	\$0.00	\$0.00	\$0.00	\$48.23	\$0.00 (E)
A	17981	3/ 7/2006	POT#1	RST107	HAU	24.74	\$1.23	\$0.00	\$0.00	\$0.00	\$30.43	\$0.00 (E)
A	17983	3/ 7/2006	POT#1	ST4	HAU	25.70	\$1.23	\$0.00	\$0.00	\$0.00	\$31.61	\$0.00 (E)
A	18002	3/10/2006	POT#1	RST105	HAU	27.82	\$1.23	\$0.00	\$0.00	\$0.00	\$34.22	\$0.00 (E)
A	18003	3/10/2006	POT#1	ST4	HAU	27.27	\$1.23	\$0.00	\$0.00	\$0.00	\$33.54	\$0.00 (E)
A	18004	3/10/2006	POT#1	HT7190	HAU	27.75	\$1.23	\$0.00	\$0.00	\$0.00	\$34.13	\$0.00 (E)
A	18005	3/10/2006	POT#1	TMT602	HAU	26.40	\$1.23	\$0.00	\$0.00	\$0.00	\$32.47	\$0.00 (E)
A	18006	3/10/2006	POT#1	RST105	HAU	27.73	\$1.23	\$0.00	\$0.00	\$0.00	\$34.11	\$0.00 (E)
A	18007	3/10/2006	POT#1	ST4	HAU	25.01	\$1.23	\$0.00	\$0.00	\$0.00	\$30.76	\$0.00 (E)
A	18008	3/10/2006	POT#1	HT7190	HAU	26.62	\$1.23	\$0.00	\$0.00	\$0.00	\$32.74	\$0.00 (E)
A	18009	3/10/2006	POT#1	RST107	HAU	24.21	\$1.23	\$0.00	\$0.00	\$0.00	\$29.78	\$0.00 (E)
A	18010	3/10/2006	POT#1	MM122	HAU	37.37	\$1.23	\$0.00	\$0.00	\$0.00	\$45.97	\$0.00 (E)
A	18011	3/10/2006	POT#1	RST105	HAU	27.80	\$1.23	\$0.00	\$0.00	\$0.00	\$34.19	\$0.00 (E)
A	18012	3/10/2006	POT#1	TMT602	HAU	27.87	\$1.23	\$0.00	\$0.00	\$0.00	\$34.28	\$0.00 (E)
A	18013	3/10/2006	POT#1	ST4	HAU	27.59	\$1.23	\$0.00	\$0.00	\$0.00	\$33.94	\$0.00 (E)
A	18015	3/10/2006	POT#1	HT7190	HAU	25.92	\$1.23	\$0.00	\$0.00	\$0.00	\$31.88	\$0.00 (E)
A	18016	3/10/2006	POT#1	RST107	HAU	23.71	\$1.23	\$0.00	\$0.00	\$0.00	\$29.16	\$0.00 (E)
A	18018	3/10/2006	POT#1	MM122	HAU	36.83	\$1.23	\$0.00	\$0.00	\$0.00	\$45.30	\$0.00 (E)
A	18019	3/10/2006	POT#1	RST105	HAU	27.41	\$1.23	\$0.00	\$0.00	\$0.00	\$33.71	\$0.00 (E)
A	18020	3/10/2006	POT#1	TMT602	HAU	26.51	\$1.23	\$0.00	\$0.00	\$0.00	\$32.61	\$0.00 (E)
A	18021	3/10/2006	POT#1	ST4	HAU	26.08	\$1.23	\$0.00	\$0.00	\$0.00	\$32.08	\$0.00 (E)
A	18023	3/10/2006	POT#1	HT7190	HAU	26.72	\$1.23	\$0.00	\$0.00	\$0.00	\$32.87	\$0.00 (E)
A	18026	3/10/2006	POT#1	MM122	HAU	38.30	\$1.23	\$0.00	\$0.00	\$0.00	\$47.11	\$0.00 (E)
A	18027	3/10/2006	POT#1	RST105	HAU	27.26	\$1.23	\$0.00	\$0.00	\$0.00	\$33.53	\$0.00 (E)

RIVER HILL COAL CO., INC.

Detailed Tonnage and Charge Report

All Transactions From All Sites By Job (1)
From 1/1/2006 to 6/30/2006

A	18029	3/10/2006	POT#1	TMT602	HAU	26.74	\$1.23	\$0.00	\$0.00	\$0.00	\$32.89	\$0.00 (E)
A	18030	3/10/2006	POT#1	ST4	HAU	27.31	\$1.23	\$0.00	\$0.00	\$0.00	\$33.59	\$0.00 (E)
A	18031	3/10/2006	POT#1	RST107	HAU	26.92	\$1.23	\$0.00	\$0.00	\$0.00	\$33.11	\$0.00 (E)
A	18032	3/10/2006	POT#1	MM122	HAU	40.42	\$1.23	\$0.00	\$0.00	\$0.00	\$49.72	\$0.00 (E)
A	18034	3/10/2006	POT#1	HT7190	HAU	27.85	\$1.23	\$0.00	\$0.00	\$0.00	\$34.26	\$0.00 (E)
A	18035	3/10/2006	POT#1	RST105	HAU	27.25	\$1.23	\$0.00	\$0.00	\$0.00	\$33.52	\$0.00 (E)
A	18038	3/10/2006	POT#1	TMT602	HAU	27.43	\$1.23	\$0.00	\$0.00	\$0.00	\$33.74	\$0.00 (E)
A	18039	3/10/2006	POT#1	ST4	HAU	27.71	\$1.23	\$0.00	\$0.00	\$0.00	\$34.08	\$0.00 (E)
A	18040	3/10/2006	POT#1	RST107	HAU	25.30	\$1.23	\$0.00	\$0.00	\$0.00	\$31.12	\$0.00 (E)
A	18041	3/10/2006	POT#1	MM122	HAU	36.89	\$1.23	\$0.00	\$0.00	\$0.00	\$45.37	\$0.00 (E)
A	18043	3/10/2006	POT#1	HT7190	HAU	27.84	\$1.23	\$0.00	\$0.00	\$0.00	\$34.24	\$0.00 (E)
A	18044	3/10/2006	POT#1	RST105	HAU	26.68	\$1.23	\$0.00	\$0.00	\$0.00	\$32.82	\$0.00 (E)
A	18046	3/10/2006	POT#1	TMT602	HAU	27.52	\$1.23	\$0.00	\$0.00	\$0.00	\$33.85	\$0.00 (E)
A	18048	3/10/2006	POT#1	RST107	HAU	26.98	\$1.23	\$0.00	\$0.00	\$0.00	\$33.19	\$0.00 (E)
A	18049	3/10/2006	POT#1	MM122	HAU	39.07	\$1.23	\$0.00	\$0.00	\$0.00	\$48.06	\$0.00 (E)
A	18051	3/10/2006	POT#1	HT7190	HAU	27.72	\$1.23	\$0.00	\$0.00	\$0.00	\$34.10	\$0.00 (E)
A	18052	3/10/2006	POT#1	RST105	HAU	27.92	\$1.23	\$0.00	\$0.00	\$0.00	\$34.34	\$0.00 (E)
A	18053	3/10/2006	POT#1	TMT602	HAU	28.27	\$1.23	\$0.00	\$0.00	\$0.00	\$34.77	\$0.00 (E)
A	18054	3/10/2006	POT#1	ST4	HAU	27.44	\$1.23	\$0.00	\$0.00	\$0.00	\$33.75	\$0.00 (E)
A	18056	3/10/2006	POT#1	RST107	HAU	27.45	\$1.23	\$0.00	\$0.00	\$0.00	\$33.76	\$0.00 (E)
A	18057	3/10/2006	POT#1	MM122	HAU	38.94	\$1.23	\$0.00	\$0.00	\$0.00	\$47.90	\$0.00 (E)
A	18059	3/10/2006	POT#1	HT7190	HAU	28.02	\$1.23	\$0.00	\$0.00	\$0.00	\$34.46	\$0.00 (E)
A	18060	3/10/2006	POT#1	RST105	HAU	27.70	\$1.23	\$0.00	\$0.00	\$0.00	\$34.07	\$0.00 (E)
A	18061	3/10/2006	POT#1	TMT602	HAU	27.69	\$1.23	\$0.00	\$0.00	\$0.00	\$34.06	\$0.00 (E)
A	18063	3/10/2006	POT#1	ST4	HAU	27.37	\$1.23	\$0.00	\$0.00	\$0.00	\$33.67	\$0.00 (E)
A	18064	3/10/2006	POT#1	RST107	HAU	26.06	\$1.23	\$0.00	\$0.00	\$0.00	\$32.05	\$0.00 (E)
A	18065	3/10/2006	POT#1	MM122	HAU	36.70	\$1.23	\$0.00	\$0.00	\$0.00	\$45.14	\$0.00 (E)
A	18067	3/10/2006	POT#1	HT7190	HAU	28.71	\$1.23	\$0.00	\$0.00	\$0.00	\$35.31	\$0.00 (E)
A	18068	3/10/2006	POT#1	RST105	HAU	27.99	\$1.23	\$0.00	\$0.00	\$0.00	\$34.43	\$0.00 (E)
A	18070	3/10/2006	POT#1	TMT602	HAU	28.13	\$1.23	\$0.00	\$0.00	\$0.00	\$34.60	\$0.00 (E)
A	18071	3/10/2006	POT#1	ST4	HAU	27.17	\$1.23	\$0.00	\$0.00	\$0.00	\$33.42	\$0.00 (E)
A	18072	3/10/2006	POT#1	RST107	HAU	25.73	\$1.23	\$0.00	\$0.00	\$0.00	\$31.65	\$0.00 (E)
A	18073	3/10/2006	POT#1	MM122	HAU	38.74	\$1.23	\$0.00	\$0.00	\$0.00	\$47.65	\$0.00 (E)
A	18075	3/10/2006	POT#1	HT7190	HAU	28.77	\$1.23	\$0.00	\$0.00	\$0.00	\$35.39	\$0.00 (E)
A	18076	3/10/2006	POT#1	RST105	HAU	26.53	\$1.23	\$0.00	\$0.00	\$0.00	\$32.63	\$0.00 (E)
A	18077	3/10/2006	POT#1	ST4	HAU	27.43	\$1.23	\$0.00	\$0.00	\$0.00	\$33.74	\$0.00 (E)
A	18079	3/10/2006	POT#1	TMT602	HAU	26.36	\$1.23	\$0.00	\$0.00	\$0.00	\$32.42	\$0.00 (E)
A	18084	3/13/2006	POT#1	RST105	HAU	28.33	\$1.23	\$0.00	\$0.00	\$0.00	\$34.85	\$0.00 (E)
A	18085	3/13/2006	POT#1	HT7190	HAU	26.33	\$1.23	\$0.00	\$0.00	\$0.00	\$32.39	\$0.00 (E)
A	18086	3/13/2006	POT#1	TMT602	HAU	25.87	\$1.23	\$0.00	\$0.00	\$0.00	\$31.82	\$0.00 (E)
A	18087	3/13/2006	POT#1	RST105	HAU	27.87	\$1.23	\$0.00	\$0.00	\$0.00	\$34.28	\$0.00 (E)
A	18088	3/13/2006	POT#1	HT7190	HAU	24.95	\$1.23	\$0.00	\$0.00	\$0.00	\$30.69	\$0.00 (E)
A	18089	3/13/2006	POT#1	RST106	HAU	27.14	\$1.23	\$0.00	\$0.00	\$0.00	\$33.38	\$0.00 (E)
A	18090	3/13/2006	POT#1	RST107	HAU	23.61	\$1.23	\$0.00	\$0.00	\$0.00	\$29.04	\$0.00 (E)
A	18091	3/13/2006	POT#1	RST105	HAU	27.78	\$1.23	\$0.00	\$0.00	\$0.00	\$34.17	\$0.00 (E)
A	18092	3/13/2006	POT#1	TMT602	HAU	28.23	\$1.23	\$0.00	\$0.00	\$0.00	\$34.72	\$0.00 (E)
A	18093	3/13/2006	POT#1	HT7190	HAU	26.95	\$1.23	\$0.00	\$0.00	\$0.00	\$33.15	\$0.00 (E)
A	18094	3/13/2006	POT#1	RST106	HAU	28.41	\$1.23	\$0.00	\$0.00	\$0.00	\$34.94	\$0.00 (E)
A	18095	3/13/2006	POT#1	MM122	HAU	37.07	\$1.23	\$0.00	\$0.00	\$0.00	\$45.60	\$0.00 (E)
A	18096	3/13/2006	POT#1	RST107	HAU	24.92	\$1.23	\$0.00	\$0.00	\$0.00	\$30.65	\$0.00 (E)
A	18097	3/13/2006	POT#1	RST105	HAU	28.99	\$1.23	\$0.00	\$0.00	\$0.00	\$35.66	\$0.00 (E)
A	18098	3/13/2006	POT#1	TMT602	HAU	28.19	\$1.23	\$0.00	\$0.00	\$0.00	\$34.67	\$0.00 (E)
A	18099	3/13/2006	POT#1	HT7190	HAU	26.79	\$1.23	\$0.00	\$0.00	\$0.00	\$32.95	\$0.00 (E)
A	18100	3/13/2006	POT#1	RST106	HAU	28.30	\$1.23	\$0.00	\$0.00	\$0.00	\$34.81	\$0.00 (E)
A	18101	3/13/2006	POT#1	MM122	HAU	36.82	\$1.23	\$0.00	\$0.00	\$0.00	\$45.29	\$0.00 (E)
A	18102	3/13/2006	POT#1	RST107	HAU	24.56	\$1.23	\$0.00	\$0.00	\$0.00	\$30.21	\$0.00 (E)
A	18103	3/13/2006	POT#1	RST105	HAU	28.89	\$1.23	\$0.00	\$0.00	\$0.00	\$35.53	\$0.00 (E)
A	18104	3/13/2006	POT#1	TMT602	HAU	28.16	\$1.23	\$0.00	\$0.00	\$0.00	\$34.64	\$0.00 (E)

RIVER HILL COAL CO., INC.

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A	18105	3/13/2006	POT#1	HT7190	HAU	27.12	\$1.23	\$0.00	\$0.00	\$0.00	\$33.36	\$0.00 (E)
A	18106	3/13/2006	POT#1	RST106	HAU	27.73	\$1.23	\$0.00	\$0.00	\$0.00	\$34.11	\$0.00 (E)
A	18107	3/13/2006	POT#1	MM122	HAU	40.12	\$1.23	\$0.00	\$0.00	\$0.00	\$49.35	\$0.00 (E)
A	18108	3/13/2006	POT#1	RST107	HAU	25.96	\$1.23	\$0.00	\$0.00	\$0.00	\$31.93	\$0.00 (E)
A	18109	3/13/2006	POT#1	RST105	HAU	27.20	\$1.23	\$0.00	\$0.00	\$0.00	\$33.46	\$0.00 (E)
A	18111	3/13/2006	POT#1	TMT602	HAU	27.58	\$1.23	\$0.00	\$0.00	\$0.00	\$33.92	\$0.00 (E)
A	18112	3/13/2006	POT#1	HT7190	HAU	28.21	\$1.23	\$0.00	\$0.00	\$0.00	\$34.70	\$0.00 (E)
A	18113	3/13/2006	POT#1	RST106	HAU	28.87	\$1.23	\$0.00	\$0.00	\$0.00	\$35.51	\$0.00 (E)
A	18116	3/13/2006	POT#1	MM122	HAU	37.91	\$1.23	\$0.00	\$0.00	\$0.00	\$46.63	\$0.00 (E)
A	18118	3/13/2006	POT#1	RST105	HAU	28.83	\$1.23	\$0.00	\$0.00	\$0.00	\$35.46	\$0.00 (E)
A	18119	3/13/2006	POT#1	TMT602	HAU	27.16	\$1.23	\$0.00	\$0.00	\$0.00	\$33.41	\$0.00 (E)
A	18120	3/13/2006	POT#1	HT7190	HAU	26.24	\$1.23	\$0.00	\$0.00	\$0.00	\$32.28	\$0.00 (E)
A	18122	3/13/2006	POT#1	MM122	HAU	37.98	\$1.23	\$0.00	\$0.00	\$0.00	\$46.72	\$0.00 (E)
A	18123	3/13/2006	POT#1	RST106	HAU	29.53	\$1.23	\$0.00	\$0.00	\$0.00	\$36.32	\$0.00 (E)
A	18124	3/13/2006	POT#1	RST107	HAU	26.94	\$1.23	\$0.00	\$0.00	\$0.00	\$33.14	\$0.00 (E)
A	18126	3/13/2006	POT#1	RST105	HAU	28.03	\$1.23	\$0.00	\$0.00	\$0.00	\$34.48	\$0.00 (E)
A	18127	3/13/2006	POT#1	TMT602	HAU	26.63	\$1.23	\$0.00	\$0.00	\$0.00	\$32.75	\$0.00 (E)
A	18128	3/13/2006	POT#1	HT7190	HAU	28.56	\$1.23	\$0.00	\$0.00	\$0.00	\$35.13	\$0.00 (E)
A	18129	3/13/2006	POT#1	MM122	HAU	38.34	\$1.23	\$0.00	\$0.00	\$0.00	\$47.16	\$0.00 (E)
A	18131	3/13/2006	POT#1	RST106	HAU	28.50	\$1.23	\$0.00	\$0.00	\$0.00	\$35.06	\$0.00 (E)
A	18132	3/13/2006	POT#1	RST107	HAU	23.03	\$1.23	\$0.00	\$0.00	\$0.00	\$28.33	\$0.00 (E)
A	18133	3/13/2006	POT#1	RST105	HAU	27.34	\$1.23	\$0.00	\$0.00	\$0.00	\$33.63	\$0.00 (E)
A	18135	3/13/2006	POT#1	TMT602	HAU	27.11	\$1.23	\$0.00	\$0.00	\$0.00	\$33.35	\$0.00 (E)
A	18136	3/13/2006	POT#1	HT7190	HAU	28.04	\$1.23	\$0.00	\$0.00	\$0.00	\$34.49	\$0.00 (E)
A	18137	3/13/2006	POT#1	MM122	HAU	36.63	\$1.23	\$0.00	\$0.00	\$0.00	\$45.05	\$0.00 (E)
A	18139	3/13/2006	POT#1	RST106	HAU	29.21	\$1.23	\$0.00	\$0.00	\$0.00	\$35.93	\$0.00 (E)
A	18140	3/13/2006	POT#1	RST107	HAU	26.05	\$1.23	\$0.00	\$0.00	\$0.00	\$32.04	\$0.00 (E)
A	18141	3/13/2006	POT#1	RST105	HAU	27.45	\$1.23	\$0.00	\$0.00	\$0.00	\$33.76	\$0.00 (E)
A	18142	3/13/2006	POT#1	MM121	HAU	26.86	\$1.23	\$0.00	\$0.00	\$0.00	\$33.04	\$0.00 (E)
A	18143	3/13/2006	POT#1	TMT602	HAU	26.83	\$1.23	\$0.00	\$0.00	\$0.00	\$33.00	\$0.00 (E)
A	18145	3/13/2006	POT#1	HT7190	HAU	27.60	\$1.23	\$0.00	\$0.00	\$0.00	\$33.95	\$0.00 (E)
A	18146	3/13/2006	POT#1	MM122	HAU	37.17	\$1.23	\$0.00	\$0.00	\$0.00	\$45.72	\$0.00 (E)
A	18147	3/13/2006	POT#1	RST106	HAU	29.31	\$1.23	\$0.00	\$0.00	\$0.00	\$36.05	\$0.00 (E)
A	18149	3/13/2006	POT#1	RST107	HAU	25.80	\$1.23	\$0.00	\$0.00	\$0.00	\$31.73	\$0.00 (E)
A	18150	3/13/2006	POT#1	RST105	HAU	28.15	\$1.23	\$0.00	\$0.00	\$0.00	\$34.62	\$0.00 (E)
A	18152	3/13/2006	POT#1	HT7190	HAU	28.16	\$1.23	\$0.00	\$0.00	\$0.00	\$34.64	\$0.00 (E)
A	18153	3/13/2006	POT#1	MM122	HAU	37.55	\$1.23	\$0.00	\$0.00	\$0.00	\$46.19	\$0.00 (E)
A	18155	3/13/2006	POT#1	RST107	HAU	26.55	\$1.23	\$0.00	\$0.00	\$0.00	\$32.66	\$0.00 (E)
A	18156	3/13/2006	POT#1	RST105	HAU	28.80	\$1.23	\$0.00	\$0.00	\$0.00	\$35.42	\$0.00 (E)
A	18157	3/13/2006	POT#1	HT7190	HAU	28.16	\$1.23	\$0.00	\$0.00	\$0.00	\$34.64	\$0.00 (E)
A	18159	3/13/2006	POT#1	MM122	HAU	36.80	\$1.23	\$0.00	\$0.00	\$0.00	\$45.26	\$0.00 (E)
A	18160	3/13/2006	POT#1	RST107	HAU	26.61	\$1.23	\$0.00	\$0.00	\$0.00	\$32.73	\$0.00 (E)
A	18167	3/14/2006	POT#1	RST105	HAU	28.61	\$1.23	\$0.00	\$0.00	\$0.00	\$35.19	\$0.00 (E)
A	18168	3/14/2006	POT#1	HT7190	HAU	26.65	\$1.23	\$0.00	\$0.00	\$0.00	\$32.78	\$0.00 (E)
A	18171	3/14/2006	POT#1	RST105	HAU	27.47	\$1.23	\$0.00	\$0.00	\$0.00	\$33.79	\$0.00 (E)
A	18172	3/14/2006	POT#1	TMT602	HAU	27.01	\$1.23	\$0.00	\$0.00	\$0.00	\$33.22	\$0.00 (E)
A	18174	3/14/2006	POT#1	HT7190	HAU	29.14	\$1.23	\$0.00	\$0.00	\$0.00	\$35.84	\$0.00 (E)
A	18175	3/14/2006	POT#1	RST106	HAU	28.50	\$1.23	\$0.00	\$0.00	\$0.00	\$35.06	\$0.00 (E)
A	18176	3/14/2006	POT#1	RST105	HAU	26.99	\$1.23	\$0.00	\$0.00	\$0.00	\$33.20	\$0.00 (E)
A	18177	3/14/2006	POT#1	TMT602	HAU	26.93	\$1.23	\$0.00	\$0.00	\$0.00	\$33.12	\$0.00 (E)
A	18178	3/14/2006	POT#1	HT7190	HAU	27.63	\$1.23	\$0.00	\$0.00	\$0.00	\$33.98	\$0.00 (E)
A	18179	3/14/2006	POT#1	RST106	HAU	31.29	\$1.23	\$0.00	\$0.00	\$0.00	\$38.49	\$0.00 (E)
A	18181	3/14/2006	POT#1	RST105	HAU	28.05	\$1.23	\$0.00	\$0.00	\$0.00	\$34.50	\$0.00 (E)
A	18183	3/14/2006	POT#1	TMT602	HAU	28.51	\$1.23	\$0.00	\$0.00	\$0.00	\$35.07	\$0.00 (E)
A	18184	3/14/2006	POT#1	HT7190	HAU	28.49	\$1.23	\$0.00	\$0.00	\$0.00	\$35.04	\$0.00 (E)
A	18185	3/14/2006	POT#1	RST106	HAU	30.84	\$1.23	\$0.00	\$0.00	\$0.00	\$37.93	\$0.00 (E)
A	18186	3/14/2006	POT#1	MM122	HAU	37.71	\$1.23	\$0.00	\$0.00	\$0.00	\$46.38	\$0.00 (E)
A	18187	3/14/2006	POT#1	RST105	HAU	28.60	\$1.23	\$0.00	\$0.00	\$0.00	\$35.18	\$0.00 (E)

RIVER HILL COAL CO., INC.

Detailed Tonnage and Charge Report

All Transactions From All Sites By Job (1)

From 1/1/2006 to 6/30/2006

A	18189	3/14/2006	POT#1	TMT602	HAU	28.68	\$1.23	\$0.00	\$0.00	\$0.00	\$35.28	\$0.00 (E)
A	18190	3/14/2006	POT#1	HT7190	HAU	28.48	\$1.23	\$0.00	\$0.00	\$0.00	\$35.03	\$0.00 (E)
A	18191	3/14/2006	POT#1	RST106	HAU	30.58	\$1.23	\$0.00	\$0.00	\$0.00	\$37.61	\$0.00 (E)
A	18193	3/14/2006	POT#1	MM122	HAU	39.58	\$1.23	\$0.00	\$0.00	\$0.00	\$48.68	\$0.00 (E)
A	18194	3/14/2006	POT#1	RST105	HAU	28.51	\$1.23	\$0.00	\$0.00	\$0.00	\$35.07	\$0.00 (E)
A	18196	3/14/2006	POT#1	TMT602	HAU	27.57	\$1.23	\$0.00	\$0.00	\$0.00	\$33.91	\$0.00 (E)
A	18197	3/14/2006	POT#1	HT7190	HAU	29.00	\$1.23	\$0.00	\$0.00	\$0.00	\$35.67	\$0.00 (E)
A	18198	3/14/2006	POT#1	RST106	HAU	30.89	\$1.23	\$0.00	\$0.00	\$0.00	\$37.99	\$0.00 (E)
A	18199	3/14/2006	POT#1	MM122	HAU	38.12	\$1.23	\$0.00	\$0.00	\$0.00	\$46.89	\$0.00 (E)
A	18200	3/14/2006	POT#1	RST105	HAU	29.52	\$1.23	\$0.00	\$0.00	\$0.00	\$36.31	\$0.00 (E)
A	18204	3/14/2006	POT#1	TMT602	HAU	28.63	\$1.23	\$0.00	\$0.00	\$0.00	\$35.21	\$0.00 (E)
A	18205	3/14/2006	POT#1	HT7190	HAU	28.84	\$1.23	\$0.00	\$0.00	\$0.00	\$35.47	\$0.00 (E)
A	18206	3/14/2006	POT#1	RST106	HAU	30.77	\$1.23	\$0.00	\$0.00	\$0.00	\$37.85	\$0.00 (E)
A	18207	3/14/2006	POT#1	MM122	HAU	40.91	\$1.23	\$0.00	\$0.00	\$0.00	\$50.32	\$0.00 (E)
A	18208	3/14/2006	POT#1	RST105	HAU	30.32	\$1.23	\$0.00	\$0.00	\$0.00	\$37.29	\$0.00 (E)
A	18211	3/14/2006	POT#1	TMT602	HAU	29.08	\$1.23	\$0.00	\$0.00	\$0.00	\$35.77	\$0.00 (E)
A	18212	3/14/2006	POT#1	HT7190	HAU	28.37	\$1.23	\$0.00	\$0.00	\$0.00	\$34.90	\$0.00 (E)
A	18213	3/14/2006	POT#1	RST106	HAU	30.53	\$1.23	\$0.00	\$0.00	\$0.00	\$37.55	\$0.00 (E)
A	18214	3/14/2006	POT#1	MM122	HAU	38.14	\$1.23	\$0.00	\$0.00	\$0.00	\$46.91	\$0.00 (E)
A	18215	3/14/2006	POT#1	RST105	HAU	27.78	\$1.23	\$0.00	\$0.00	\$0.00	\$34.17	\$0.00 (E)
A	18218	3/14/2006	POT#1	MM121	HAU	29.70	\$1.23	\$0.00	\$0.00	\$0.00	\$36.53	\$0.00 (E)
A	18222	3/14/2006	POT#1	TMT602	HAU	27.85	\$1.23	\$0.00	\$0.00	\$0.00	\$34.26	\$0.00 (E)
A	18223	3/14/2006	POT#1	HT7190	HAU	28.80	\$1.23	\$0.00	\$0.00	\$0.00	\$35.42	\$0.00 (E)
A	18224	3/14/2006	POT#1	RST106	HAU	29.77	\$1.23	\$0.00	\$0.00	\$0.00	\$36.62	\$0.00 (E)
A	18226	3/14/2006	POT#1	MM122	HAU	37.95	\$1.23	\$0.00	\$0.00	\$0.00	\$46.68	\$0.00 (E)
A	18227	3/14/2006	POT#1	RST105	HAU	30.26	\$1.23	\$0.00	\$0.00	\$0.00	\$37.22	\$0.00 (E)
A	18228	3/14/2006	POT#1	MM121	HAU	26.69	\$1.23	\$0.00	\$0.00	\$0.00	\$32.83	\$0.00 (E)
A	18230	3/14/2006	POT#1	TMT602	HAU	28.22	\$1.23	\$0.00	\$0.00	\$0.00	\$34.71	\$0.00 (E)
A	18231	3/14/2006	POT#1	HT7190	HAU	27.93	\$1.23	\$0.00	\$0.00	\$0.00	\$34.35	\$0.00 (E)
A	18232	3/14/2006	POT#1	RST106	HAU	29.33	\$1.23	\$0.00	\$0.00	\$0.00	\$36.08	\$0.00 (E)
A	18234	3/14/2006	POT#1	MM122	HAU	37.37	\$1.23	\$0.00	\$0.00	\$0.00	\$45.97	\$0.00 (E)
A	18235	3/14/2006	POT#1	RST105	HAU	27.26	\$1.23	\$0.00	\$0.00	\$0.00	\$33.53	\$0.00 (E)
A	18236	3/14/2006	POT#1	MM121	HAU	27.73	\$1.23	\$0.00	\$0.00	\$0.00	\$34.11	\$0.00 (E)
A	18238	3/14/2006	POT#1	TMT602	HAU	27.62	\$1.23	\$0.00	\$0.00	\$0.00	\$33.97	\$0.00 (E)
A	18240	3/14/2006	POT#1	HT7190	HAU	28.84	\$1.23	\$0.00	\$0.00	\$0.00	\$35.47	\$0.00 (E)
A	18241	3/14/2006	POT#1	RST106	HAU	31.04	\$1.23	\$0.00	\$0.00	\$0.00	\$38.18	\$0.00 (E)
A	18242	3/14/2006	POT#1	MM122	HAU	38.53	\$1.23	\$0.00	\$0.00	\$0.00	\$47.39	\$0.00 (E)
A	18243	3/14/2006	POT#1	RST105	HAU	29.12	\$1.23	\$0.00	\$0.00	\$0.00	\$35.82	\$0.00 (E)
A	18244	3/14/2006	POT#1	MM121	HAU	28.64	\$1.23	\$0.00	\$0.00	\$0.00	\$35.23	\$0.00 (E)
A	18246	3/14/2006	POT#1	HT7190	HAU	28.23	\$1.23	\$0.00	\$0.00	\$0.00	\$34.72	\$0.00 (E)
A	18248	3/14/2006	POT#1	RST106	HAU	29.83	\$1.23	\$0.00	\$0.00	\$0.00	\$36.69	\$0.00 (E)
A	18375	3/16/2006	POT#1	MM117	HAU	26.89	\$1.23	\$0.00	\$0.00	\$0.00	\$33.07	\$0.00 (E)
A	18377	3/16/2006	POT#1	TMT602	HAU	27.90	\$1.23	\$0.00	\$0.00	\$0.00	\$34.32	\$0.00 (E)
A	18378	3/16/2006	POT#1	RST105	HAU	28.04	\$1.23	\$0.00	\$0.00	\$0.00	\$34.49	\$0.00 (E)
A	18379	3/16/2006	POT#1	HT7190	HAU	25.70	\$1.23	\$0.00	\$0.00	\$0.00	\$31.61	\$0.00 (E)
A	18380	3/16/2006	POT#1	RST106	HAU	28.65	\$1.23	\$0.00	\$0.00	\$0.00	\$35.24	\$0.00 (E)
A	18382	3/16/2006	POT#1	TMT602	HAU	28.43	\$1.23	\$0.00	\$0.00	\$0.00	\$34.97	\$0.00 (E)
A	18383	3/16/2006	POT#1	MM117	HAU	29.21	\$1.23	\$0.00	\$0.00	\$0.00	\$35.93	\$0.00 (E)
A	18385	3/16/2006	POT#1	RST105	HAU	27.61	\$1.23	\$0.00	\$0.00	\$0.00	\$33.96	\$0.00 (E)
A	18386	3/16/2006	POT#1	HT7190	HAU	26.64	\$1.23	\$0.00	\$0.00	\$0.00	\$32.77	\$0.00 (E)
A	18387	3/16/2006	POT#1	RST106	HAU	28.59	\$1.23	\$0.00	\$0.00	\$0.00	\$35.17	\$0.00 (E)
A	18388	3/16/2006	POT#1	TMT602	HAU	28.39	\$1.23	\$0.00	\$0.00	\$0.00	\$34.92	\$0.00 (E)
A	18389	3/16/2006	POT#1	MM117	HAU	28.32	\$1.23	\$0.00	\$0.00	\$0.00	\$34.83	\$0.00 (E)
A	18390	3/16/2006	POT#1	RST105	HAU	28.20	\$1.23	\$0.00	\$0.00	\$0.00	\$34.69	\$0.00 (E)
A	18391	3/16/2006	POT#1	HT7190	HAU	27.49	\$1.23	\$0.00	\$0.00	\$0.00	\$33.81	\$0.00 (E)
A	18392	3/16/2006	POT#1	RST106	HAU	28.40	\$1.23	\$0.00	\$0.00	\$0.00	\$34.93	\$0.00 (E)
A	18393	3/16/2006	POT#1	TMT602	HAU	28.56	\$1.23	\$0.00	\$0.00	\$0.00	\$35.13	\$0.00 (E)
A	18394	3/16/2006	POT#1	MM117	HAU	27.32	\$1.23	\$0.00	\$0.00	\$0.00	\$33.60	\$0.00 (E)

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RIVER HILL COAL CO., INC.

Detailed Tonnage and Charge Report

All Transactions From All Sites By Job (1)

From 1/1/2006 to 6/30/2006

A	18395	3/16/2006	POT#1	RST105	HAU	28.79	\$1.23	\$0.00	\$0.00	\$0.00	\$35.41	\$0.00 (E)
A	18396	3/16/2006	POT#1	HT7190	HAU	26.32	\$1.23	\$0.00	\$0.00	\$0.00	\$32.37	\$0.00 (E)
A	18397	3/16/2006	POT#1	RST106	HAU	28.25	\$1.23	\$0.00	\$0.00	\$0.00	\$34.75	\$0.00 (E)
A	18398	3/16/2006	POT#1	TMT602	HAU	27.45	\$1.23	\$0.00	\$0.00	\$0.00	\$33.76	\$0.00 (E)
A	18399	3/16/2006	POT#1	MM117	HAU	27.99	\$1.23	\$0.00	\$0.00	\$0.00	\$34.43	\$0.00 (E)
A	18400	3/16/2006	POT#1	RST105	HAU	27.07	\$1.23	\$0.00	\$0.00	\$0.00	\$33.30	\$0.00 (E)
A	18401	3/16/2006	POT#1	HT7190	HAU	26.37	\$1.23	\$0.00	\$0.00	\$0.00	\$32.44	\$0.00 (E)
A	18402	3/16/2006	POT#1	RST106	HAU	28.71	\$1.23	\$0.00	\$0.00	\$0.00	\$35.31	\$0.00 (E)
A	18403	3/16/2006	POT#1	TMT602	HAU	26.86	\$1.23	\$0.00	\$0.00	\$0.00	\$33.04	\$0.00 (E)
A	18404	3/16/2006	POT#1	MM117	HAU	27.35	\$1.23	\$0.00	\$0.00	\$0.00	\$33.64	\$0.00 (E)
A	18405	3/16/2006	POT#1	RST105	HAU	27.93	\$1.23	\$0.00	\$0.00	\$0.00	\$34.35	\$0.00 (E)
A	18407	3/16/2006	POT#1	HT7190	HAU	26.09	\$1.23	\$0.00	\$0.00	\$0.00	\$32.09	\$0.00 (E)
A	18408	3/16/2006	POT#1	RST106	HAU	28.53	\$1.23	\$0.00	\$0.00	\$0.00	\$35.09	\$0.00 (E)
A	18409	3/16/2006	POT#1	TMT602	HAU	27.99	\$1.23	\$0.00	\$0.00	\$0.00	\$34.43	\$0.00 (E)
A	18410	3/16/2006	POT#1	MM117	HAU	28.33	\$1.23	\$0.00	\$0.00	\$0.00	\$34.85	\$0.00 (E)
A	18411	3/16/2006	POT#1	MM121	HAU	27.51	\$1.23	\$0.00	\$0.00	\$0.00	\$33.84	\$0.00 (E)
A	18412	3/16/2006	POT#1	RST105	HAU	28.32	\$1.23	\$0.00	\$0.00	\$0.00	\$34.83	\$0.00 (E)
A	18413	3/16/2006	POT#1	HT7190	HAU	26.65	\$1.23	\$0.00	\$0.00	\$0.00	\$32.78	\$0.00 (E)
A	18414	3/16/2006	POT#1	RST106	HAU	27.85	\$1.23	\$0.00	\$0.00	\$0.00	\$34.26	\$0.00 (E)
A	18415	3/16/2006	POT#1	TMT602	HAU	27.28	\$1.23	\$0.00	\$0.00	\$0.00	\$33.55	\$0.00 (E)
A	18416	3/16/2006	POT#1	MM117	HAU	28.31	\$1.23	\$0.00	\$0.00	\$0.00	\$34.82	\$0.00 (E)
A	18418	3/16/2006	POT#1	RST105	HAU	28.65	\$1.23	\$0.00	\$0.00	\$0.00	\$35.24	\$0.00 (E)
A	18421	3/17/2006	POT#1	HT7190	HAU	27.35	\$1.23	\$0.00	\$0.00	\$0.00	\$33.64	\$0.00 (E)
A	18431	3/17/2006	POT#1	TMT602	HAU	28.17	\$1.23	\$0.00	\$0.00	\$0.00	\$34.65	\$0.00 (E)
A	18436	3/17/2006	POT#1	HT7190	HAU	26.95	\$1.23	\$0.00	\$0.00	\$0.00	\$33.15	\$0.00 (E)
A	18441	3/17/2006	POT#1	TMT602	HAU	28.63	\$1.23	\$0.00	\$0.00	\$0.00	\$35.21	\$0.00 (E)
A	18442	3/17/2006	POT#1	RST105	HAU	29.37	\$1.23	\$0.00	\$0.00	\$0.00	\$36.13	\$0.00 (E)
A	18443	3/17/2006	POT#1	HT7190	HAU	26.85	\$1.23	\$0.00	\$0.00	\$0.00	\$33.03	\$0.00 (E)
A	18445	3/17/2006	POT#1	TMT602	HAU	28.11	\$1.23	\$0.00	\$0.00	\$0.00	\$34.58	\$0.00 (E)
A	18446	3/17/2006	POT#1	RST105	HAU	28.42	\$1.23	\$0.00	\$0.00	\$0.00	\$34.96	\$0.00 (E)
A	18447	3/17/2006	POT#1	HT7190	HAU	26.36	\$1.23	\$0.00	\$0.00	\$0.00	\$32.42	\$0.00 (E)
A	18448	3/17/2006	POT#1	MM117	HAU	28.32	\$1.23	\$0.00	\$0.00	\$0.00	\$34.83	\$0.00 (E)
A	18450	3/17/2006	POT#1	TMT602	HAU	28.36	\$1.23	\$0.00	\$0.00	\$0.00	\$34.88	\$0.00 (E)
A	18451	3/17/2006	POT#1	RST105	HAU	28.25	\$1.23	\$0.00	\$0.00	\$0.00	\$34.75	\$0.00 (E)
A	18452	3/17/2006	POT#1	HT7190	HAU	25.87	\$1.23	\$0.00	\$0.00	\$0.00	\$31.82	\$0.00 (E)
A	18453	3/17/2006	POT#1	MM117	HAU	28.05	\$1.23	\$0.00	\$0.00	\$0.00	\$34.50	\$0.00 (E)
A	18454	3/17/2006	POT#1	TMT602	HAU	28.43	\$1.23	\$0.00	\$0.00	\$0.00	\$34.97	\$0.00 (E)
A	18455	3/17/2006	POT#1	RST105	HAU	28.86	\$1.23	\$0.00	\$0.00	\$0.00	\$35.50	\$0.00 (E)
A	18456	3/17/2006	POT#1	RST107	HAU	24.33	\$1.23	\$0.00	\$0.00	\$0.00	\$29.93	\$0.00 (E)
A	18458	3/17/2006	POT#1	HT7190	HAU	26.80	\$1.23	\$0.00	\$0.00	\$0.00	\$32.96	\$0.00 (E)
A	18459	3/17/2006	POT#1	MM117	HAU	28.11	\$1.23	\$0.00	\$0.00	\$0.00	\$34.58	\$0.00 (E)
A	18464	3/17/2006	POT#1	TMT602	HAU	28.09	\$1.23	\$0.00	\$0.00	\$0.00	\$34.55	\$0.00 (E)
A	18465	3/17/2006	POT#1	RST105	HAU	29.87	\$1.23	\$0.00	\$0.00	\$0.00	\$36.74	\$0.00 (E)
A	18466	3/17/2006	POT#1	MM117	HAU	28.05	\$1.23	\$0.00	\$0.00	\$0.00	\$34.50	\$0.00 (E)
A	18467	3/17/2006	POT#1	HT7190	HAU	26.44	\$1.23	\$0.00	\$0.00	\$0.00	\$32.52	\$0.00 (E)
A	18469	3/17/2006	POT#1	TMT602	HAU	28.42	\$1.23	\$0.00	\$0.00	\$0.00	\$34.96	\$0.00 (E)
A	18470	3/17/2006	POT#1	RST105	HAU	29.12	\$1.23	\$0.00	\$0.00	\$0.00	\$35.82	\$0.00 (E)
A	18471	3/17/2006	POT#1	MM117	HAU	29.21	\$1.23	\$0.00	\$0.00	\$0.00	\$35.93	\$0.00 (E)
A	18473	3/17/2006	POT#1	HT7190	HAU	28.73	\$1.23	\$0.00	\$0.00	\$0.00	\$35.34	\$0.00 (E)
A	18475	3/17/2006	POT#1	TMT602	HAU	28.24	\$1.23	\$0.00	\$0.00	\$0.00	\$34.74	\$0.00 (E)
A	18476	3/17/2006	POT#1	RST105	HAU	24.93	\$1.23	\$0.00	\$0.00	\$0.00	\$30.66	\$0.00 (E)
A	18479	3/17/2006	POT#1	MM117	HAU	28.00	\$1.23	\$0.00	\$0.00	\$0.00	\$34.44	\$0.00 (E)
A	18589	3/22/2006	POT#1	ST4	HAU	26.77	\$1.23	\$0.00	\$0.00	\$0.00	\$32.93	\$0.00 (E)
A	375121	6/24/2006	POT#1	HT7190	HAU	28.98	\$1.23	\$0.00	\$0.00	\$0.00	\$35.65	\$0.00 (E)
A	375123	6/24/2006	POT#1	TMT602	HAU	27.75	\$1.23	\$0.00	\$0.00	\$0.00	\$34.13	\$0.00 (E)
A	375124	6/24/2006	POT#1	MM122	HAU	37.14	\$1.23	\$0.00	\$0.00	\$0.00	\$45.68	\$0.00 (E)
A	375125	6/24/2006	POT#1	RST105	HAU	27.70	\$1.23	\$0.00	\$0.00	\$0.00	\$34.07	\$0.00 (E)
A	375126	6/24/2006	POT#1	RST106	HAU	29.35	\$1.23	\$0.00	\$0.00	\$0.00	\$36.10	\$0.00 (E)

RIVER HILL COAL CO., INC.

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From 1/1/2006 to 6/30/2006

A	375127	6/24/2006	POT#1	HT7190	HAU	27.19	\$1.23	\$0.00	\$0.00	\$0.00	\$33.44	\$0.00 (E)
A	375128	6/24/2006	POT#1	TMT602	HAU	28.89	\$1.23	\$0.00	\$0.00	\$0.00	\$35.53	\$0.00 (E)
A	375129	6/24/2006	POT#1	MM122	HAU	38.35	\$1.23	\$0.00	\$0.00	\$0.00	\$47.17	\$0.00 (E)
A	375130	6/24/2006	POT#1	RST105	HAU	28.17	\$1.23	\$0.00	\$0.00	\$0.00	\$34.65	\$0.00 (E)
A	375131	6/24/2006	POT#1	RST106	HAU	28.47	\$1.23	\$0.00	\$0.00	\$0.00	\$35.02	\$0.00 (E)
A	375132	6/24/2006	POT#1	HT7190	HAU	28.24	\$1.23	\$0.00	\$0.00	\$0.00	\$34.74	\$0.00 (E)
A	375133	6/24/2006	POT#1	TMT602	HAU	27.51	\$1.23	\$0.00	\$0.00	\$0.00	\$33.84	\$0.00 (E)
A	375134	6/24/2006	POT#1	MM122	HAU	37.65	\$1.23	\$0.00	\$0.00	\$0.00	\$46.31	\$0.00 (E)
A	375135	6/24/2006	POT#1	RST105	HAU	27.32	\$1.23	\$0.00	\$0.00	\$0.00	\$33.60	\$0.00 (E)
C	100199862	6/26/2006	POT#1	VCT4	HAU	26.49	\$1.23	\$0.00	\$0.00	\$0.00	\$32.58	\$0.00 (E)
A	100200302	6/26/2006	POT#1	MM122	HAU	36.67	\$1.23	\$0.00	\$0.00	\$0.00	\$45.10	\$0.00 (E)
A	100200305	6/26/2006	POT#1	VCT4	HAU	26.92	\$1.23	\$0.00	\$0.00	\$0.00	\$33.11	\$0.00 (E)
A	100200309	6/26/2006	POT#1	MM122	HAU	35.51	\$1.23	\$0.00	\$0.00	\$0.00	\$43.68	\$0.00 (E)
A	100200310	6/26/2006	POT#1	TMT602	HAU	27.76	\$1.23	\$0.00	\$0.00	\$0.00	\$34.14	\$0.00 (E)
A	100200311	6/26/2006	POT#1	RST105	HAU	27.72	\$1.23	\$0.00	\$0.00	\$0.00	\$34.10	\$0.00 (E)
A	100200312	6/26/2006	POT#1	VCT4	HAU	27.07	\$1.23	\$0.00	\$0.00	\$0.00	\$33.30	\$0.00 (E)
A	100200313	6/26/2006	POT#1	HT7190	HAU	27.68	\$1.23	\$0.00	\$0.00	\$0.00	\$34.05	\$0.00 (E)
A	100200314	6/26/2006	POT#1	MM122	HAU	37.70	\$1.23	\$0.00	\$0.00	\$0.00	\$46.37	\$0.00 (E)
A	100200316	6/26/2006	POT#1	TMT602	HAU	27.11	\$1.23	\$0.00	\$0.00	\$0.00	\$33.35	\$0.00 (E)
A	100200317	6/26/2006	POT#1	RST105	HAU	27.43	\$1.23	\$0.00	\$0.00	\$0.00	\$33.74	\$0.00 (E)
A	100200319	6/26/2006	POT#1	VCT4	HAU	27.05	\$1.23	\$0.00	\$0.00	\$0.00	\$33.27	\$0.00 (E)
A	100200320	6/26/2006	POT#1	HT7190	HAU	27.07	\$1.23	\$0.00	\$0.00	\$0.00	\$33.30	\$0.00 (E)
A	100200321	6/26/2006	POT#1	MM122	HAU	36.87	\$1.23	\$0.00	\$0.00	\$0.00	\$45.35	\$0.00 (E)
A	100200323	6/26/2006	POT#1	RST106	HAU	28.21	\$1.23	\$0.00	\$0.00	\$0.00	\$34.70	\$0.00 (E)
A	100200324	6/26/2006	POT#1	TMT602	HAU	29.13	\$1.23	\$0.00	\$0.00	\$0.00	\$35.83	\$0.00 (E)
A	100200325	6/26/2006	POT#1	RST105	HAU	27.58	\$1.23	\$0.00	\$0.00	\$0.00	\$33.92	\$0.00 (E)
A	100200326	6/26/2006	POT#1	HT7190	HAU	27.33	\$1.23	\$0.00	\$0.00	\$0.00	\$33.62	\$0.00 (E)
A	100200327	6/26/2006	POT#1	MM122	HAU	36.03	\$1.23	\$0.00	\$0.00	\$0.00	\$44.32	\$0.00 (E)
A	100200328	6/26/2006	POT#1	RST106	HAU	29.31	\$1.23	\$0.00	\$0.00	\$0.00	\$36.05	\$0.00 (E)
A	100200329	6/26/2006	POT#1	TMT602	HAU	27.26	\$1.23	\$0.00	\$0.00	\$0.00	\$33.53	\$0.00 (E)
A	100200330	6/26/2006	POT#1	RST105	HAU	27.43	\$1.23	\$0.00	\$0.00	\$0.00	\$33.74	\$0.00 (E)
A	100200331	6/26/2006	POT#1	VCT4	HAU	26.89	\$1.23	\$0.00	\$0.00	\$0.00	\$33.07	\$0.00 (E)
A	100200332	6/26/2006	POT#1	HT7190	HAU	27.61	\$1.23	\$0.00	\$0.00	\$0.00	\$33.96	\$0.00 (E)
A	100200333	6/26/2006	POT#1	MM122	HAU	37.19	\$1.23	\$0.00	\$0.00	\$0.00	\$45.74	\$0.00 (E)
A	100200334	6/26/2006	POT#1	RST106	HAU	29.18	\$1.23	\$0.00	\$0.00	\$0.00	\$35.89	\$0.00 (E)
A	100200335	6/26/2006	POT#1	TMT602	HAU	28.92	\$1.23	\$0.00	\$0.00	\$0.00	\$35.57	\$0.00 (E)
A	100200336	6/26/2006	POT#1	RST105	HAU	27.42	\$1.23	\$0.00	\$0.00	\$0.00	\$33.73	\$0.00 (E)
A	100200338	6/26/2006	POT#1	VCT4	HAU	27.15	\$1.23	\$0.00	\$0.00	\$0.00	\$33.39	\$0.00 (E)
A	100200341	6/26/2006	POT#1	HT7190	HAU	27.70	\$1.23	\$0.00	\$0.00	\$0.00	\$34.07	\$0.00 (E)
A	100200342	6/26/2006	POT#1	RST106	HAU	28.39	\$1.23	\$0.00	\$0.00	\$0.00	\$34.92	\$0.00 (E)
A	100200343	6/26/2006	POT#1	MM122	HAU	36.09	\$1.23	\$0.00	\$0.00	\$0.00	\$44.39	\$0.00 (E)
A	100200344	6/26/2006	POT#1	TMT602	HAU	27.34	\$1.23	\$0.00	\$0.00	\$0.00	\$33.63	\$0.00 (E)
A	100200345	6/26/2006	POT#1	RST105	HAU	27.22	\$1.23	\$0.00	\$0.00	\$0.00	\$33.48	\$0.00 (E)
A	100200346	6/26/2006	POT#1	VCT4	HAU	26.39	\$1.23	\$0.00	\$0.00	\$0.00	\$32.46	\$0.00 (E)
A	100200347	6/26/2006	POT#1	HT7190	HAU	26.08	\$1.23	\$0.00	\$0.00	\$0.00	\$32.08	\$0.00 (E)
A	100200348	6/26/2006	POT#1	RST106	HAU	28.37	\$1.23	\$0.00	\$0.00	\$0.00	\$34.90	\$0.00 (E)
A	100200349	6/26/2006	POT#1	MM122	HAU	36.19	\$1.23	\$0.00	\$0.00	\$0.00	\$44.51	\$0.00 (E)
A	100200350	6/26/2006	POT#1	TMT602	HAU	29.06	\$1.23	\$0.00	\$0.00	\$0.00	\$35.74	\$0.00 (E)
A	100200351	6/26/2006	POT#1	RST105	HAU	28.95	\$1.23	\$0.00	\$0.00	\$0.00	\$35.61	\$0.00 (E)
A	100200352	6/26/2006	POT#1	VCT4	HAU	27.81	\$1.23	\$0.00	\$0.00	\$0.00	\$34.21	\$0.00 (E)
A	100200353	6/26/2006	POT#1	HT7190	HAU	27.82	\$1.23	\$0.00	\$0.00	\$0.00	\$34.22	\$0.00 (E)
A	100200354	6/26/2006	POT#1	RST106	HAU	30.39	\$1.23	\$0.00	\$0.00	\$0.00	\$37.38	\$0.00 (E)
A	100200356	6/26/2006	POT#1	MM122	HAU	35.48	\$1.23	\$0.00	\$0.00	\$0.00	\$43.64	\$0.00 (E)
A	100200357	6/26/2006	POT#1	TMT602	HAU	28.93	\$1.23	\$0.00	\$0.00	\$0.00	\$35.58	\$0.00 (E)
A	100200358	6/26/2006	POT#1	RST105	HAU	28.37	\$1.23	\$0.00	\$0.00	\$0.00	\$34.90	\$0.00 (E)
A	100200360	6/26/2006	POT#1	VCT4	HAU	27.96	\$1.23	\$0.00	\$0.00	\$0.00	\$34.39	\$0.00 (E)
A	100200361	6/26/2006	POT#1	HT7190	HAU	28.40	\$1.23	\$0.00	\$0.00	\$0.00	\$34.93	\$0.00 (E)
A	100200362	6/26/2006	POT#1	RST106	HAU	29.26	\$1.23	\$0.00	\$0.00	\$0.00	\$35.99	\$0.00 (E)

RIVER HILL COAL CO., INC.

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A	100200363	6/26/2006	POT#1	MM122	HAU	35.93	\$1.23	\$0.00	\$0.00	\$0.00	\$44.19	\$0.00 (E)
A	100200364	6/26/2006	POT#1	TMT602	HAU	28.06	\$1.23	\$0.00	\$0.00	\$0.00	\$34.51	\$0.00 (E)
A	100200365	6/26/2006	POT#1	RST105	HAU	28.52	\$1.23	\$0.00	\$0.00	\$0.00	\$35.08	\$0.00 (E)
A	100200366	6/26/2006	POT#1	VCT4	HAU	27.33	\$1.23	\$0.00	\$0.00	\$0.00	\$33.62	\$0.00 (E)
A	100200367	6/26/2006	POT#1	HT7190	HAU	28.23	\$1.23	\$0.00	\$0.00	\$0.00	\$34.72	\$0.00 (E)
A	100200368	6/26/2006	POT#1	RST106	HAU	30.75	\$1.23	\$0.00	\$0.00	\$0.00	\$37.82	\$0.00 (E)
A	100200370	6/26/2006	POT#1	MM122	HAU	35.31	\$1.23	\$0.00	\$0.00	\$0.00	\$43.43	\$0.00 (E)
A	100200372	6/26/2006	POT#1	RST105	HAU	27.33	\$1.23	\$0.00	\$0.00	\$0.00	\$33.62	\$0.00 (E)
A	100200374	6/27/2006	POT#1	MM122	HAU	38.65	\$1.23	\$0.00	\$0.00	\$0.00	\$47.54	\$0.00 (E)
A	100200376	6/27/2006	POT#1	VCT4	HAU	26.70	\$1.23	\$0.00	\$0.00	\$0.00	\$32.84	\$0.00 (E)
A	100200379	6/27/2006	POT#1	TMT602	HAU	27.82	\$1.23	\$0.00	\$0.00	\$0.00	\$34.22	\$0.00 (E)
A	100200380	6/27/2006	POT#1	MM122	HAU	34.26	\$1.23	\$0.00	\$0.00	\$0.00	\$42.14	\$0.00 (E)
A	100200381	6/27/2006	POT#1	VCT4	HAU	27.18	\$1.23	\$0.00	\$0.00	\$0.00	\$33.43	\$0.00 (E)
A	100200382	6/27/2006	POT#1	RST106	HAU	29.49	\$1.23	\$0.00	\$0.00	\$0.00	\$36.27	\$0.00 (E)
A	100200383	6/27/2006	POT#1	HT7190	HAU	27.68	\$1.23	\$0.00	\$0.00	\$0.00	\$34.05	\$0.00 (E)
A	100200384	6/27/2006	POT#1	TMT602	HAU	29.37	\$1.23	\$0.00	\$0.00	\$0.00	\$36.13	\$0.00 (E)
A	100200385	6/27/2006	POT#1	MM122	HAU	35.73	\$1.23	\$0.00	\$0.00	\$0.00	\$43.95	\$0.00 (E)
A	100200386	6/27/2006	POT#1	RST106	HAU	30.17	\$1.23	\$0.00	\$0.00	\$0.00	\$37.11	\$0.00 (E)
A	100200387	6/27/2006	POT#1	VCT4	HAU	27.36	\$1.23	\$0.00	\$0.00	\$0.00	\$33.65	\$0.00 (E)
A	100200388	6/27/2006	POT#1	HT7190	HAU	27.68	\$1.23	\$0.00	\$0.00	\$0.00	\$34.05	\$0.00 (E)
A	100200389	6/27/2006	POT#1	TMT602	HAU	28.98	\$1.23	\$0.00	\$0.00	\$0.00	\$35.65	\$0.00 (E)
A	100200390	6/27/2006	POT#1	MM122	HAU	36.06	\$1.23	\$0.00	\$0.00	\$0.00	\$44.35	\$0.00 (E)
A	100200393	6/27/2006	POT#1	RST106	HAU	30.75	\$1.23	\$0.00	\$0.00	\$0.00	\$37.82	\$0.00 (E)
A	100200394	6/27/2006	POT#1	HT7190	HAU	27.36	\$1.23	\$0.00	\$0.00	\$0.00	\$33.65	\$0.00 (E)
A	100200396	6/27/2006	POT#1	VCT4	HAU	27.73	\$1.23	\$0.00	\$0.00	\$0.00	\$34.11	\$0.00 (E)
A	100200398	6/27/2006	POT#1	TMT602	HAU	28.47	\$1.23	\$0.00	\$0.00	\$0.00	\$35.02	\$0.00 (E)
A	100200399	6/27/2006	POT#1	MM122	HAU	35.68	\$1.23	\$0.00	\$0.00	\$0.00	\$43.89	\$0.00 (E)
A	100200400	6/27/2006	POT#1	RST106	HAU	30.35	\$1.23	\$0.00	\$0.00	\$0.00	\$37.33	\$0.00 (E)
A	100200402	6/27/2006	POT#1	HT7190	HAU	27.96	\$1.23	\$0.00	\$0.00	\$0.00	\$34.39	\$0.00 (E)
A	100200403	6/27/2006	POT#1	VCT4	HAU	27.27	\$1.23	\$0.00	\$0.00	\$0.00	\$33.54	\$0.00 (E)
A	100200404	6/27/2006	POT#1	TMT602	HAU	27.23	\$1.23	\$0.00	\$0.00	\$0.00	\$33.49	\$0.00 (E)
A	100200405	6/27/2006	POT#1	MM122	HAU	33.93	\$1.23	\$0.00	\$0.00	\$0.00	\$41.73	\$0.00 (E)
A	100200406	6/27/2006	POT#1	RST106	HAU	28.94	\$1.23	\$0.00	\$0.00	\$0.00	\$35.60	\$0.00 (E)
A	100200407	6/27/2006	POT#1	HT7190	HAU	27.20	\$1.23	\$0.00	\$0.00	\$0.00	\$33.46	\$0.00 (E)
A	100200408	6/27/2006	POT#1	VCT4	HAU	27.23	\$1.23	\$0.00	\$0.00	\$0.00	\$33.49	\$0.00 (E)
A	100200409	6/27/2006	POT#1	TMT602	HAU	29.01	\$1.23	\$0.00	\$0.00	\$0.00	\$35.68	\$0.00 (E)
A	100200410	6/27/2006	POT#1	MM122	HAU	34.71	\$1.23	\$0.00	\$0.00	\$0.00	\$42.69	\$0.00 (E)
A	100200411	6/27/2006	POT#1	RST106	HAU	29.75	\$1.23	\$0.00	\$0.00	\$0.00	\$36.59	\$0.00 (E)
A	100200413	6/27/2006	POT#1	HT7190	HAU	26.98	\$1.23	\$0.00	\$0.00	\$0.00	\$33.19	\$0.00 (E)
A	100200416	6/27/2006	POT#1	VCT4	HAU	26.93	\$1.23	\$0.00	\$0.00	\$0.00	\$33.12	\$0.00 (E)
A	100200418	6/27/2006	POT#1	TMT602	HAU	28.21	\$1.23	\$0.00	\$0.00	\$0.00	\$34.70	\$0.00 (E)
A	100200419	6/27/2006	POT#1	MM122	HAU	35.89	\$1.23	\$0.00	\$0.00	\$0.00	\$44.14	\$0.00 (E)
A	100200420	6/27/2006	POT#1	RST106	HAU	29.13	\$1.23	\$0.00	\$0.00	\$0.00	\$35.83	\$0.00 (E)
A	100200421	6/27/2006	POT#1	HT7190	HAU	27.91	\$1.23	\$0.00	\$0.00	\$0.00	\$34.33	\$0.00 (E)
A	100200422	6/27/2006	POT#1	VCT4	HAU	27.39	\$1.23	\$0.00	\$0.00	\$0.00	\$33.69	\$0.00 (E)
A	100200423	6/27/2006	POT#1	TMT602	HAU	29.88	\$1.23	\$0.00	\$0.00	\$0.00	\$36.75	\$0.00 (E)
A	100200424	6/27/2006	POT#1	MM122	HAU	36.73	\$1.23	\$0.00	\$0.00	\$0.00	\$45.18	\$0.00 (E)
A	100200425	6/27/2006	POT#1	RST106	HAU	31.69	\$1.23	\$0.00	\$0.00	\$0.00	\$38.98	\$0.00 (E)
A	100200426	6/27/2006	POT#1	HT7190	HAU	27.29	\$1.23	\$0.00	\$0.00	\$0.00	\$33.57	\$0.00 (E)
A	100200428	6/27/2006	POT#1	VCT4	HAU	27.66	\$1.23	\$0.00	\$0.00	\$0.00	\$34.02	\$0.00 (E)
A	100200429	6/27/2006	POT#1	TMT602	HAU	27.50	\$1.23	\$0.00	\$0.00	\$0.00	\$33.83	\$0.00 (E)
A	100200430	6/27/2006	POT#1	MM122	HAU	33.86	\$1.23	\$0.00	\$0.00	\$0.00	\$41.65	\$0.00 (E)
A	100200431	6/27/2006	POT#1	RST106	HAU	28.92	\$1.23	\$0.00	\$0.00	\$0.00	\$35.57	\$0.00 (E)
A	100200432	6/27/2006	POT#1	HT7190	HAU	27.72	\$1.23	\$0.00	\$0.00	\$0.00	\$34.10	\$0.00 (E)
A	100200435	6/27/2006	POT#1	VCT4	HAU	26.56	\$1.23	\$0.00	\$0.00	\$0.00	\$32.67	\$0.00 (E)
A	100200436	6/27/2006	POT#1	TMT602	HAU	29.43	\$1.23	\$0.00	\$0.00	\$0.00	\$36.20	\$0.00 (E)
A	100200437	6/27/2006	POT#1	MM122	HAU	34.07	\$1.23	\$0.00	\$0.00	\$0.00	\$41.91	\$0.00 (E)
A	100200438	6/27/2006	POT#1	RST106	HAU	29.25	\$1.23	\$0.00	\$0.00	\$0.00	\$35.98	\$0.00 (E)

port Date 8/22/2006

ROGER HILL COAL CO., INC.

Detailed Tonnage and Charge Report

All Transactions From All Sites By Job (1)

From 1/1/2006 to 6/30/2006

A	100200441	6/27/2006	POT#1	HT7190	HAU	28.13	\$1.23	\$0.00	\$0.00	\$0.00	\$34.60	\$0.00 (E)
A	100200442	6/27/2006	POT#1	VCT4	HAU	27.12	\$1.23	\$0.00	\$0.00	\$0.00	\$33.36	\$0.00 (E)
A	100200447	6/28/2006	POT#1	VCT4	HAU	26.90	\$1.23	\$0.00	\$0.00	\$0.00	\$33.09	\$0.00 (E)
A	100200449	6/28/2006	POT#1	MM122	HAU	36.31	\$1.23	\$0.00	\$0.00	\$0.00	\$44.66	\$0.00 (E)
A	100200454	6/28/2006	POT#1	TMT602	HAU	27.77	\$1.23	\$0.00	\$0.00	\$0.00	\$34.16	\$0.00 (E)
A	100200455	6/28/2006	POT#1	RST105	HAU	27.70	\$1.23	\$0.00	\$0.00	\$0.00	\$34.07	\$0.00 (E)
A	100200457	6/28/2006	POT#1	HT7190	HAU	27.22	\$1.23	\$0.00	\$0.00	\$0.00	\$33.48	\$0.00 (E)
A	100200458	6/28/2006	POT#1	VCT4	HAU	27.22	\$1.23	\$0.00	\$0.00	\$0.00	\$33.48	\$0.00 (E)
A	100200459	6/28/2006	POT#1	MM122	HAU	34.46	\$1.23	\$0.00	\$0.00	\$0.00	\$42.39	\$0.00 (E)
A	100200462	6/28/2006	POT#1	TMT602	HAU	28.19	\$1.23	\$0.00	\$0.00	\$0.00	\$34.67	\$0.00 (E)
A	100200463	6/28/2006	POT#1	RST105	HAU	27.35	\$1.23	\$0.00	\$0.00	\$0.00	\$33.64	\$0.00 (E)
A	100200464	6/28/2006	POT#1	VCT4	HAU	27.64	\$1.23	\$0.00	\$0.00	\$0.00	\$34.00	\$0.00 (E)
A	100200465	6/28/2006	POT#1	HT7190	HAU	28.50	\$1.23	\$0.00	\$0.00	\$0.00	\$35.06	\$0.00 (E)
A	100200466	6/28/2006	POT#1	RST106	HAU	30.41	\$1.23	\$0.00	\$0.00	\$0.00	\$37.40	\$0.00 (E)
A	100200467	6/28/2006	POT#1	MM122	HAU	35.66	\$1.23	\$0.00	\$0.00	\$0.00	\$43.86	\$0.00 (E)
A	100200468	6/28/2006	POT#1	TMT602	HAU	28.02	\$1.23	\$0.00	\$0.00	\$0.00	\$34.46	\$0.00 (E)
A	100200469	6/28/2006	POT#1	RST105	HAU	28.70	\$1.23	\$0.00	\$0.00	\$0.00	\$35.30	\$0.00 (E)
A	100200470	6/28/2006	POT#1	VCT4	HAU	28.88	\$1.23	\$0.00	\$0.00	\$0.00	\$35.52	\$0.00 (E)
A	100200471	6/28/2006	POT#1	RST106	HAU	30.38	\$1.23	\$0.00	\$0.00	\$0.00	\$37.37	\$0.00 (E)
A	100200472	6/28/2006	POT#1	HT7190	HAU	27.73	\$1.23	\$0.00	\$0.00	\$0.00	\$34.11	\$0.00 (E)
A	100200473	6/28/2006	POT#1	MM122	HAU	34.63	\$1.23	\$0.00	\$0.00	\$0.00	\$42.59	\$0.00 (E)
A	100200474	6/28/2006	POT#1	TMT602	HAU	27.02	\$1.23	\$0.00	\$0.00	\$0.00	\$33.23	\$0.00 (E)
A	100200475	6/28/2006	POT#1	RST105	HAU	27.31	\$1.23	\$0.00	\$0.00	\$0.00	\$33.59	\$0.00 (E)
A	100200476	6/28/2006	POT#1	VCT4	HAU	26.32	\$1.23	\$0.00	\$0.00	\$0.00	\$32.37	\$0.00 (E)
A	100200477	6/28/2006	POT#1	RST106	HAU	30.31	\$1.23	\$0.00	\$0.00	\$0.00	\$37.28	\$0.00 (E)
A	100200478	6/28/2006	POT#1	HT7190	HAU	27.31	\$1.23	\$0.00	\$0.00	\$0.00	\$33.59	\$0.00 (E)
A	100200479	6/28/2006	POT#1	MM122	HAU	35.17	\$1.23	\$0.00	\$0.00	\$0.00	\$43.26	\$0.00 (E)
A	100200480	6/28/2006	POT#1	TMT602	HAU	27.13	\$1.23	\$0.00	\$0.00	\$0.00	\$33.37	\$0.00 (E)
A	100200481	6/28/2006	POT#1	RST105	HAU	27.14	\$1.23	\$0.00	\$0.00	\$0.00	\$33.38	\$0.00 (E)
A	100200484	6/28/2006	POT#1	VCT4	HAU	24.26	\$1.23	\$0.00	\$0.00	\$0.00	\$29.84	\$0.00 (E)

HEMLOCK PIT / NAREHOOD	I	Loads	Tons	Yards	Units	Add Chg	Sales Tax	Total Charge	Paid
		489	14,326.35	0.00	0.00	\$0.00	\$0.00	\$17,621.52	\$0.00

Grand Totals		Loads	Tons	Yards	Units	Add Chg	Sales Tax	Total Charge	Paid
		489	14,326.35	0.00	0.00	\$0.00	\$0.00	\$17,621.52	\$0.00

ACCOUNT NO.

VOUCHER INVOICE NUMBER
85017 30506
85425 33106

INV. DATE
3/05/06
3/31/06

VENDOR 426
REFERENCE

Leitzinger Land Co., Inc.
INVOICE AMOUNT
39.96
9,491.62

CHECK NO. 056878
AMOUNT PAID
39.96
9,491.62

CHECK DATE 4/20/06
DISCOUNT TAKEN
.00
NET AMOUNT
39.96
9,491.62

Narehood - 3432.1

~~CHECK TOTAL 9,531.58~~

56

RIVER HILL COAL CO., INC.

P.O. BOX 141
KYLERTOWN, PA 16847
(814) 345-5642

COUNTY NATIONAL BANK
MAIN OFFICE, CLEARFIELD, PA
60-627-313

DATE

CHECK NO.

04/20/06 056870
CHECK AMOUNT

PAY

NINE THOUSAND FIVE HUNDRED THIRTY-ONE AND *****
58/100 DOLLARS*****

\$*****9,531.58

TO THE
ORDER
OF

Leitzinger Land Co., Inc.
Attn: Jim Leitzinger
404 West 7th Ave.
Clearfield PA 16830

NOT NEGOTIABLE

⑈056870⑈ ⑆031306278⑆ ⑆57300⑈5⑈

ACCOUNT NO.

VOUCHER	INVOICE NUMBER	INV. DATE
87070	63005	6/30/06
87232	70106	7/01/06

426
 VENDOR REFERENCE

Leitzinger Land Co., Inc.

CHECK NO. 057432

CHECK DATE 7/20/06

INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET AMOUNT
7,724.04	7,724.04	.00	7,724.04
566.18	566.18	.00	566.18

Narehood — \$ 1100.03

CHECK-TOTAL 8,290.22

5743

RIVER HILL COAL CO., INC.

P.O. BOX 141
KYLERTOWN, PA 16847
(814) 345-5642

COUNTY NATIONAL BANK
MAIN OFFICE, CLEARFIELD, PA
60-627-313

DATE

CHECK NO.

07/20/06

057432

CHECK AMOUNT

PAY

EIGHT THOUSAND TWO HUNDRED NINETY AND 22/100*****
DOLLARS*****

\$*****8,290.22

TO THE
ORDER
OF

Leitzinger Land Co., Inc.
Attn: Jim Leitzinger
404 West 7th Ave.
Clearfield PA 16830

NOT NEGOTIABLE

⑈057432⑈ ⑆021306273⑆ ⑆57300⑈5⑈

ROVER HILL COAL CO., INC.

Detailed Tonnage and Charge Report

All Transactions From All Sites By Job (1)

From 7/1/2006 to 7/31/2006

HEMLOCK PIT / NAREHOOD 1

Site	Ticket	Date	Account	Truck	Code	Qty	----- Fees -----		Add Chg	Sales Tax	Total Charge	Paid
							Per Qty	Per Load				
A	376755	7/31/2006	POT#1	RST106	HAU	27.83	\$1.23	\$0.00	\$0.00	\$0.00	\$34.23	\$0.00 (E)
A	376757	7/31/2006	POT#1	VCT4	HAU	26.73	\$1.23	\$0.00	\$0.00	\$0.00	\$32.88	\$0.00 (E)
A	376758	7/31/2006	POT#1	TMT602	HAU	27.09	\$1.23	\$0.00	\$0.00	\$0.00	\$33.32	\$0.00 (E)
A	376759	7/31/2006	POT#1	HT7190	HAU	26.42	\$1.23	\$0.00	\$0.00	\$0.00	\$32.50	\$0.00 (E)
A	376760	7/31/2006	POT#1	RST106	HAU	27.50	\$1.23	\$0.00	\$0.00	\$0.00	\$33.83	\$0.00 (E)
A	376761	7/31/2006	POT#1	MM122	HAU	37.94	\$1.23	\$0.00	\$0.00	\$0.00	\$46.67	\$0.00 (E)
A	376762	7/31/2006	POT#1	VCT4	HAU	27.53	\$1.23	\$0.00	\$0.00	\$0.00	\$33.86	\$0.00 (E)

HEMLOCK PIT / NAREHOOD 1	Loads	Tons	Yards	Units	Add Chg	Sales Tax	Total Charge	Paid
	7	201.04	0.00	0.00	\$0.00	\$0.00	\$247.29	\$0.00

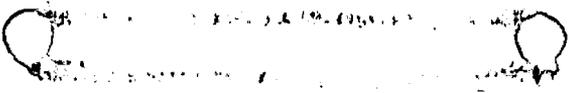
Grand Totals	Loads	Tons	Yards	Units	Add Chg	Sales Tax	Total Charge	Paid
	7	201.04	0.00	0.00	\$0.00	\$0.00	\$247.29	\$0.00

not paid

FILED

APR 05 2007

William A. Shaw
Prothonotary/Clerk of Courts



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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually, and as Attorney-in-
Fact for the heirs of FRANK T.
HERTLEIN and IVY E. HERTLEIN,
Plaintiffs,

v.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation,
and
LEITZINGER LAND COMPANY, INC.,
Defendants.

No. 06 - 903 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

On behalf of Plaintiffs:

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED ^{icc} ^{Att}
0/3:45 ^{Naddeo}
APR 02 2007
US

William A. Shaw
Prothonotary/Clerk of Courts

(16)

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

No. 06 - 903 - CD

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Stipulation in the above-captioned action case was served on the following person and in the following manner on the 2nd day of April, 2007:

Hand Delivered

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

Naddeo & Lewis, LLC

By: James A. Naddeo
James A. Naddeo
Attorney for Plaintiffs

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fact for the
Heirs of FRANK T. HERLEIN and
IVY E. HERTLEIN,

Plaintiffs

vs.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation

Defendant

and

LEITZINGER LAND COMPANY, INC.

Defendant

No. 06-903-CD

FILED

01/10/2007
FEB 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

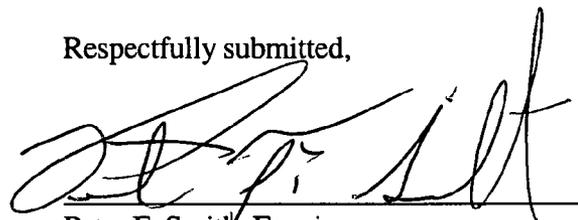
I, Peter F. Smith, attorney for Defendant, Leitzinger Land Company, Inc., certify that I sent
PRE-TRIAL STATEMENTS filed in the above case by U.S. First Class Mail, Postage Prepaid,
on January 15, 2007 to the following address:

HAND DELIVERED
Judge Paul E. Cherry
Clearfield Co. Courthouse
230 East Market Street
Clearfield, PA 16830

U.S. First Class Mail
James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

U.S. First Class Mail
David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Defendant Leitzinger Land Co.

Date: January 15, 2007

#15

FILED

FEB 13 2007

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

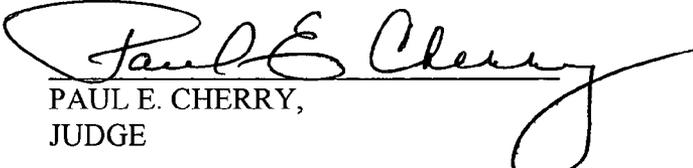
EVA JANE HERTLEIN, et al : NO. 06-903-CD
: :
V. : :
: :
RIVER HILL COAL COMPANY, INC. : :
AND LEITZINGER LAND COMPANY :

ORDER

AND NOW, this 22nd day of January, 2007, following Pre-Trial Conference, it is
the ORDER of this Court as follows:

1. Counsel shall submit all documents relative their respective positions to
opposing counsel and the Court within twenty (20) days of today's date.
2. Counsel for the parties shall submit Brief by and no later than March 30,
2007 to the Court.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

FILED 1cc Attys.
01/10:32/11 Naddo
JAN 23 2007 D. Ammerman
William A. Shaw P. Smith
Prothonotary/Clerk of Courts (CK)

(#14)

DATE: 1/23/07

 You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) Plaintiff(s) Attorney Other

 Defendant(s) Defendant(s) Attorney

 Special Instructions:

FILED

JAN 23 2007

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

No. 06 - 903 - CD

Type of Pleading:

**PRAECIPE TO LIST
FOR TRIAL**

On behalf of Plaintiffs:

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED ^{NO} ^{CC}
0/10:3461
OCT 10 2006 @

William A. Shaw
Prothonotary/Clerk of Courts

13

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

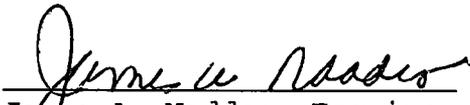
No. 06 - 903 - CD

PRAECIPE TO LIST FOR TRIAL

TO THE PROTHONOTARY:

Please place the above-captioned matter on the next
list for trial. In support thereof I certify the following:

1. There are no Motions outstanding.
2. Discovery has been completed and the case is ready
for trial.
3. The case is to be heard by non-jury.
4. Notice of the Praecipe has been given to opposing
counsel.
5. The time for trial is estimated at one (1) day.



James A. Naddeo, Esquire
Attorney for Plaintiffs

Date: October 10, 2006

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

No. 06 - 903 - CD

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

CERTIFICATE OF SERVICE

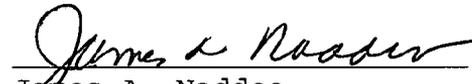
I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Praecipe To List For Trial was served on the following and in the following manner on the 10th day of October, 2006:

First-Class Mail, Postage Prepaid

David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

And

Peter F. Smith, Esquire
30 South Second Street
P.O. Box 130
Clearfield, PA 16830


James A. Naddeo
Attorney for Plaintiffs

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually, and as Attorney-in-
Fact for the heirs of FRANK T.
HERTLEIN and IVY E. HERTLEIN,
Plaintiffs,

v.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation,
and
LEITZINGER LAND COMPANY, INC.,
Defendants.

No. 06 - 903 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

On behalf of Plaintiffs:

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: October 4, 2006

FILED *no cc*
0/10/24/01
OCT 04 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

No. 06 - 903 - CD

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiffs' Answer to Additional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents Directed to Plaintiffs in the above-captioned action case was served on the following persons and in the following manner on the 3rd day of October, 2006:

First-Class Mail, Postage Prepaid

David S. Ammerman, Esquire
310 East Cherry Street and
Clearfield, PA 16830

Peter F. Smith
30 South Second Street
P.O. Box 130
Clearfield, PA 16830



James A. Naddeo
Attorney for Plaintiffs

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fact for the
Heirs of FRANK T. HERLEIN and
IVY E. HERTLEIN,

Plaintiffs

vs.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation
Defendant

and

LEITZINGER LAND COMPANY, INC.
Additional Defendant

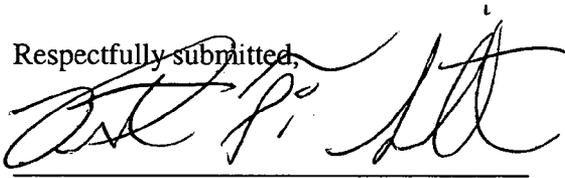
No. 06-903-CD

FILED *no cc*
013:0761
SEP 08 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith attorney for Leitzinger Land Company, Inc. in the above-captioned matter, hereby certify that I served **ADDITIONAL DEFENDANT'S INTERROGATORIES DIRECTED TO PLAINTIFFS** and **ADDITIONAL DEFENDANT'S REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFFS** on the Plaintiffs' Attorney James A. Naddeo by Hand Delivery as follows:

HAND DELIVER
James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Respectfully submitted,


Peter F. Smith, Esquire
Attorney for Additional Defendant

Date: September 8, 2006

cc: Leitzinger Land Company, Inc.
David S. Ammerman, Attorney for Defendant

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually, and as Attorney-in-
Fact for the heirs of FRANK T.
HERTLEIN and IVY E. HERTLEIN,
Plaintiffs,

v.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation,
and
LEITZINGER LAND COMPANY, INC.,
Defendants.

No. 06 - 903 - CD

Type of Pleading:

ANSWER TO NEW MATTER

Filed on behalf of
Plaintiffs:

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: August 15, 2006

FILED 2cc
013:40
AUG 15 2006
Atty Naddeo
CR

William A. Shaw
Prothonotary/Clerk of Courts

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

EVA JANE HERTLEIN, EDITH M.	*	
HERTLEIN, PATSY L. HERTLEIN	*	
KIMBLE, FRANK T. HERTLEIN, JR.,	*	
GLENN R. HERTLEIN, TIMOTHY L.	*	
HERTLEIN, LOUISE E. HERTLEIN	*	
KIRKWOOD, and G. LEE HERTLEIN,	*	
Individually, and as Attorney-in-	*	
Fact for the heirs of FRANK T.	*	
HERTLEIN and IVY E. HERTLEIN,	*	
Plaintiffs,	*	
	*	
v.	*	
	*	No. 06 - 903 - CD
RIVER HILL COAL COMPANY, INC.,	*	
A Pennsylvania corporation,	*	
and	*	
LEITZINGER LAND COMPANY, INC.,	*	
Defendants.	*	

ANSWER TO NEW MATTER

NOW COMES, the Plaintiffs, and by their attorney,
James A. Naddeo, file the following Answer to New Matter:

1. Admitted, in so far as the land identified on
Clearfield County assessment maps as property numbers 121-U2-22,
121-U2-60 and 121-U2-25 collectively total approximately nine
(9) acres. Denied, that Defendant, River Hill Coal Company,
Inc., has mined, removed and sold the coal from approximately
four acres, as after reasonable investigation Plaintiffs are
without knowledge or information sufficient to form a belief as
to the truth of this averment.

2. Admitted.

3. Denied. After reasonable investigation Plaintiffs

are without knowledge or information sufficient to form a belief as to the truth of the averment that Defendant was advised by Leitzinger that the nine acres as described in Paragraph one were excepted from the lease, that Defendant, River Hill Coal Company, believed the same to be true, and that Defendant, River Hill Coal Company, paid 100% of royalties due to the Leitzinger and Redding Heirs. Admitted that Defendant, River Hill Coal Company, has not paid any coal royalties to the Plaintiffs.

4. Denied, to the contrary Defendant, River Hill Coal Company, mined and removed coal from property to which Plaintiffs are entitled to royalties. Paragraph three (3) of the Lease and Sublease Agreement specifically provides that the Hertleins gave no warranty of title. Lease and Sublease Agreement was pled with Plaintiffs' complaint and attached thereto as Exhibit "C" and is incorporated herein by reference.

5. Admitted.

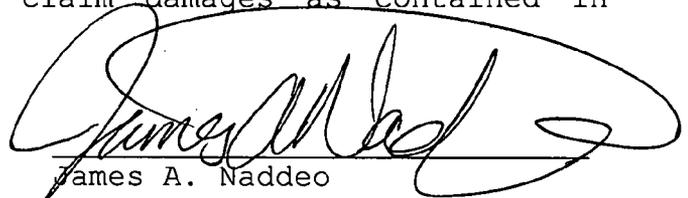
6. Denied, that Plaintiffs by this lawsuit, seek to establish a title interest in the coal underlying the nine (9) acres as described. Plaintiffs' interest in the property involved in this lawsuit is stated in its complaint, which speaks for itself.

7. Paragraph seven (7) does not require an answer by Plaintiffs.

8. Paragraph eight (8) does not require an answer by

Plaintiffs.

WHEREFORE, Plaintiffs claim damages as contained in
its complaint.



James A. Naddeo
Attorney for Plaintiffs

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *
v. * No. 06 - 903 - CD *
RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Plaintiff's Answer to New Matter in the above-captioned action case was served on the following persons and in the following manner on the 15th day of August, 2006:

First-Class Mail, Postage Prepaid

David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

And

Peter F. Smith
30 South Second Street
P.O. Box 130
Clearfield, PA 16830


James A. Naddeo
Attorney for Plaintiffs

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

No. 06 - 903 - CD

Type of Pleading:

**PLAINTIFFS' FIRST REQUEST
FOR PRODUCTION OF
DOCUMENTS DIRECTED TO
DEFENDANT RIVER HILL COAL
COMPANY, INC.**

Filed on behalf of
Plaintiffs:

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED acc
9/3/40/01
JUL 27 2006
WJN

William A. Shaw
Prothonotary/Clerk of Courts

#9

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

No. 06 - 903 - CD

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT RIVER HILL COAL COMPANY, INC.

This Request is deemed to be continuing insofar as if any of the requested documents and/or items are secured subsequent to the date herein for the production of same, said documents and/or items are to be provided to Plaintiff's counsel immediately upon receipt of same.

The term "document" for the purpose of this Request shall mean any written, printed or other graphic matter of any kind or nature however produced or reproduced, whether sent or received or neither, including drafts and copies bearing notations or marks not found on the original, and including, but not limited to: all contracts, agreements, representations,

warranties, certificates and opinions; and all letters or other form of correspondence or communication; all memoranda, reports, notes, transcripts, tabulations, studies, evaluations, projections, work papers and compilations.

You are hereby requested to produce in accordance with Rule 4009 of the Pennsylvania Rules of Civil Procedure the below listed documents and/or items. These documents can be photocopies and forwarded without any inconvenience or hardship to the parties hereto. The below listed documents ad/or items are to be forwarded to the office of James A. Naddeo, Esquire, 207 East Market Street, PO Box 552, Clearfield, Pennsylvania, 16830, within thirty (30) days of the date herein:

1. Complete copy of any and all weigh slips for all coal mined on the properties identified on the Clearfield County Assessment Maps as property Numbers: No. 121-U2-22, No. 121-U2-60, No. 121-U2-25.

Answer/Objection:

2. Complete copy of any and all sales receipts for all coal mined on the properties identified on the Clearfield County Assessment Maps as property Numbers: No. 121-U2-22, No. 121-U2-60, No. 121-U2-25.

Answer/Objection:

3. Complete copy of any and all royalty checks paid for all coal mined on the properties identified on the Clearfield County Assessment Maps as property Numbers: No. 121-U2-22, No. 121-U2-60, No. 121-U2-25.

Answer/Objection:


James A. Naddeo
Attorney for Plaintiffs

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

No. 06 - 903 - CD

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
and *
LEITZINGER LAND COMPANY, INC., *
Defendants. *

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a certified copy of Plaintiffs' First Request for Production of Documents Directed to Defendant River Hill Coal Company, Inc. was served on the following and in the following manner on the 27th day of July, 2006:

First-Class Mail, Postage Prepaid

David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

And

Peter F. Smith
30 South Second Street
P.O. Box 130
Clearfield, PA 16830


James A. Naddeo
Attorney for Plaintiffs

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fact for
the heirs of FRANK T. HERTLEIN and
IVY E. HERTLEIN,

Plaintiffs

v.

RIVER HILL COAL COMPANY, INC.,
a Pennsylvania corporation

Defendant

and

LEITZINGER LAND COMPANY, INC.,
a Pennsylvania corporation,

Additional Defendant

No. 06-903-CD

ANSWER TO COMPLAINT

NOW COMES the Defendant, River Hill Coal Company, and by their attorney, David S.

Ammerman, Esquire, sets forth the following answer to Plaintiffs' complaint:

1-14 Admitted.

15. The averments of the ownership of the coal underlying the property assessed in Clearfield County to Map Numbers 121-U2-22, 121-U2-60 and 121-U2-25 are denied for the reasons set forth in Defendant's New Matter herein.

16. Admitted.

17. Admitted.

COUNT I
BREACH OF CONTRACT

18. Defendant's admissions and denials are as set forth in Defendant's response to paragraphs 1 through 17 above.

19. It is admitted that Defendant River Hill Coal Company has refused to pay Plaintiffs' coal royalties for coal mined and removed from the properties assessed as 121-U2-22, 60 & 25, but it is denied that Defendant has breached the contractual provisions of the March 15, 2005 lease agreement for the reasons set forth in Defendant's New Matter herein.

COUNT II
ACCOUNTING

20. Defendant's admissions and denials are set forth in Defendant's response to paragraphs 1 through 19 above.

21. Plaintiff's allegations require no response by Defendant.

22. Defendant agrees that in the event Plaintiffs lawfully establish their right to receive coal royalties from coal mined from the properties assessed as map numbers 121-U2-22, 60 & 25, Defendant shall prepare and deliver to Plaintiffs' an accounting for all coal mined and removed by the Defendant River Hill Coal Company, Inc.

NEW MATTER

Defendant sets forth the following response as New Matter to the allegations of liability of Defendant River Hill Coal Company, Inc. to Plaintiffs as set forth in Plaintiffs' complaint:

1. That the coal lands and the royalties derived from the mining thereof by Defendant is as set forth in paragraph 14 of Plaintiffs' complaint being identified on the Clearfield County assessment maps as property numbers 121-U2-22, 121-U2-60 and 121-U2-25 which collectively total

approximately 9 acres of coal bearing lands of which Defendant River Hill Coal Company, Inc. has mined, removed and sold the coal from approximately 4 acres.

2. That as stated in Plaintiffs' paragraphs 11 and 12, by lease dated January, 1950 Frank T. Hertlein (predecessor in title to Plaintiff Hertleins) as Lessee entered into a lease agreement with Leitzinger Bros. Realty Company (predecessor in title to Leitzinger Land Company, Inc.) and Edward Redding as Lessors pertaining to the mineral interests of Cataract Coal Company, Inc., which lease being Exhibit "B" in Plaintiffs' complaint contains the following exception:

"Excepting from this lease that portion of the premises now under lease to William Hoffman, being known as the Savel tract of land, identified on the map prepared by Henry F. VanValzah, identified as the "Wharton Coal Tract" and that tract of land known as the Jerry Gaines tract under lease to Frank Albert".

3. That Defendant River Hill Coal Company, Inc. being advised by Leitzinger Land Company, Inc. (Leitzinger) that the aforesaid 9 acres of coal lands were excepted from the Leitzinger and Redding lease to Hertlein and Defendant River Hill Coal Company, believing the same to be true., has paid 100% of the royalties due the coal owners to the Leitzinger and Redding heirs. Defendant has not paid any coal royalties to the Plaintiff Hertleins.

4. That by paragraph 15 of Plaintiffs' complaint, Plaintiffs Hertleins claim that the aforesaid exception in the 1950 lease, has been misconstrued by Leitzingers and that the coal lands being the subject of Plaintiffs' complaint are in Plaintiffs' claim not part of the land excepted in the 1950 lease and that Plaintiff Hertleins are entitled to a share of the coal royalties from the properties assessed as 121-U2-22, 60 & 25 collectively totaling approximately nine (9) acres.

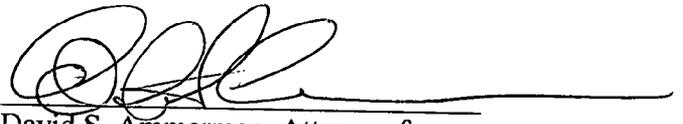
5. That Defendant River Hill Coal Company, Inc. has no legal interest in the coal properties other than Defendant's rights as Lessee under the March 14, 2005 lease (Plaintiffs' Exhibit "C") to mine and remove the coal and Defendant's obligations to pay royalties to the Lessors in accordance with the Lessors' percentage ownership interest in the coal.

6. That the Plaintiffs, by this lawsuit, seek to establish a title interest in the coal underlying the 9 acres to recover a share of coal royalties from the 4 acres mined by Defendant and previously paid to Leitzinger and Redding heirs plus interest and further to be paid Plaintiffs' share of royalties yet to be derived from future mining of the remaining 5 acres more or less.

7. That Defendant River Hill Coal Company, Inc. covenants and agrees to withhold all unpaid present and future royalties from the mining of the coal of the aforesaid 9 acres and place the same in an interest bearing escrow account until such time as the issue of ownership shall have been resolved by agreement of the parties, Hertlein and Leitzinger, or by Order of Court.

8. That Leitzinger Land Company, Inc. is an indispensable party to these proceedings and may be solely liable or liable over the Defendant River Hill Coal Company, Inc. on the Plaintiffs' cause of action and therefore Defendant River Hill Coal Company, Inc. has, pursuant to Pa. R.C.P. 2252 on July 6, 2006, by praecipe filed, caused the Prothonotary of Clearfield County to issue a writ joining Leitzinger Land Company, Inc. as Additional Defendant in the above captioned matter. Service of the writ has been accepted and appearance entered by Peter F. Smith, Esquire, attorney for Leitzinger Land Company, Inc.

PLAINTIFF HAS SET FORTH IN THEIR COMPLAINT A DEMAND FOR JURY TRIAL. DEFENDANT RIVER HILL COAL COMPANY, INC. OBJECTS TO A JURY TRIAL AS UNNECESSARY AND UNWARRANTED AS THE ISSUE OF OWNERSHIP IS A MATTER OF JUDICIAL INTERPRETATION OF DOCUMENTS BEING MORE APPROPRIATE FOR A BENCH TRIAL OR A BOARD OF ARBITRATORS.

A handwritten signature in black ink, appearing to read 'D. Ammerman', written over a horizontal line.

David S. Ammerman, Attorney for
Defendant River Hill Coal Company, Inc.

VERIFICATION

I, HARRY HANCHAR, President of River Hill Coal Company, Inc. verify that the statements made in the foregoing ANSWER AND NEW MATTER are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.


Harry Hanchar

FILED

JUL 14 2006

William A. Shaw
Prothonotary/Clerk of Courts

CIVIL ACTION
EVA JANE HERTLEIN, et al, Plaintiffs
vs.
RIVER HILL COAL COMPANY, INC.,
Defendant
and
LEITZINGER LAND COMPANY, INC., Addt'l Defendant
NO. 06-903-CD
ANSWER AND NEW MATTER TO PLAINTIFFS' COMPLAINT
DAVID S. AMMERMAN Attorney at Law 310 EAST CHERRY STREET CLEARFIELD, PA 16830

CONSUMER PRINTING CO., CLEARFIELD, PA.

DAVID S. AMMERMAN
Attorney at Law
310 EAST CHERRY STREET CLEARFIELD, PA 16830

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fact for the
Heirs of FRANK T. HERTLEIN and
IVY E. HERTLEIN,

Plaintiffs

vs.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation
Defendant

and

LEITZINGER LAND COMPANY, INC.
Defendant

No. 06-903-CD

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JUL 07 2006 *(S)*

William A. Shaw
Prothonotary/Clerk of Courts

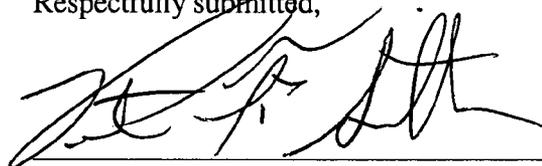
CERTIFICATE OF SERVICE

I, Peter F. Smith attorney for Leitzinger Land Company, Inc. in the above-captioned matter, hereby certify that I served a true and correct copy of the **PRAECIPE FOR ENTRY OF APPEARANCE and ACCEPTANCE OF SERVICE** filed in this matter on the Plaintiffs Attorney James A. Naddeo and the Defendant, River Hill Coal Company's Attorney David S. Ammerman by U.S. First Class Mail as follows:

James A. Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

David S. Ammerman, Esquire
310 East Cherry Street
Clearfield, PA 16830

Respectfully submitted,



Peter F. Smith, Esquire
Attorney for Plaintiff

Date: July 7, 2006

cc: Leitzinger Land Company, Inc.

#7

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

EVA JANE HERTLEIN, EDITH M. :
HERTLEIN, PATSY L. HERTLEIN : No. 06-903-CD
KIMBLE, FRANK T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually and as Attorney-in-Fact for the :
Heirs of FRANK T. HERTLEIN and :
IVY E. HERTLEIN, :
Plaintiffs :
vs. :
RIVER HILL COAL COMPANY, INC., :
A Pennsylvania corporation :
Defendant :
and :
LEITZINGER LAND COMPANY, INC. :
Defendant :

FILED^{NO} cc
of 2:38 PM
JUL 07 2006
William A. Shaw
Prothonotary/Clerk of Courts

ACCEPTANCE OF SERVICE

I accept service of the Writ to Join Additional Defendant in the above reference case on behalf of Leitzinger Land Company, Inc., the additional Defendant, and certify that I am counsel of record for Leitzinger Land Company, Inc. and authorized to do so.

Date: July 7, 2006



Peter F. Smith, Esquire
Attorney for Leitzinger Land Company, Inc.

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fact for the
Heirs of FRANK T. HERTLEIN and
IVY E. HERTLEIN,

Plaintiffs

vs.

RIVER HILL COAL COMPANY, INC.,
A Pennsylvania corporation

Defendant

and

LEITZINGER LAND COMPANY, INC.
A Pennsylvania corporation

Defendant

No. 06-903-CD

Type of Case:
CIVIL

ENTRY OF APPEARANCE

Attorney for Defendant:
Leitzinger Land Company, LLC.
Peter F. Smith, Esquire
Supreme Court No. 34291
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED ^{NO CC}
0/2:3880
JUL 07 2006 ^{LM}

William A. Shaw
Prothonotary/Clerk of Courts

#5

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

EVA JANE HERTLEIN, EDITH M. :
HERTLEIN, PATSY L. HERTLEIN : No. 06-903-CD
KIMBLE, FRANK T. HERTLEIN, JR., :
GLENN R. HERTLEIN, TIMOTHY L. :
HERTLEIN, LOUISE E. HERTLEIN :
KIRKWOOD, and G. LEE HERTLEIN, :
Individually and as Attorney-in-Fact for the :
Heirs of FRANK T. HERTLEIN and :
IVY E. HERTLEIN, :
Plaintiffs :
vs. :
RIVER HILL COAL COMPANY, INC., :
A Pennsylvania corporation :
Defendant :
and :
LEITZINGER LAND COMPANY, INC. :
Defendant :

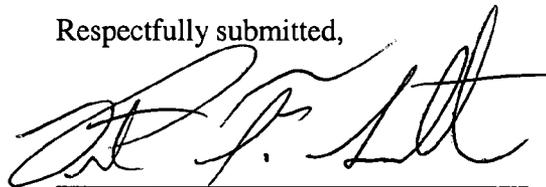
P R A E C I P E

To: Prothonotary of Clearfield County

Dear Sir:

Please enter my appearance as attorney for additional Defendant LEITZINGER LAND COMPANY, INC. in the above-captioned matter.

Respectfully submitted,



Dated: July 7, 2006

Peter F. Smith, Esquire
P.O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

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

EVA JANE HERTLEIN, EDITH M.
HERTLEIN, PATSY L. HERTLEIN
KIMBLE, FRANK T. HERTLEIN, JR.,
GLENN R. HERTLEIN, TIMOTHY L.
HERTLEIN, LOUISE E. HERTLEIN
KIRKWOOD, and G. LEE HERTLEIN,
Individually and as Attorney-in-Fact for
the heirs of FRANK T. HERTLEIN and
IVY E. HERTLEIN,

Plaintiffs

v.

RIVER HILL COAL COMPANY, INC.,
a Pennsylvania corporation

Defendant

No. 06-903-CD

FILED

JUL 06 2006

William A. Shaw
Prothonotary/Clerk of Courts

2 cent to Att

PRAECIPE FOR ENTRY OF APPEARANCE

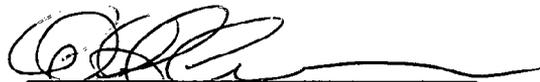
TO: WILLIAM A. SHAW, PROTHONOTARY

Please enter my appearance on behalf of Defendant River Hill Coal Company, Inc.

Papers may be served at the address set forth below:

David S. Ammerman, #06801
310 East Cherry Street
Clearfield, Pennsylvania 16830
(814) 765-1701

Date: July 6, 2006


David S. Ammerman, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101610
NO: 06-903-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: EVA JANE HERTLEIN al
vs.
DEFENDANT: RIVER HILL COAL COMPANY, INC.

SHERIFF RETURN

NOW, June 07, 2006 AT 11:35 AM SERVED THE WITHIN COMPLAINT ON RIVER HILL COAL COMPANY, INC. DEFENDANT AT , KYLERTOWN, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO GENE WOOD, COMPANY ENGINEER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

PURPOSE	VENDCR	CHECK #	AMOUNT
SURCHARGE	NADDEO	18280	10.00
SHERIFF HAWKINS	NADDEO	18280	31.74

FILED
0/9:43am
JUN 20 2006

Sworn to Before Me This

16th Day of June 2006
William A. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

William A. Shaw
Prothonotary
So Answers,

Chester A. Hawkins
by Maury Horn
Chester A. Hawkins
Sheriff

(2)

FILED

JUN 20 2006

William A. Shaw
Prothonotary

William A. Shaw
Prothonotary
My Commission Expires
1st Monday in Jan 2010
Chester Co. Chester, PA

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
Defendant. *

No. 06 - 903 - CD

Type of Pleading:

COMPLAINT

Filed on behalf of:
Plaintiffs

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

03:48 PM
JUN 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

1cc
Amy
Amy pd. 85.00

#1

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

EVA JANE HERTLEIN, EDITH M. *
HERTLEIN, PATSY L. HERTLEIN *
KIMBLE, FRANK T. HERTLEIN, JR., *
GLENN R. HERTLEIN, TIMOTHY L. *
HERTLEIN, LOUISE E. HERTLEIN *
KIRKWOOD, and G. LEE HERTLEIN, *
Individually, and as Attorney-in- *
Fact for the heirs of FRANK T. *
HERTLEIN and IVY E. HERTLEIN, *
Plaintiffs, *

v. *

No. 06 - - CD

RIVER HILL COAL COMPANY, INC., *
A Pennsylvania corporation, *
Defendant. *

COMPLAINT

NOW COME the Plaintiffs and by their attorney, James
A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff, Eva Jane Hertlein, is an adult
individual who resides in Frenchville, Pennsylvania.

2. That the Plaintiff, Edith M. Hertlein, is an adult
individual who resides in Frenchville, Pennsylvania.

3. That the Plaintiff, Patsy L. Hertlein Kimble, is
an adult individual who resides in Frenchville, Pennsylvania.

4. That the Plaintiff, Frank T. Hertlein, Jr., is an
adult individual who resides at Karthaus, Pennsylvania.

5. That the Plaintiff, Glenn R. Hertlein, is an adult
individual who resides at Karthaus, Pennsylvania.

6. That the Plaintiff, Timothy L. Hertlein, is an adult individual who resides at Drifting, Pennsylvania.

7. That the Plaintiff, Louise E. Hertlein Kirkwood, is an adult individual who resides at Karthaus, Pennsylvania.

8. That the Plaintiff, G. Lee Hertlein, is an adult individual who resides at Frenchville, Pennsylvania.

9. That the Plaintiff, G. Lee Hertlein, brings this action individually and as attorney-in-fact for the Plaintiff identified in Paragraphs 1 through 8 hereof all of whom are the sole heirs at law of Frank T. Hertlein and Ivy E. Hertlein. A copy of the Power of Attorney of G Lee Hertlein dated August 30, 1995 is attached hereto as Exhibit "A".

10. That the Defendant, River Hill Coal Company, Inc., is a Pennsylvania corporation having its principal place of business located in Kylertown, Pennsylvania.

11. That Frank T. Hertlein, entered into a Lease Agreement with Leitzinger Bros. Realty Company and Edward Redding dated January 1950 pertaining to certain land and mineral interests of the Cataract Coal Company, Inc., a copy of which Lease is attached hereto as Exhibit "B".

12. That Paragraph (1) of the Lease attached hereto as Exhibit "B" provides in part as follows:

ALL that tract of land located in Karthaus Township, Clearfield County, Pennsylvania, containing approximately 1500 acres, formerly known as the

Cataract Coal Company lands, now belonging to the Lessors herein. Excepting from this lease that portion of the premises now under lease to William Hoffman, being known as the Savel tract of land, identified on the map prepared by Henry F. VanValzah, identified as the "Wharton Coal Tract", and that tract of land known as the Jerry Gaines tract under lease to Frank Albert".

13. That the Cataract Coal interests referred to in the Lease Agreement attached hereto as Exhibit "B" was leased by Leitzinger Land Company, Inc., a Pennsylvania corporation, having its principal place of business located at 407 West Seventh Avenue, Clearfield, Pennsylvania, and subleased by Plaintiffs to Defendant, River Hill Coal Company, Inc., by a certain Coal Lease Agreement dated March 14, 2005, a copy of which is attached hereto as Exhibit "C".

14. That the Lease and Sublease Agreement attached hereto as Exhibit "C" includes certain properties identified on the Clearfield County Assessment Maps as properties Nos. 121-U2-22, 121-U2-60 and 121-U2-25.

15. That the coal underlying the properties referred to in Paragraph 14 hereof which is incorporated herein by reference is owned and/or controlled 100% by Plaintiffs, Leitzinger Land Company, Inc. and the heirs of Edward Redding.

16. That the Defendant, River Hill Coal Company, Inc., has mined and removed coal from the properties identified in Paragraph 14 hereof.

17. That Paragraph 5 of the Lease and Sublease Agreement attached hereto as Plaintiffs' Exhibit "C" provides in part as follows:

"5. Mining Royalties: A. Future Royalties - Lessee shall pay each Lessor its proportionate share as actual royalty for each ton of 2000 pounds of coal mined and removed from the leased premises the greater of ten (10%) percent of sale price per ton of like quality coal or \$2.00 per ton. This new royalty rate will commence on May 1, 2003. In the event that a sale is not to a bona fide third party or an arms-length transaction, then the sales price shall be based on Lessee's most recent sale, preferably during the same royalty period, of coal of comparable quality in a bona fide, arms-length transaction. No deduction shall be made from the sales price for the transportation, brokerage fees, taxes or similar expenses.

Lessee shall stockpile all cannel coal mined and removed from the demised premises separately from all cannel coal mined from properties belonging to a Lessor other than Leitzinger, Redding or Hertlein. Lessee shall pay to Lessors \$.50 per ton for all waste, binder, cannel, or similar quality coals mined, sold and removed from the demised premises where Lessors are the owners of the surface and mineral. The royalty to be paid by Lessee to Lessors shall be \$.25 per ton where Lessors own the coal or surface but not both. It is agreed, however, that the royalty to be paid by Lessee to Lessors as set forth herein shall be paid to Lessors based upon 10% of the selling price of said coal should the selling price of said waste, binder, cannel, or similar quality coals exceed \$8.00 per ton. In the event that a sale is not to a bona fide third party or an arms-length transaction, then the selling price shall be based upon Lessee's most recent sale of coal of comparable quality in a bona fide arms-length transaction. No deduction shall be made from the selling price for the transportation, brokerage fees, taxes or similar expenses.

All of the above payments are based on the Lessors collectively owning 100% of the surface (right of

surface support) and 100% of the coal of the property being mined. To the extent that third parties may own the said surface of coal or a part thereof of either or both, then in said event the payments to the Lessors would be reduced in proportion to their ownership interests. By way of example only, if the Lessors collectively own no surface rights but only the coal, the royalty payments would be 5% of the sale price of the coal or \$1.00, whichever is the greater, i.e. the owners would receive collectively 50% of 5% of the selling price of \$.50, which ever is the greater, and the Hertleins as Sublessors would receive the other 50% of 5% of the selling price of the coal or \$.50 whichever is greater.

All royalties due under the terms of this Lease shall be payable as follows:

(a) One-half (1/2) of the royalty to Sublessors;
and

(b) One-half (1/2) of the royalty to First Lessors and Additional Lessors in proportion to their interest in surface, minerals or the surface and minerals as the case may be."

COUNT I
BREACH OF CONTRACT

18. That the Plaintiffs incorporate Paragraphs 1 through 17 of this Complaint by reference and make them a part hereof.

19. That Defendant, River Hill Coal Company, Inc., has failed and/or refused to pay to Plaintiffs any royalty as provided in the Lease and Sublease Agreement attached hereto as Exhibit "C" for coal mined and removed from the premises described in Paragraph 14 hereof despite Plaintiffs' demand for payment.

WHEREFORE, Plaintiffs claims damage from the Defendant, River Hill Coal Company, Inc., in an amount to be determined by the Court with interest thereon as allowable by law. JURY TRIAL DEMANDED

COUNT II
ACCOUNTING

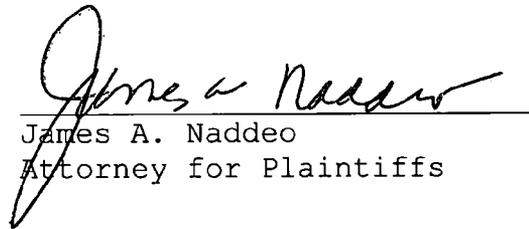
20. That the Plaintiffs incorporate Paragraphs 1 through 19 of this Complaint by reference and make them a part hereof.

21. That Plaintiffs are unable to ascertain the amount of coal removed by the Defendant, River Hill Coal Company, Inc., from the premises referred to in Paragraph 14 hereof.

22. That in order to determine the amount of royalty due to Plaintiff for coal mined and removed from the premises referred to in Paragraph 14 hereof, Plaintiffs will require an accounting for all coal mined and removed from said premises by the Defendant, River Hill Coal Company, Inc.

WHEREFORE, Plaintiffs request that the court direct Defendant, River Hill Coal Company, Inc., to give an accounting for all coal mined and removed from the properties identified as Assessment Map Nos. 121-U2-22, 121-U2-60 and 121-U2-25 and to award Plaintiffs' the royalty to which they are entitled upon

said coal with interest as prescribed by law. JURY TRIAL
DEMANDED.


James A. Naddeo
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF CLEARFIELD) ss.

Before me, the undersigned officer, personally appeared LEE HERTLEIN, Attorney in Fact for the Heirs of Frank T. Hertlein and Ivy E. Hertlein, who being duly sworn according to law, depose and state that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.


Lee Hertlein

SWORN and SUBSCRIBED before me this 31st day of May, 2006.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Linda C. Lewis, Notary Public
Clearfield Buro, Clearfield County
My Commission Expires July 25, 2007

POWER OF ATTORNEY

We, the undersigned persons, all of Clearfield County, Pennsylvania, do hereby appoint G. LEE HERTZMAN of R.D.#1, Box 77, Clearfield, PA 16836 as our true and lawful Attorney-in-Fact with full power of substitution for us and in our names to do all things that he deems necessary to protect our right to certain coal interests issued to FRANK J. HORTLEMAN, "Frank J. Hortleman" by Agreement dated January 1, 1960 and more specifically, to file any suit or suits which may be necessary in our name and on our behalf; to employ counsel; to negotiate settlements; to enter into settlement agreements; or to negotiate a lease of said coal with such person or entities as may be necessary and to accomplish the aforesaid as completely as we might do if personally present. This power shall not be affected by our subsequent disability or incapacity. All acts done by our Attorney-in-Fact pursuant to this power during any period of our disability or incapacity shall have the same effect and inure to the benefit of and bind us and our successors in interest as if we were competent and not disabled.

IN WITNESS WHEREOF, we have signed this Power of

Attorney this 30th day of August, 1955.

WITNESS:

Frank J. Hortleman
Frank J. Hortleman Kirkwood

Donald A. Hartman

WITNESS:

Cynthia A. Gormant

Eva Jane Hertlein
Eva Jane Hertlein

Cynthia A. Gormant

Edith M. Hertlein
Edith M. Hertlein

Cynthia A. Gormant

Patsy L. Hertlein Kimble
Patsy L. Hertlein Kimble

Cynthia A. Gormant

Frank P. Hertlein Jr.
Frank P. Hertlein, Jr.
T. F. T. H.

Cynthia A. Gormant

Glenn R. Hertlein
Glenn R. Hertlein

Cynthia A. Gormant

Timothy L. Hertlein
Timothy L. Hertlein

COMMONWEALTH OF PENNSYLVANIA)

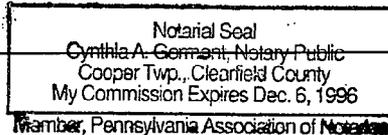
SS

COUNTY OF CLEARFIELD)

On this the 30th day of August, 1995, before me, the undersigned officer, personally appeared LOUISE E. HERTLEIN KIRKWOOD, known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes contained therein.

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

Cynthia A. Gormant



COMMONWEALTH OF PENNSYLVANIA)

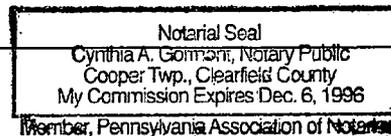
SS

COUNTY OF CLEARFIELD)

On this the 30th day of August, 1995, before me, the undersigned officer, personally appeared EVA JANE HERTLEIN, known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes contained therein.

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

Cynthia A. Gormant



COMMONWEALTH OF PENNSYLVANIA) SS
COUNTY OF CLEARFIELD)

On this the 30th day of August, 1995, before me, the undersigned officer, personally appeared EDITH M. HERTLEIN ^{Emh} ~~KIRKWOOD~~, known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes contained therein.

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

Cynthia A. Gormont

Notarial Seal
Cynthia A. Gormont, Notary Public
Cooper Twp., Clearfield County
My Commission Expires Dec. 6, 1996
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA) SS
COUNTY OF CLEARFIELD)

On this the 30th day of August, 1995, before me, the undersigned officer, personally appeared PATSY L. HERTLEIN KIMBLE, known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes contained therein.

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

Cynthia A. Gormont

Notarial Seal
Cynthia A. Gormont, Notary Public
Cooper Twp., Clearfield County
My Commission Expires Dec. 6, 1996
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA)

SS

COUNTY OF CLEARFIELD)

On this the 30th day of August, 1995, before me, the undersigned officer, personally appeared TIMOTHY L. HERTLEIN, known to me (or satisfactorily proved) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes contained therein.

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

Cynthia A. Gormant

Notarial Seal
Cynthia A. Gormant, Notary Public
Cooper Twp., Clearfield County
My Commission Expires Dec. 6, 1996

Member, Pennsylvania Association of Notaries

1950

Catawact coal

THIS AGREEMENT

W-8-A

Made the first day of ~~December~~ ^{JANUARY} 1950, between LEITZINGER
BROS. REALTY COMPANY, a corporation organized and existing
under the laws of the State of Pennsylvania, with principal
office and place of business in the Borough of Clearfield,
Clearfield County, Pennsylvania, and EDWARD REDDING of Altoona,
Pennsylvania, parties of the first part, hereinafter called
Lessors;

A
N
D

Frank T

FRANK J. HENTLEIN of Karthaus, Karthaus Township, Clearfield
County, Pennsylvania, party of the second part, hereinafter
called Lessee.

WITNESSETH:

(1) The Lessors for and in consideration of the sum of One
(\$1.00) Dollar in hand paid, the receipt whereof is hereby ack-
nowledged, for and in consideration of the rents, royalties,
covenants, stipulations and agreements hereinafter contained, by
the Lessee to be kept and performed, do hereby let, lease and
demise to the Lessee, the right and privilege to mine and take
away all the coal in, under and upon the following described
premises.

Surface →

Lease for ~~Catawact~~ coal co. lands

All that tract of land located in Karthaus Township,
Clearfield County, Pennsylvania, containing approxi-
mately 1500 acres, formerly known as the Catawact Coal
Company lands, now belonging to the Lessors herein.
(Excepting from this lease that portion of the premises
now under lease to William Hoffman, being known as the
Savel tract of land, identified on the map prepared
by Henry F. VanValmish, identified as the "Wharton Coal
Tract") and that tract of land known as the Jerry Guines
tract under lease to Frank Albert.

In connection with this lease, the Lessors herein have
leased to the Catawact Coal Company, Inc., a certain
portion of the premises for a right of way to and
for railroad sidings and loading facilities, said portion
of the premises being excepted and reserved from this
lease agreement. Provided, however, that the Lessee herein
is granted by the Lessors herein, the right and privilege
of using said right of way for the purpose of transport-
ing his coal from the demised premises, the Lessors
herein having distinctly made reservation of said right
of way in order that they may use the same for the mining

and removal of their coal, and they are granting the use of those rights to the Lessee herein. It is not intended by this lease to cover the tracts of land known as the Fielding or the Fielding and Smith tracts of land owned individually by Leitzinger Bros. Realty Company, one of the lessors herein, said tract of land being leased by a separate lease agreement.

* The Lessee herein shall have the right to transport the coal hereby leased over other premises owned by the Lessors herein, without payment of wheel toll or other charge, so long as said operation does not interfere with the use or operation on the property of the Lessors not covered by this agreement.

surface

(2). The Lessors further grant to the Lessee the right of ingress, egress and regress into, through and upon the above described land, for the purpose of examining, searching for, prospecting, mining, manufacturing and preparing said coal for market, and taking, storing, removing and transporting the same, and for these purposes the said Lessee shall have the right to mine and remove the said coal according to any and all known and modern methods, (together with the right of using and occupying so much of the surface of the aforesaid land for drifts, headings, openings, shafts, airshafts, tipples, dumps, chutes, roads, tramroads, lateral railroads, electric power or transmission lines, improvements and other buildings), except miners' Houses, upon, over, across and through said lands and the surface of the same, so far as may be necessary or convenient for the proper working of any mine or mines, for the removal of said coal, or the shipping of the same, together with the right to deposit dirt or waste from such mine or mines upon the surface thereof, insofar as the Lessors have the right to grant the same.

surface

(3). The Lessors hereby grant to the Lessee such rights in, upon and over the surface of the herein described premises as they have; Lessors further grant to the Lessee a release of all damages that may result to the surface, wells, springs, water or water courses, insofar as the said Lessors have the right to grant the same.

All SEAMS

(4). The Lessee is not obligated to mine and remove any coal that is unmerchantable and unminable, but the said Lessee shall have the right to mine and remove the same if he so desires. He shall pay therefor, if such right is exercised, royalty at the rate herein provided for the mining and removal thereof.

(5). The Lessee agrees to pay to the Lessors the sum of eighteen (18) cents per net ton of two thousand (2000) pounds for all coal mined and removed from the demised premises. Said royalty shall be paid monthly on the 20th day of the month following the mining and removal thereof, to Leitzinger Bros. Realty Company, at its place of business in the Borough of Clearfield, Pennsylvania, without demand, and all payments required to be made by way of royalty or otherwise, shall be paid in like manner. Accompanying each payment shall be a statement showing the period for which the payment is made and the number of tons mined and removed during said period. The weight of said coal shall be determined by the railroad scales, if the same is shipped by rail. In the event that the said coal is not shipped over any railroad, the weights shall be ascertained by the weights as shown by the weigh scales of the Lessee. The Lessee hereby covenants to provide and maintain proper scales for the weighing of said coal. Provided, however, that the Lessors shall not be bound by the said weights, but may use any proper method to determine the weight or amount of coal actually mined and removed from the demised premises.

(6). Commencing as of ~~November~~ ^{January} 1, 1949, ^{with} the Lessee agrees to mine, remove or to pay for as if mined and removed, at the rate per ton stipulated in paragraph (5) hereof, at least sufficient tons of coal from the demised premises, each and every month

during the continuance hereof, so that the Lessors will have an income of at least One Hundred ~~Twenty-five~~ ^{Twenty-five (25.00)} ~~(~~25.00~~)~~ Dollars per month from the premises, the subject of this agreement. In case of failure to mine the minimum requirements in any given month, the Lessee shall pay the Lessors the deficiency between royalty on coal actually mined from the demised premises and the minimum royalty computed at the rate per ton hereinbefore stipulated, on or before the 20th day of each and every month after the particular minimum month. It is further stipulated and agreed that the Lessee shall have the privilege of mining coal previously not mined but paid for under the minimum provisions hereof, in any succeeding month during the continuance of this lease after the minimum tonnage for the succeeding months and all intervening months has been mined and the royalty thereon paid, without interest on any payment made under the minimum provisions hereof.

(7). The Lessee hereby covenants and agrees to operate the mine by approved methods and in accordance with the mining laws of the United States of America, all subdivisions thereof and of the State of Pennsylvania, including the open pit mining law as to restoration of overburden, etc., so that all the merchantable and minable coal in the seam hereby leased under the demised premises that can be taken out consistent with safety, shall be taken out clean and entire. The Lessors or their representatives, shall also have the right to examine the mine books and to enter the mine at all reasonable times, and to inspect and examine the workings and make maps thereof, but in such manner and at such times as not to interfere unduly with the operations of the Lessee.

Coal
SEAM

(8). The Lessee shall authorize and request the railroad company, if he ships the coal by rail, over which railroad the coal from the demised premises shall be shipped, to furnish the Lessors at any time said Lessors desire, a statement of the weight of all coal shipped from the demised premises. The Lessors, however, hereby agree to pay all charges made by the railroad company or its agents, for compiling such statement of tonnage.

(9). On the termination of this lease, if it be for any cause other than the exhaustion of the coal herein demised, the Lessee agrees to leave the drainageways, haulageways, gangways, headings and all the workings in workable condition.

(10). Lessee and Lessors covenant and agree that the Lessee shall not be required to pay for more coal than is actually contained in the demised premises, and if the Lessee shall pay for all coal in said premises, excluding required pillars either by way of minimum royalty or otherwise, without having mined and removed the same, the Lessee shall have the right for the period of one year thereafter, without payment of minimum royalty hereunder required, or other charges, of any kind, except wheel toll if the same is due, to hold, possess and enjoy the herein demised premises with the rights and privileges herein granted, subject, however, to the terms and conditions hereof. Provided, however, that the Lessee shall promptly notify the Lessors when they have determined or are of the opinion that all the merchantable and minable coal has been mined and removed from the demised premises.

(11). Lessee shall not remove the plant and equipment necessary for the proper operation of the mines, or any part thereof, during the term of this lease, but on the termination of this lease, Lessee shall have the right for thirty (30) days thereafter to remove all improvements erected by him; provided, however, that all rents or royalties due the Lessors and the other terms and obligations of the Lessee hereunder, shall have been fully paid and discharged before removal, it being expressly stipulated further that all such improvements not so removed within thirty (30) days as above stated, shall become and be the property of the Lessors.

(12). The Lessors hereby reserve the right to prospect and produce clay, oil, gas or other minerals in the premises herein described or on adjoining or adjacent lands owned by them or that may come under their control or the control of their Lessees, but such operations or prospecting shall not be conducted in such

CLAY
OIL
GAS

manner as to interfere with or injure the mines or operations of the Lessee.

(13). The Lessee herein is hereby granted the right to haul in, over, through or across the premises hereby demised, any coal which he may mine from other lands upon payment of the sum two (2¢) cents wheel toll per net ton to the Lessors herein. Settlement shall be made monthly with the Lessors herein for said wheel toll or haulage right in the manner provided for the settlement of royalties for coal mined and removed, and it is understood and agreed that the Lessors shall have all the rights and remedies granted to them for the collection of royalties to enforce the collection of said wheel toll.

(14). It is hereby specifically understood and agreed between the parties hereto that any violation by the Lessee for thirty (30) days or more, of any of the covenants herein contained or his suffering his interest, or part of it, to be taken in execution, shall authorize the Lessors, at their option, to terminate this lease and resume possession of the demised premises without further proceeding in a summary way, and to recover royalty in arrears by distress, as provided by Landlord and Tenant Act or in any other manner authorized by law; and the Lessee hereby waives all benefits of the exemption laws of the State of Pennsylvania, exempting personal property from levy and sale on execution.

(15). Lessee shall pay any and all taxes, duties, charges, or assessments now imposed or that may be imposed during the continuance of this lease, by any laws of the United States or of the State of Pennsylvania, or by any subdivision thereof, upon improvements erected by it and upon coal mined and removed from said premises; and the Lessors shall pay all other taxes levied or assessed against the demised premises. In the event the Lessee

TAXES
M

fails to pay taxes and assessments, duties or charges as provided in this paragraph, when the same become due and payable, the Lessors are hereby authorized to pay any and all such taxes, assessments, duties or charges to either the United States or the State of Pennsylvania, or any county or municipal subdivision thereof, by or under the laws of the State of Pennsylvania, whereupon such amounts shall be considered as royalty for coal mined and past due, and the Lessors are privileged to take whatever action for the collection thereof that is hereunder permitted. Any removal or attempt at removal of any equipment or chattels from said premises by the Lessee while any portion of the minimum royalty for coal mined, taxes, assessments or charges as herein provided, shall remain unpaid, shall be deemed a fraudulent and clandestine removal and the whole minimum royalty for the entire term, together with any taxes or assessments as above set forth, shall be deemed to have fallen due and be collectible at once, and all equipment and chattels so removed may be followed for the space of thirty (30) days and seized for the collection of the same, by Landlord's Warrant. It is further agreed that as often as default shall be made in the payment of any minimum royalty, royalty for coal mined, taxes or assessments as hereinabove provided, and said default shall continue for the space of thirty (30) days after written notice to the Lessee, the Lessors may proceed by Landlord's Warrant if such default is not remedied or rectified within said thirty (30) days' period, and make collection of all such royalties or charges then due, with costs of such proceeding, the Lessee hereby waiving the benefit of all laws or usages exempting any property from liability for rent, and the Lessors not waiving any remedies given by existing laws. The Lessee hereby authorizes any attorney of any court of record, as often as default shall be made in the payment of said minimum royalty, royalty for coal actually mined or for taxes or charges assessed and herein referred to, and after the Lessors have given the Lessee thirty (30)

30 DAYS



30 DAY NOTICE

days' notice in writing, of said default, the Lessee neglects or refuses to remedy, rectify or make payment during said period of thirty (30) days, to appear for them and confess judgment or judgments against them for the amount of royalties or charges then due and unpaid, with attorneys' commission of ten per cent. costs of suit, without stay of execution, waiving inquisition and exemption. And on failure of the Lessee to pay the minimum royalty, rent, royalty on coal actually mined, and keep all the covenants of this lease, or remove from the premises at the determination of the same, then the Lessee hereby authorizes and empowers any attorney of any court of record in Pennsylvania, to appear in court and confess judgment in favor of the Lessors and against the Lessee, in an amicable action of ejectment for the premises above described, and authorizes the immediate issuance of a writ of habere facias possessionem, with clause of fi. fa. for rent, royalty or amount due under this lease, with costs of suit, and ten per cent. attorneys' commission or fees, to be released upon the payment of the amount due with costs and attorneys' commission, as herein provided, within five days from the confession of said judgment.

WRITTEN
CONSENT

(16). Lessee agrees not to mortgage or encumber with liens of any kind, or sell, assign or set over or sublet the whole or any part of the hereby demised premises or improvements, without the written consent of the Lessors thereunto first had and obtained. It is hereby agreed and provided that any lawful levy and sale on execution or other legal process, as well as any assignment or sale in bankruptcy, or insolvency or under any other compulsory proceeding, or any receivership created, shall be deemed and taken to be an assignment or subletting within the meaning of this agreement, and, at the option of the Lessors shall work an immediate forfeiture without notice, and thereupon possession may be immediately taken by Lessors without further formality, the Lessee may have the property or portions of it worked by contract or other persons, he, the said Lessee, shall,

however, remain liable at all times for all obligations under this lease. The Lessee herein, however, shall remain liable for the payment of royalties and for the carrying out of the terms and conditions of this agreement, notwithstanding that he may contract operations on any part of the herein demised premises.

(17). It is expressly understood and agreed between the parties hereto that this lease and the grants hereunder are made subject to all restrictions, conditions, reservations, exceptions, covenants and agreements under any and all the several deeds, grants and conveyances by virtue of which Lessors hold title to the leased premises aforesaid, and the Lessors are only granting such rights as they have the right to grant under and in virtue of said instruments of conveyance.

(18). Lessee herein covenants and agrees to furnish Lessors herein copies of any and all drill records, analysis of coal and other data in respect to the amount and quality of the coal contained in the demised premises during the term of this lease.

ALL THE COAL

(19). The term of this lease shall be from ^{JANUARY 1st} ~~December 1st~~ 1949 to the exhaustion of the merchantable and minable coal, unless it is sooner terminated or determined under the provisions hereof.

(19). This agreement shall be binding upon and shall inure to the benefit of all persons, natural or artificial, lawfully claiming under the parties hereto, respectively, in whatsoever capacity, as if they were in each instance specifically named throughout.

IN WITNESS WHEREOF, LEITZINGER BROS. REALTY COMPANY has caused this agreement to be signed by its proper officers, EDWARD REDDING and FRANK J. HERTLEIN have hereunto set their hands and seals the day and year first above written.

ATTEST:

SECRETARY

LEITZINGER BROS. REALTY COMPANY
BY William A. Kofke
PRESIDENT

WITNESSED BY:

S. E. Bishop

James A. Loggell

Edward Redding (SE)
(Edward Redding) LESSORS

Frank S. Hertlein (SEA)
(Frank S. Hertlein) LESSEE

STATE OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS:

On this the 9 day of ~~January~~ ^{March} 1950, before me the undersigned officer, personally appeared WILLIAM A. E. LEITZINGER, who acknowledged himself to be the President of Leitzinger Bros. Realty Company, a corporation, and that he as such President, being authorized to do so, executed the foregoing agreement of lease for the purposes contained therein, by signing the name of the corporation by himself as President.

WITNESS my hand and official seal the day and year aforesaid.

Walter A. Goff
RECORDER OF DEEDS My Commission Expires ~~First Monday in January 1952~~
STATE OF PENNSYLVANIA :
COUNTY OF Lebanon : SS:

On this the 3rd day of ~~January~~ ^{June} 1950, before me the undersigned officer, personally appeared EDWARD REDDING, known to me to be the person whose name is subscribed to the within Agreement of Lease, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal the day and year aforesaid.

Mary J. Mussina
NOTARY PUBLIC My Commission Expires March 3, 1951
STATE OF PENNSYLVANIA :
COUNTY OF *Cutter* : SS:

On this the 24 day of ~~January~~ ^{March} 1950, before me the undersigned officer, personally appeared FRANK J. HERTLEIN known to me to be the person whose name is subscribed to the within Agreement of Lease, and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal the day and year aforesaid.

Walter A. Goff
RECORDER OF DEEDS My Commission Expires ~~First Monday in January 1952~~
STATE OF PENNSYLVANIA :
COUNTY OF *Cutter* : SS:

JUL 01 2005

LEASE AND SUBLEASE AGREEMENT

This coal lease and agreement (hereinafter sometimes referred to as the "Lease" or "Agreement") is made and entered into as of this 14th day of MARCH, 2005,

BY AND BETWEEN

Leitzinger Land Company, Inc., of 404 West Seventh Avenue, Clearfield, Pennsylvania 16830, hereinafter referred to as "**First Lessors**";

AND

Robert E. Hoover, Jr., successor in M. Lillian Buckius interest, of 228 Sunrise Avenue, Southeast, Ocean Shore, Washington 98569, of the one part, and **Mary A. Lee**, of Spruce Cabin Road, P.O. Box 194, Mountainhome, Pennsylvania 18342, successor in interest to Elizabeth Smith, of the other part, said parties being the present owners of the Edward Redding (Cataract Coal Company) interest, hereinafter being jointly referred to as "**Additional Lessors**";

AND

Louise Kirkwood, Eva Jane Hertlein, Edith Hertlein, Patsy L. Kimble, Frank T. Hertlein, Glenn R. Hertlein, Timothy Hertlein and G. Lee Hertlein, being all of the children and successors in interest to Frank T. Hertlein and Ivy E. Hertlein, deceased hereinafter referred to as "**Sublessors**";

AND

River Hill Coal Company, Inc., a Pennsylvania Corporation with offices in Kylertown, Pennsylvania, hereinafter referred to as "**Lessee**".

First Lessors, Additional Lessors and Sublessors being collectively referred to herein as "**Lessors**".

EXHIBET "C"

RECITALS

WHEREAS, First Lessor is the successor in interest to Leitzinger Brothers Realty Company by deed recorded at Clearfield County Instrument Number 200220045 by which First Lessor became the owner of 6/16 undivided interest of Cataract Coal Company in the surface and underlying strata and of all the coal in, upon and underlying that certain tract of land described in paragraph 1 of this Sublease and Agreement, which tract contains approximately 1833 acres and is situate in Karthaus Township, Clearfield County, Pennsylvania; and

WHEREAS, Additional Lessors are each the owner of a 5/16 (for a total of 10/16) of an undivided interest of Cataract Coal Company in the surface and underlying strata and of all the coal in, upon and underlying that certain tract of land described in paragraph I of this Sublease and Agreement, which tract contains approximately 1833 acres and is situate in Karthaus Township, Clearfield County, Pennsylvania; and

WHEREAS, Edward J. Redding, T/A Cataract Coal Company (Additional Lessors' predecessor in interest) and Leitzinger Bros. Realty Company, as Lessors, entered into a certain Agreement dated January 1, 1950 (sometimes for convenience hereinafter referred to as the "1950 Agreement") with Frank T. Hertlein as aforementioned, as Lessee, which 1950 Agreement leased to Sublessor the property described in paragraph 1 of this Lease and Sublease Agreement; and

WHEREAS, subsequently by agreement dated November 28, 1978, Leitzinger Bros. Realty Company, as "First Lessor"; the Estate of Lillian Buckius as owner of a 1/2 interest as heir of Edward Redding as "Additional Lessor"; and Ivy E. Hertlein and her children as "Sublessors"; and River Hill Coal Company, Inc. as "Lessee" entered in an agreement entitled "Sublease, Joinder and Amended Agreement" for lease of the surface and coal rights of the following lands in Karthaus Township, Clearfield County as set forth in paragraph I herein; and

WHEREAS, by subsequent agreement dated December 29, 1978, the "First Lessor", (Leitzinger Bros.), the then "Sublessors", (Ivy Hertlein, et al) and the "Lessee", (River Hill Coal Company, Inc.) entered into another agreement for the same lands, this time, however, with Elizabeth Smith, single, as owner of the other 1/2 interest of Edward Redding; and

WHEREAS, First Lessor (Leitzinger Brothers) and Additional Lessors (Hoover and Lee), previously consented to Sublessors (Hertleins) subletting or assigning Sublessors' (Hertleins) rights under the "1950 Agreement" to Lessee (River Hill Coal Company, Inc.); and

WHEREAS, it is the purpose of the within Agreement that the parties to the previous Agreements restate the terms of those Agreements to be consistent with the current market value of their interests in the surface and coal of the premises hereinafter described.

LEASE AGREEMENT

NOW THEREFORE, for and in consideration of the sum of One and 00/100 (\$1.00) Dollar each in hand paid herewith by Lessee to First Lessor, Additional Lessors and Sublessors, the receipt of which is hereby respectively acknowledged and for and in consideration of the mutual covenants and agreements hereinafter set forth, the adequacy of which is hereby acknowledged by First Lessor, Additional Lessors, Sublessors and Lessee, the parties do hereby covenant and agree as follows, vis:

1. **LEASED PREMISES:** First Lessors, Additional Lessors and Sublessors do hereby let, demise and lease to the Lessee all of their respective right, title and interest in and to the surface, underlying strata and all coal and mining rights (and any substances mixed with coal) upon, in and underlying the land described on Schedule A which is attached hereto and incorporated herein by reference.

Schedule A also states the relative ownership interest of each party to this lease as to each particular parcel leased by this agreement.

The leased premises are believed to contain 1,833 acres, more or less.

Hereinafter referred to as the "premises" or "leased premises" for the purpose of going upon the same and removing coal underlying said premises by the strip mine method, including the right to strip mine and/or auger drill and otherwise to develop, work and process for market said coal and other coal now owned or hereafter acquired by Lessee, its successors or assigns, by mining methods or machinery now or hereafter employed, including the free and uninterrupted right and right-of-way into, upon, over, across, under and through the leased premises at such points and in such manner as may be convenient or necessary for the purpose of all operations in connection therewith and in the horizons of said coal and in the strata above or below the same and other coal now owned or hereafter acquired by Lessee, its successors or assigns, in, on or underlying the leased premises and other premises in the surrounding area, including but not limited to the transportation of personnel, supplies and equipment, and the right to explore, test drill, dig, mine, drain, transport and carry away said coal and other materials and other coal and materials now owned or which may be hereafter acquired by Lessee, its successors or assigns, in, on, from or underlying the leased premises and to erect and maintain on the premises such structures, improvements and facilities as may be necessary or convenient to said operations, and without being required to lease or provide subjacent or lateral support for the overlying strata or surface or anything therein, thereon or thereunder, including structures or improvements now or hereafter erected thereon and, in connection with strip mining, auger mining, excavation or similar mining, the right and privilege to excavate, drill, remove and displace any or all of the earth, rock and other strata or materials in, upon or about said coal and said other coal and the horizons thereof and to deposit the same on or off the premises, and Lessor, Additional Lessors and Sublessors, for themselves, their heirs and assigns, for the consideration aforesaid, do hereby covenant to **WAIVE AND RELEASE** all surface damages and damages of any sort howsoever caused, arising from the removal of and all operations in said coal, and said other coal

and materials or the horizons thereof by Lessee, its successors or assigns, or arising from any and all physical conditions now present or which may hereafter develop in, about and/or above the same.

2. **LESSORS' INTERESTS:** The within lease is for all of the surface (right of surface support) and coal mining rights (as set forth in paragraph 1 above) of the First Lessor, Additional Lessors and Sublessors in the leased premises. It is understood that the First Lessors, Additional Lessors and Sublessors (hereinafter collectively referred to as "Lessors") have varied and various surface and coal interests in many of the properties which collectively are referred to as the "leased premises".

The Lessors individually warrant unto the Lessee that their interest in the premises relative to one another are as stated on Schedule A which is attached hereto and incorporated herein by reference.

3. **NO WARRANTY OF TITLE:** Lessors make no warranty of title beyond that stated in the foregoing paragraph as to their relative interests.

4. **TERM OF LEASE:** This Lease shall commence upon its execution and continue unless canceled for a period of ten (10) years and as long thereafter as the Lessee is continuously and substantially operating the premises, unless prevented from so operating by causes beyond its control. For the purpose of construing this clause, "continuously" shall mean at least seven (7) months' operation in any given lease year.

The continuance of this lease is also continued upon Lessee making delay or actual royalty payments to the Lessors, without demand, on or before the 25th day of each month. This requirement shall apply to the initial ten (10) year term of this lease and any continuation or extension thereafter. Actual royalty shall be calculated according to paragraph five (5) which follows. Delay royalties shall be in the amount of \$350.00 per month which shall be apportioned among the Lessors according to

the following formula: Leitzinger Land Company, Inc. - 6/16 of ½ or \$65.64; Robert E. Hoover, Jr. - 5/16 of ½ or \$54.70; Mary A. Lee - 5/16 of ½ or \$54.70; Hertleins - \$175.00 per month.

It is further agreed between the parties that the Lessee may, at any time, cancel this Agreement with or without cause, provided it is not in default and has paid in full all royalties due hereunder, by sending to the Lessors written notice of cancellation.

5. **MINING ROYALTIES:**

A FUTURE ROYALTIES- Lessee shall pay each Lessor its proportionate share as actual royalty for each ton of 2000 pounds of coal mined and removed from the leased premises the greater of ten (10%) percent of sales price per ton of like quality coal or \$2.00 per ton. This new royalty rate will commence on May 1, 2003. In the event that a sale is not to a bona fide third

party or an arms-length transaction, then the sales price shall be based on Lessee's most recent sale, preferably during the same royalty period, of coal of comparable quality in a bona fide, arms-length transaction. No deduction shall be made from the sales price for the transportation, brokerage fees, taxes or similar expenses.

Lessee shall stockpile all cannel coal mined and removed from the demised premises separately from all cannel coal mined from properties belonging to a Lessor other than Leitzinger, Redding or Hertlein. Lessee shall pay to Lessors \$.50 per ton for all waste, binder, cannel, or similar quality coals mined, sold and removed from the demised premises where Lessors are the owners of the surface and mineral. The royalty to be paid by Lessee to Lessors shall be \$.25 per ton where Lessors own the coal or surface but not both. It is agreed, however, that the royalty to be paid by Lessee to Lessors as set forth herein shall be paid to Lessors based upon 10% of the selling price of said coal should the selling price of said waste, binder, cannel, or similar quality coals exceed \$8.00 per ton. In the event that a sale is not to a bona fide third party or an arms-length transaction, then the

selling price shall be based upon Lessee's most recent sale of coal of comparable quality in a bona fide arms-length transaction. No deduction shall be made from the selling price for the transportation, brokerage fees, taxes or similar expenses.

All of the above payments are based on the Lessors collectively owning 100% of the surface (right of surface support) and 100% of the coal of the property being mined. To the extent that third parties may own the said surface of coal or a part thereof of either or both, then in said event the payments to the Lessors would be reduced in proportion to their ownership interests. By way the of example only, if the Lessors collectively own no surface rights but only the coal, the royalty payments would be 5% of the sale price of the coal or \$1.00, whichever is the greater, i.e. the owners would receive collectively 50% of 5% of the selling price or \$.50, which ever is the greater, and the Hertleins as Sublessors would receive the other 50% of 5% of the selling price of the coal or \$.50 whichever is greater.

All royalties due under the terms of this Lease shall be payable as follows:

- (a) One-half (1/2) of the royalty to Sublessors; and
- (b) One-half (1/2) of the royalty to First Lessors and Additional Lessors in proportion to their interest in surface, minerals or the surface and minerals as the case may be.

B. BACK ROYALTIES- Lessee shall pay to Lessors, a total of \$38,960.00 upon exchange of wholly executed counterparts of this agreement. Lessors shall divide this payment according to their interest as stated in paragraph four (4) above. The parties agree that this additional payment shall compensate Lessors for all back royalties which they claim are due under prior agreements as recited above. As additional consideration for this payment Lessors, for themselves, their heirs, successors and assigns, hereby release, discharge, forgive and waive any other claim, counterclaim, damages, right of action or liability accruing to them against the Lessee because of the prior agreements or the Lessee's extraction of coal on the premises.

6. **ROYALTY PAYMENTS AND RECORDS:**

Lessee agrees as follows:

(a). To pay to the Lessors, without demand, each actual royalty payment on or before the **25th** day of the month following the month of mining and removal.

(b). All coal removed from its original bed or strata will be loaded onto trucks to be weighed on licensed scales certified by a duly authorized public agency, said certification to be current. No coal will be hauled on vehicles where the net or gross weight is estimated.

(c). Each and every truck load shall be reported and accounted for on an exact duplicate truck weight sheet indicating the following:

1. Name of weighmaster;
2. Date of delivery over said scales;
3. Identification of said truck and name of owner;
4. Tract identification or point of origin of each load and point of delivery;
5. Current truck tare empty and exact loaded weight of each truck load. Weights will be exact off to the nearest on hundred (100).

(d). No coal will be hauled from the original bed or strata and co-mingled with any other coal of different tract origin, different rate of royalty or value, nor stockpiled off the demised premises, unless said coal is first weighed and accounted for in the preceding manner.

(e). The following exceptions may be allowed in the event that labor disputes, lack of transportation facilities or severe weather may prohibit the immediate delivery of coal to market destination, to wit; Said coal may be stockpiled on

the leased premises provided that such coal is not co-mingled with coal from other tracts and that coals of different values or from different strata are separated into different stockpiles.

(f). Said duplicated truck weight slips will be provided to Lessor, Lee Hertlien, one of the Lessors, to his address which appears at the end of this agreement on or before the 25th day of each month for all coal mined and removed from the premises for the preceding month. Additionally, Lessee shall provide daily tonnage information to Lessor or its agent as such times as a telephone call would be made to Lessee. Finally, Lessee shall provide Lessor with a copy of all coal sale receipts upon which Lessee calculated the selling price of the coal for the purpose of determining the royalty rate due to Lessor.

(g). A report of all coal hauled from the leased premises which shows daily tonnages, total tonnages for the reporting month, tract of origin of all tonnages and royalty rates applicable to said tonnages shall be delivered with the royalty payments at times specified herein.

(h). Any Lessor shall have the free and uninterrupted right, through Lessors' agents, servants, employees, engineers, accountants, market experts or attorneys, to examine and copy all of the records, maps, invoices or other matters necessary, in the sole opinion of the Lessors, to verify the Lessee's compliance with any or all of the terms of this Lease, but the rights set forth in this Paragraph (c) shall be limited to Lessee's records, maps, invoices or other matters which are of, or relate to, the properties (and the coal produced therefrom) which are subject to this Agreement.

This right may be exercised in whole or in part from time to time at any office of the Lessee during regular business hours, but exercised in a manner so as not to unreasonably interfere with the business of the Lessee.

7. **1950 AGREEMENT:** During the term of this Lease and Sublease Agreement, Sublessors will not be required to pay the minimum royalties set forth in the 1950 Agreement, but, at the time the Lease and Sublease Agreement is terminated for any reason, First Lessor, Additional Lessors and Lessee shall each notify Sublessors that such agreement is terminated, and at that time, Sublessors shall have the option to again begin to pay the minimum royalties to First Lessor and Additional Lessors which are provided in the 1950 agreement, and should Sublessors pay such minimum royalties as provided in the 1950 agreement, then the 1950 agreement shall continue in full force and effect as between First Lessor, Additional Lessors and Sublessors, but inasmuch as this Agreement will have been terminated, Lessee shall have no further rights, obligations and/or liabilities under this Agreement or by virtue of any other Agreement shall Lessee have any rights, obligations or liabilities at this time or at any other time by virtue of or under that certain Agreement dated January 1, 1950 between Leitzinger Bros. Realty Company and Edward Redding as Lessors and Frank J. Hertlein (Frank T. Hertlein) as Lessee.

8. **RIGHT OF ENTRY:** Lessee is hereby granted the right of ingress and egress over or through the lands which are the subject of this Agreement for any purpose whatsoever consistent with the development of the leased premises during the term and extensions of this lease. Lessee may also re-enter the premises for five (5) years following termination of this lease but solely for the purpose of complying with the orders of regulations of the Pennsylvania Department of Environmental Protection or other duly authorized government entity.

9. **MINING METHODS:** Lessee agrees to use, at any given time, modern

and commercially reasonable methods of mining to the end that a reasonable commercial yield from the leased premises is secured.

10. **MINING LAW COMPLIANCE:** As a direct inducement to the Lessors to enter into this Lease, the Lessee agrees, at its sole expense, to comply promptly and fully with any provision, present or future, of any law relating and applicable to the removal of coal by any mining method used and the restoration of disturbed areas. For the purpose of this provision, the word "law" shall mean any applicable statute, regulation, and decision of any Court or regulatory body of the United States, the Commonwealth of Pennsylvania or any subdivision of either.

11. **LIABILITY INSURANCE:** Lessee covenants that it is an independent contractor and does control the manner and means of performing all work in connection with the removal, mining, processing or transporting of said coal from the demised premises. Lessee covenants to carry not less than \$1,000,000.00 of comprehensive liability insurance during the continuance of this Lease insuring against loss to person or property from Lessee's use of the demised premises with a reputable insurance company qualified to do business in the Commonwealth of Pennsylvania insuring the Lessee and the Lessor from any claim for damages, as their interest may appear. Said policy of insurance shall specifically protect against loss to person or property resulting from the use of explosives.

12. **REAL ESTATE TAXES:** Each Lessor herein agrees to pay all local real estate taxes assessed against its particular interest in the leased premises; provided, however, that Lessee agrees to pay all local real estate taxes against improvements which are erected by Lessee upon said premises.

13. **HOLD HARMLESS:** Lessee does herewith agree to indemnify the Lessors individually and collectively, and, at the Lessee's sole expense, to hold the Lessors

harmless from any claim by any third party for any reason arising directly or indirectly from the Lessee's activities hereunder.

14. **RIGHT OF RE-ENTRY:** Lessee shall have the right, at any time during or within six (6) months after the expiration of this Lease, to remove any and all machinery, equipment, property and fixtures placed by the Lessee on the leased premises; provided, however, that Lessee shall be entitled to make re-entry into the leased premises with machinery and equipment after the formal termination of the term hereof for any purposes of compliance with Federal, State or other governmental or regulatory requirements.

15. **MINING: ADVANCE NOTICE:** Lessee shall give to the Lessors, in writing, ninety (90) days' advance notice of areas that the Lessee proposes to disturb so that the Lessors may cause to be removed any merchantable timber owned by Lessors from the areas in question. Lessors shall exercise this right so as not to impede or interfere with the Lessee's rights hereunder. The within notice shall apply only to those areas in which the Lessors have an ownership interest in the surface (exclusive of the right of surface support).

16. **ASSIGNMENT OF LEASE:** This Lease shall not be assignable by the Lessee without the prior written consent of the Lessors for this purpose, provided that Lessee may make such assignment of its rights and obligations under this Agreement, including the right to receive the proceeds thereof, as may be necessary pursuant to Lessee's security arrangements related to financing. Any sale of corporate securities, any reorganization as defined under the Securities Act of the United States of 1933, as amended, or as defined under Section 331 et seq. of the Internal Revenue Code of the United States which results in a change or control of ownership of the Lessee, regardless of form, shall be considered in substance an assignment and shall require the prior consent of the Lessor. No consent to assignment shall be unreasonably withheld.

Lessors may assign their interests and shall promptly give Lessee written notice thereof.

HERE SIGN

17. **RESERVATION OF OIL AND GAS AND OTHER MINERALS:** Lessors reserve to the Lessors, Lessors successors and assigns, or the Lessors' heirs, as the case may be, all clay, oil, gas, surface, timber or other minerals, excepting the coal and the rights heretofore granted, together with the right to develop the same by any presently known or hereafter known method so long as said development does not interfere unreasonably with the operations of the Lessee hereunder. It is understood that Sublessors have no ownership interest in the foregoing mineral rights and oil and gas and the provisions set forth herein are not applicable to the Sublessors.

18. **DEFAULT:** If any default occurs hereunder, Lessor, Additional Lessors and/or Sublessors shall give the Lessee thirty (30) days' written notice specifying the default, during which period the Lessee may rectify the default, except a default under Paragraph 16 hereof and shall cause an immediate forfeiture of this Lease. Any default, claim or dispute shall be subject to the jurisdiction of the Court of Common Pleas of Clearfield County, Pennsylvania.

19. **NOTICES:**

(a). All notices, requests, demands, consents, documents and other communications required or permitted hereunder shall be in writing and may be delivered either personally or by certified or registered mail (return receipt requested) at the following addresses (provided, however, that any of the parties hereto may from time to time change their address by giving written notice as aforesaid of the new or changed address):

Leitzinger Land Company, Inc.
404 West Seventh Avenue
Clearfield, Pennsylvania 16830

Robert E. Hoover, Jr.
228 Sunrise Avenue, Southeast
Ocean Shore, Washington 98569

Mary A. Lee
Spruce Cabin Road
P.O. Box 194
Mountainhome, Pennsylvania 18342

Louise E. Kirkwood
H.C. 1, Box 41
Karthaus, Pennsylvania 16845

Eva Jane Hertlein
R.R. #1, Box 61
Frenchville, Pennsylvania 16836

Edith M. Hertlein
P.O. Box 203
Frenchville, Pennsylvania 16836

Patsy L. Kimble
R.R. #1, Box 36
Frenchville, Pennsylvania 16836

Frank T. Hertlein, Jr.
H.C. 1, Box 38
Karthaus, Pennsylvania 16845

Glenn R. Hertlein
H.C. 1, Box 16845
Karthaus, Pennsylvania 16845

G. Lee Hertlein
R.R. # 1 Box 77
Frenchville, PA 16836

Timothy L. Hertlein
P.O. Box 142
Drifting, Pennsylvania 16834

20. **MEMORANDUM OF LEASE:** Lessor and Lessee covenant and agree to execute and acknowledge a Memorandum of this Lease suitable for recording. In the event that this Lease and the term hereof shall be terminated for any reason, Lessee covenants and agrees to execute such release and assurance in recordable form as may be reasonably requested by Lessor. However, upon termination of this Lease, Lessee shall have the option to retain the mining rights and releases provided herein for so long as Lessee continues active operations upon the adjacent properties or other properties in the area in reasonable proximity to the leased premises.

This Lease and Agreement and all of its terms, covenants, conditions and provisions shall extend to and be binding upon and inure to the benefit of not only the parties hereto but each of their

respective heirs, representatives, executors, administrators, successors and assigns, except as may be specifically provided otherwise in Paragraph 15 of this Agreement.

21. **SUPPLEMENTAL C:** Lessors agree to execute, acknowledge and deliver unto Lessee, within ten (10) days after written notice from Lessee, the consents of landowner designated as "Supplemental C" required by the Commonwealth of Pennsylvania in order for Lessee to obtain a mining permit for the premises. The within lease involves various different parcels of land and the within provision shall relate to each said parcel for which a "Supplemental C" is required. Said consent shall be executed and acknowledge by Lessors in four (4) originals as required by DEP.

22. ***GENERAL PROVISIONS:***

- A) This Agreement shall be governed by the laws of Pennsylvania. Jurisdiction and venue shall rest in the Court of Common Pleas of Clearfield County, Pennsylvania, for all suits and claims.
- B) This Lease shall bind and inure to the benefit of LESSORS and LESSEES, their respective heirs, successors and assigns.
- C) This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. This agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this agreement to be drafted. All terms and words used in this agreement, regardless of the number or gender, in which they are used, shall be deemed to include any other number and any other gender as the context may require.
- D) In construing this Agreement, "LESSEES" and "LESSORS" shall mean, wherever applicable, an individual, partnership, estate, trust or corporation, as the case may be;
- E) This Agreement can only be modified or amended by the prior written consent of all parties hereto.
- F) Failure by the LESSORS to take any action, assert any right or declare any breach of this lease shall not constitute a waiver of any rights of LESSORS.
- G) In the event of litigation, mediation or arbitration of a dispute between the parties, concerning this agreement or the parties' earlier agreements are recited above, the prevailing party shall recover, as part of its damages,

attorneys fees, expert witness fees and other costs reasonably and actually incurred by the prevailing party in conjunction with the litigation, mediation or arbitration.

IN WITNESS WHEREOF, the parties hereto have properly executed this Agreement the day and year first above written.

WITNESS:

Francis K. Leitzinger

WITNESS:

WITNESS:

Lee Hertlein

Lee Hertlein

Lee Hertlein

Lee Hertlein

Lee Hertlein

FIRST LESSORS:

LEITZINGER LAND COMPANY, INC.

James J. Leitzinger
James J. Leitzinger, President

Thomas Leitzinger
Thomas Leitzinger, Secretary

ADDITIONAL LESSORS:

Robert E. Hoover, Jr.

Mary A. Lee

SUBLESSORS:

Louise Kirkwood
Louise Kirkwood

Eva Jane Hertlein
Eva Jane Hertlein

Edith Hertlein
Edith Hertlein

Patsy L. Kimble
Patsy L. Kimble

Frank T. Hertlein
Frank T. Hertlein

Lee Hertlein

Glenn R. Hertlein
Glenn R. Hertlein

Lee Hertlein

Timothy Hertlein
Timothy Hertlein

Mary Ann Conway

G. Lee Hertlein
G. Lee Hertlein

WITNESS:

LESSEE:
RIVER HILL COAL COMPANY, INC.

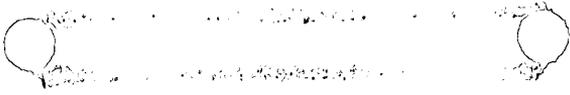
Larry Kanou

Harry I. Manchar
Harry I. Manchar, President

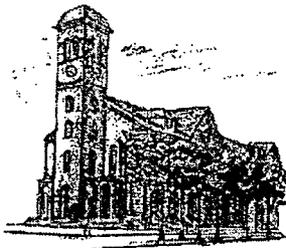
FILED

JUN 05 2006

**William A. Shaw
Prothonotary/Clerk of Courts**



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Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ■ Phone: (814) 765-2641 Ext. 1330 ■ Fax: (814) 765-7659 ■ www.clearfieldco.org

September 23, 2008

COPY

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

RE: Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein

vs

River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.
No. 06-903-CD
Superior Court No. 1244 WDA 2008

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed
to your office.

Sincerely,

William A. Shaw
Prothonotary

FILED
01:10:48 (6)
SEP 23 2008

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

**Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein**
VS.

**River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.
06-903-CD**

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from No. 1 to 29, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is September 23, 2008.



William A. Shaw
Prothonotary/Clerk of Courts

(seal)

Date: 9/23/2008

Clearing County Court of Common Pleas

User: BHUDSON

Time: 10:28 AM

ROA Report

Page 1 of 3

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

Re: Jane Hertlein, et alvs. River Hill Coal Company, Inc., et al

Civil Other-COUNT

Date	Description	Judge
5/2006	New Case Filed.	No Judge
	Filing: Civil Complaint, located in Karthaus Township Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1914137 Date: 06/05/2006 Amount: \$85.00 (Check) 1CC Atty.	No Judge
20/2006	Sheriff Return, June 7, 2006 at 11:35 am served the within Complaint on River Hill Coal Company Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Naddeo \$41.74	No Judge
3/2006	Praeipce For Entry of Appearance, filed by Atty. Ammerman 2 Cert. to Atty. Enter appearance on behalf of Defendant River Hill Coal Company, Inc.	No Judge
	Praeipce for Writ to Join Additional Defendant, filed by Atty. Ammerman noc cert copies, issued 2 Writs to Join Addintional Defendant to Atty.	No Judge
7/2006	Entry of Appearance, filed. Please enter my appearance as attorney for additional defendant Leizinger Land Company Inc., in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	Acceptance of Service, filed. I accept service of the Writ to Join Additional Defendant in the above reference case on behalf of Leitzinger Land Company Inc., the additional defendant, and certify that I am counswl of record for Leitzinger Land Company Inc., and authorized to do so, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	Certificate of Service, filed. Peter F. Smith attorney for Leitzinger Land Company Inc., in the above-captioned matter, hereby certify that I served a true and corect copy of the Praeipce for Entry of Apperance and Acceptance of Service filed in this matter on James A. Naddeo Esq. and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge
14/2006	Answer and New Matter filed by David S. Ammerman Esq. 3CC atty.	No Judge
27/2006	Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company Inc., filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	No Judge
15/2006	Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	No Judge
3/2006	Certificate of Service, filed. Served Additional Defendant's Interrogatories directed to Plaintiffs and Additional Defendant's Request for Production of Documents directed to Plaintiffs on James A. Naddeo Esq., filed by Peter F. Smith Esq. No CC.	No Judge
14/2006	Certificate of Service, filed. That a true and correct copy of Plaintiffs' Answer to Additional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents Directed to Plaintiffs in the above-captioned action case was served on David S. Ammerman Esq., and Peter F. Smith Esq., on the 3rd day of October 2006, filed by s/ James A. Naddeo Esq. NO CC.	No Judge
11/10/2006	Certificate of Readiness for Non-Jury Trial, filed by s/ James A. Naddeo, Esquire. No CC	No Judge

Civil Other-COUNT

Date		Judge
23/2007	Order, NOW, this 22nd day of Jan, Ordered: 1. Counsel shall submit all documents relative their respective positions to opposing counsel and the Court within 20 days of today's date. 2. Counsel for the parties shall submit Brief no later than March 30, 2007 to the Court. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith	Paul E. Cherry
13/2007	Certificate of Service, filed. Sent Pre-Trial Statements filed in the above case on January 15, 2007 to Judge Paul E. Cherry, James A. Naddeo Esq., and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
2/2007	Certificate of Service, filed. That a true and correct copy of Stipulation in the above-captioned action case was served on Peter F. Smith Esq on the 2nd day of April 2007, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Paul E. Cherry
5/2007	Stipulation, filed. By s/ James A. Naddeo, Esquire. No CC	Paul E. Cherry
11/2007	Certificate of Service, copy of Leitzinger Land Company, Inc.'s Brief served by Hand Delivery to James A. Naddeo, Esquire, and David S. Ammerman, Esquire, on April 10, 2007. Filed by s/ Peter F. Smith, Esquire. No CC	Paul E. Cherry
6/2007	Opinion, NOW, this 5th day of June, 2007, after review of briefs submitted by the Plaintiffs and the Defendant and examination of the exhibits submitted a part of the record this Court finds that the lease excludes the approximately 50 acres identified on the Henry F. Van Valzah map as the "Wharton Cole" tract. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith; 1CC Law Library, D. Mikesell (without memo)	Paul E. Cherry
22/2007	Filing: Praeipce to Enter Judgment. Please enter Judgment in favor of the Defendant, Leitzinger Land Company Inc., pursuant to the court's June 5, 2007 opinion. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1919513 Dated: 6/22/2007 Amount: \$20.00 (Check) Notices to Attys: Naddeo and Ammerman.	Paul E. Cherry
27/2008	Order, this 27th day of June, 2008, AGAIN, this court finds the approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement Frank Hertlein, Leitzinger Bros. Realty Company and Edward Redding. By The Court, /s/ Paul E. Cherry, Judge. CC to Attys: Naddeo, Ammerman, and Smith	Paul E. Cherry
14/2008	Filing: Praeipce to Enter Judgment. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1924968 Dated: 7/14/2008 Amount: \$20.00 (Check) Please enter Judgment in favor of the Defendants and against the Plaintiffs pursuant to the Court's Decision and Order entered in this matter on June 27, 2008, filed by s/ Peter F. Smith Esq. Notice to Attys: Naddeo and Ammerman.	Paul E. Cherry
	Certificate of Service, filed. Served a true and correct copy of the Praeipce to Enter Judgment filed in this matter on the Plaintiffs Attorney James A. Naddeo Esq and the Defendant River Hill Coal Company's Attorney David S. Ammerman, filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
25/2008	Filing: Appeal to High Court Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1925122 Dated: 7/25/2008 Amount: \$50.00 (Check) Notice of Appeal, to the Superior Court, from the Order entered on June 27, 2008 and Judgment there entered. Filed by s/ James A. Naddeo, Esquire. 6CC Atty. Naddeo; 1CC & Check for \$60.00 to Superior Court.	Paul E. Cherry

Date: 9/23/2008
Time: 10:28 AM
Page 3 of 3

Clearfield County Court of Common Pleas

ROA Report

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

User: BHUDSON

via Jane Hertlein, et alvs. River Hill Coal Company, Inc., et al

Civil Other-COUNT

Date	Judge
30/2008	Paul E. Cherry
<p>Order AND NOW, this 29th day of July 2008, the Court having been notified of Appeal to the Superior Court of Pennsylvania in the above captioned matter, it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. Statement shall be filed of record and shall be served upon the Judge pursuant to paragraph (b)(1). Any issue not properly included in the Statement timely filed and served pursuant to subdivision (b) shall be deemed waived. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith</p> <p>Order, AND NOW, this 29th day of July 2008, it is the ORDER of this Court that Status Conference with regard to this matter shall be and is hereby scheduled for the 8th day of August 2008, beginning at 9:00 a.m. in Judge's Chambers, of the Clearfield County Courthouse, Clearfield PA. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Naddeo, D. Ammerman and P Smith.</p>	
7/2008	Paul E. Cherry
<p>Appeal Docket Sheet, filed. 1244 WDA 2008 No CC</p>	
20/2008	Paul E. Cherry
<p>Plaintiffs' Concise Statement of Matters Complained of on Appeal, filed by s James A. Naddeo, Esquire. 3CC Atty. Naddeo</p>	
23/2008	Paul E. Cherry
<p>September 23, 2008, Mailed Appeal to Superior Court. September 23, 2008, Letters, Re: Notification of mailing appeal mailed to James A. Naddeo, Esq; David S. Ammerman, Esq.; and Peter F. Smith, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931 (c).</p>	

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 23 2008

Attest.



William A. Prothonotary
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-903-CD

**Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein**

Vs.

**River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.**

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
01	06/05/2006	Civil Complaint	43
02	06/20/2006	Sheriff Return	01
03	07/06/2006	Praeipce for Entry of Appearance	01
04	07/06/2006	Praeipce for Writ to Join Additional Defendant	02
05	07/07/2006	Entry of Appearance	02
06	07/07/2006	Acceptance of Service	01
07	07/07/2006	Certificate of Service	01
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10	08/15/2006	Answer to New Matter	06
11	09/08/2006	Certificate of Service	01
12	10/04/2006	Certificate of Service	02
13	10/10/2006	Certificate of Readiness for Non-Jury Trial	04
14	01/23/2007	Order, Re: documents and briefs due	01
15	02/13/2007	Certificate of Service	01
16	04/02/2007	Certificate of Service	02
17	04/05/2007	Stipulation, Re: Admission of documents	89
18	04/11/2007	Certificate of Service	01
19	06/06/2007	Opinion	07
20	06/22/2007	Praeipce to Enter Judgment	02
21	06/27/2008	Order, Re: clear language and meaning of original opinion	01
22	07/14/2008	Praeipce to Enter Judgment	02
23	07/14/2008	Certificate of Service	01
24	07/25/2008	Notice of Appeal to High Court	06
25	07/30/2008	Order, Re: concise statement due	01
26	07/30/2008	Order, Re: Status conference scheduled	02
27	08/07/2008	Appeal Docket Sheet, 1244 WDA 2008	06
28	08/20/2008	Plaintiffs' Concise Statement of Matters Complained of on Appeal	05
29	09/23/2008	Letters, Re: Notification of mailing appeal mailed to James A. Naddeo, Esq; David S. Ammerman, Esq.; and Peter F. Smith, Esq. with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931 (c).	05

Copy

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

Eva Jane Hertlein; Edith M. Hertlein; Patsy
L. Hertlein Kimble; Frank T. Hertlein, Jr.;
Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee
Hertlein, indiv. and as Attorney-in-fact for
the heirs of Frank T. Hertlein and Ivy E.
Hertlein

Vs.

Case No. 2006-00903-CD

River Hill Coal Company, Inc. and
Leitzinger Land Company, Inc.

CERTIFICATE OF CONTENTS

NOW, this 23rd day of September, 2008, the undersigned, Prothonotary or Deputy
Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, the said Court
of record, does hereby certify that attached is the original record of the case currently on Appeal.

An additional copy of this Certificate is enclosed with the original hereof and the Clerk or
Prothonotary of the Superior Court is hereby directed to acknowledge receipt of the Appeal
Record by executing such copy at the place indicated by forthwith returning the same to this
Court.

RECORDED
SEP 25 2008
BY: *William A. Shaw*
William A. Shaw, Prothonotary

Record, Etc. Received:

Date:

[Signature]
(Signature & Title)

FILED
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SEP 29 2008 *60*



06-903-CD

Superior Court of Pennsylvania

Karen Reid Bramblett, Esq.
Prothonotary
Eleanor R. Valecko
Deputy Prothonotary

Western District

310 Grant Street, Suite 600
Pittsburgh, PA 15219-2297
(412) 565-7592
www.superior.court.state.pa.us

CERTIFICATE OF REMITTAL/REMAND OF RECORD

TO: Mr. Shaw
Prothonotary

RE: Hertlein, E. v. River Hill Coal Company
1244 WDA 2008
Trial Court Clearfield County Court of Common Pleas
Trial Court Docket No: No 06-903-CD

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter.

Original Record contents:

Item	Filed Date	Description
Original Record	September 25, 2008	1 Part

Additional Item(s): Cert order included with record

Remand/Remittal Date: 03/18/2010

ORIGINAL RECIPIENT ONLY - Please acknowledge receipt by signing, dating, and returning the enclosed copy of this certificate to our office. Copy recipients (noted below) need not acknowledge receipt.

Very truly yours,

Eleanor R. Valecko
Deputy Prothonotary

/bnl
Enclosure

FILED ^{NO}
m10:45Bot ^{cc}
MAR 22 2010 (610)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAR 22 2010

**William A. Shaw
Prothonotary/Clerk of Courts**

06-903-CD

In the Superior Court of Pennsylvania

Sitting at Pittsburgh

No. 1244 WDA 2008

Appeal from the Judgment entered on July 14, 2008, by the Honorable Paul E. Cherry, Court of Common Pleas, Civil Division of the County of Clearfield at No. 06-903-CD

Eva Jane Hertlein, et al., Appellants

v.

River Hill Coal Company, Inc., et al.

CERTIFIED FROM THE RECORD

ORDER

"The above-captioned appeal is dismissed for the failure of the appellant to comply with Pa.R.A.P. 3517. Counsel shall file a certification with this court within 10 days of the date of this order, stating that the client has been notified of the entry of this order.

Date: October 6, 2008 Per Curiam"

FILED
m 12:45 PM
MAR 22 2010
William A. Shaw
Prothonotary/Clerk of Courts

"In Testimony Whereof, I have hereunto set my hand and the seal of said Court at Pittsburgh,

Pa. this 6th

Day of October

Eleanor R. Valecko 2008

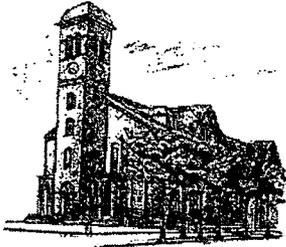
Deputy Prothonotary

FILED

MAR 22 2010

William A. Shaw
Prothonotary/Clerk of Courts

William A. Shaw



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

Jacki Kendrick
Deputy Prothonotary/Clerk of Courts

Bonnie Hudson
Administrative Assistant

David S. Ammerman
Solicitor

PO Box 549, Clearfield, PA 16830 ▪ Phone: (814) 765-2641 Ext. 1330 ▪ Fax: (814) 765-7659 ▪ www.clearfieldco.org

Paul E. Cherry, Judge
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

James A. Naddeo, Esq.
PO Box 552
207 East Market St.
Clearfield, PA 16830

David S. Ammerman, Esq.
310 East Cherry Street
Clearfield, PA 16830

Peter F. Smith, Esq.
PO Box 130
Clearfield, PA 16830

COPY

Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein
Vs.

River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.

Court No. 06-903-CD; Superior Court No. 1244 WDA 2008

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on September 23, 2008.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-903-CD

*Eva Jane Hertlein; Edith M. Hertlein; Patsy L. Hertlein Kimble;
Frank T. Hertlein, Jr.; Glenn R. Hertlein; Timothy L. Hertlein;
Louise E. Hertlein Kirkwood; and G. Lee Hertlein, indiv. and as
Attorney-in-fact for the heirs of Frank T. Hertlein and Ivy E. Hertlein*

Vs.

*River Hill Coal Company, Inc., a Pennsylvania Corporation
and
Leitzinger Land Company, Inc.*

ITEM NO.	DATE OF FILING	NAME OF DOCUMENT	NO. OF PAGES
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19	06/06/2007	Opinion	07
20	06/22/2007	Praeipce to Enter Judgment	02
21	06/27/2008	Order, Re: clear language and meaning of original opinion	01
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28	08/20/2008	Plaintiffs' Concise Statement of Matters Complained of on Appeal	05

Date: 9/23/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:08 AM

ROA Report

Page 1 of 3

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

Eva Jane Hertlein, et alvs.River Hill Coal Company, Inc., et al

Civil Other-COUNT

Date		Judge
6/5/2006	New Case Filed.	No Judge
	Filing: Civil Complaint, located in Karthaus Township Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1914137 Date: 06/05/2006 Amount: \$85.00 (Check) 1CC Atty.	No Judge
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	Praecipe for Writ to Join Additional Defendant, filed by Atty. Ammerman noc cert copies, issued 2 Writs to Join Addintional Defendant to Atty.	No Judge
7/7/2006	Entry of Appearance, filed. Please enter my appearance as attorney for additional defendant Leizinger Land Company Inc., in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	Acceptance of Service, filed. I accept service of the Writ to Join Additional Defendant in the above reference case on behalf of Leitzinger Land Company Inc., the additional defendant, and certify that I am counswl of record for Leitzinger Land Company Inc., and authorized to do so, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	Certificate of Service, filed. Peter F. Smith attorney for Leitzinger Land Company Inc., in the above-captioned matter, hereby certify that I served a true and corect copy of the Praecipe for Entry of Apperance and Acceptance of Service filed in this matter on James A. Naddeo Esq. and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge
7/14/2006	Answer and New Matter filed by David S. Ammerman Esq. 3CC atty.	No Judge
7/27/2006	Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company Inc., filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	No Judge
8/15/2006	Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	No Judge
9/8/2006	Certificate of Service, filed. Served Additional Defendant's Interrogatories directed to Plaintiffs and Additional Defendant's Request for Production of Documents directed to Plaintiffs on James A. Naddeo Esq., filed by Peter F. Smith Esq. No CC.	No Judge
10/4/2006	Certificate of Service, filed. That a true and correct copy of Plaintiffs' Answer to Additional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents Directed to Plaintiffs in the above-captioned action case was served on Davi S. Ammerman Esq., and Peter F. Smith Esq., on the 3rd day of October 2006, filed by s/ James A. Naddeo Esq. NO CC.	No Judge
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Civil Other-COUNT

Date		Judge
1/23/2007	Order, NOW, this 22nd day of Jan, Ordered: 1. Counsel shall submit all documents relative their respective positions to opposing counsel and the Court within 20 days of today's date. 2. Counsel for the parties shall submit Brief no later than March 30, 2007 to the Court. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith	Paul E. Cherry
2/13/2007	Certificate of Service, filed. Sent Pre-Trial Statements filed in the above case on January 15, 2007 to Judge Paul E. Cherry, James A. Naddeo Esq., and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
4/2/2007	Certificate of Service, filed. That a true and correct copy of Stipulation in the above-captioned action case was served on Peter F. Smith Esq on the 2nd day of April 2007, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Paul E. Cherry
4/5/2007	Stipulation, filed. By s/ James A. Naddeo, Esquire. No CC	Paul E. Cherry
4/11/2007	Certificate of Service, copy of Leitzinger Land Company, Inc.'s Brief served by Hand Delivery to James A. Naddeo, Esquire, and David S. Ammerman, Esquire, on April 10, 2007. Filed by s/ Peter F. Smith, Esquire. No CC	Paul E. Cherry
6/6/2007	Opinion, NOW, this 5th day of June, 2007, after review of briefs submitted by the Plaintiffs and the Defendant and examination of the exhibits submitted a part of the record this Court finds that the lease excludes the approximately 50 acres identified on the Henry F. Van Valzah map as the "Wharton Cole" tract. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith; 1CC Law Library, D. Mikesell (without memo)	Paul E. Cherry
6/22/2007	Filing: Praeipce to Enter Judgment. Please enter Judgment in favor of the Defendant, Leitzinger Land Company Inc., pursuant to the court's June 5, 2007 opinion. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1919513 Dated: 6/22/2007 Amount: \$20.00 (Check) Notices to Attys: Naddeo and Ammerman.	Paul E. Cherry
6/27/2008	Order, this 27th day of June, 2008, AGAIN, this court finds the approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement Frank Hertlein, Leitzinger Bros. Realty Company and Edward Redding. By The Court, /s/ Paul E. Cherry, Judge. CC to Attys: Naddeo, Ammerman, and Smith	Paul E. Cherry
7/14/2008	Filing: Praeipce to Enter Judgment. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1924968 Dated: 7/14/2008 Amount: \$20.00 (Check) Please enter Judgment in favor of the Defendants and against the Plaintiffs pursuant to the Court's Decision and Order entered in this matter on June 27, 2008, filed by s/ Peter F. Smith Esq. Notice to Attys: Naddeo and Ammerman.	Paul E. Cherry
	Certificate of Service, filed. Served a true and correct copy of the Praeipce to Enter Judgment filed in this matter on the Plaintiffs Attorney James A. Naddeo Esq and the Defendant River Hill Coal Company's Attorney David S. Ammerman, filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
7/25/2008	Filing: Appeal to High Court Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1925122 Dated: 7/25/2008 Amount: \$50.00 (Check) Notice of Appeal, to the Superior Court, from the Order entered on June 27, 2008 and Judgment there entered. Filed by s/ James A. Naddeo, Esquire. 6CC Atty. Naddeo; 1CC & Check for \$60.00 to Superior Court.	Paul E. Cherry

Date: 9/23/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:08 AM

ROA Report

Page 3 of 3

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

Eva Jane Hertlein, et alvs.River Hill Coal Company, Inc., et al

Civil Other-COUNT

Date		Judge
7/30/2008	<p>Order AND NOW, this 29th day of July 2008, the Court having been notified of Appeal to the Superior Court of Pennsylvania in the above captioned matter, it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. Statement shall be filed of record and shall be served upon the Judge pursuant to paragraph (b)(1). Any issue not properly included in the Statement timely filed and served pursuant to subdivision (b) shall be deemed waived. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith</p> <p>Order, AND NOW, this 29th day of July 2008, it is the ORDER of this Court that Status Conference with regard to this matter shall be and is hereby scheduled for the 8th day of August 2008, beginning at 9:00 a.m. in Judge's Chambers, of the Clearfield County Courthouse, Clearfield PA. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Naddeo, D. Ammerman and P Smith.</p>	Paul E. Cherry
8/7/2008	Appeal Docket Sheet, filed. 1244 WDA 2008 No CC	Paul E. Cherry
8/20/2008	Plaintiffs' Concise Statement of Matters Complained of on Appeal, filed by s. Paul E. Cherry James A. Naddeo, Esquire. 3CC Atty. Naddeo	

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 23 2008

Attest.



William A. ...
Prothonotary/
Clerk of Courts

Civil Other-COUNT

Date		Judge
6/5/2006	New Case Filed.	No Judge
	① Filing: Civil Complaint, located in Karthaus Township Paid by: Naddeo, 43 James A. (attorney for Hertlein, Eva Jane) Receipt number: 1914137 Date: 06/05/2006 Amount: \$85.00 (Check) 1CC Atty.	No Judge
6/20/2006	② Sheriff Return, June 7, 2006 at 11:35 am served the within Complaint on River Hill Coal Company Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Naddeo \$41.74	No Judge
7/6/2006	③ Praecipe For Entry of Appearance, filed by Atty. Ammerman 2 Cert. to Atty. Enter appearance on behalf of Defendant River Hill Coal Company, Inc.	No Judge
	④ Praecipe for Writ to Join Additional Defendant, filed by Atty. Ammerman noc cert copies, issued 2 Writs to Join Addintional Defendant to Atty. 2	No Judge
7/7/2006	⑤ Entry of Appearance, filed. Please enter my appearance as attorney for additional defendant Leizinger Land Company Inc., in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC. 2	No Judge
	⑥ Acceptance of Service, filed. I accept service of the Writ to Join Additional Defendant in the above reference case on behalf of Leitzinger Land Compai, Inc., the additional defendant, and certify that I am counswl of record for Leitzinger Land Company Inc., and authorized to do so, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	⑦ Certificate of Service, filed. Peter F. Smith attorney for Leitzinger Land Company Inc., in the above-captioned matter, hereby certify that I served a true and corect copy of the Praecipe for Entry of Apperance and Acceptance of Service filed in this matter on James A. Naddeo Esq. and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge
7/14/2006	⑧ Answer and New Matter filed by David S. Ammerman Esq. 3CC atty. 7	No Judge
7/27/2006	⑨ Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company Inc., filed by s/ James A. Naddeo Esq. 2CC Atty 5 Naddeo.	No Judge
8/15/2006	⑩ Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 2CC Atty, Naddeo 6	No Judge
9/8/2006	⑪ Certificate of Service, filed. Served Additional Defendant's Interrogatories directed to Plaintiffs and Additional Defendant's Request for Production of Documents directed to Plaintiffs on James A. Naddeo Esq., filed by Peter F. Smith Esq. No CC. 1	No Judge
10/4/2006	⑫ Certificate of Service, filed. That a true and correct copy of Plaintiffs' Answer to Additional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents 2 Directed to Plaintiffs in the above-captioned action case was served on Davi S. Ammerman Esq., and Peter F. Smith Esq., on the 3rd day of October 2006, filed by s/ James A. Naddeo Esq. NO CC.	No Judge
10/10/2006	⑬ Certificate of Readiness for Non-Jury Trial, filed by s/ James A. Naddeo, Esquire. No CC 4	No Judge

Civil Other-COUNT

Date		Judge
1/23/2007	Order, NOW, this 22nd day of Jan, Ordered: 1. Counsel shall submit all documents relative their respective positions to opposing counsel and the Court within 20 days of today's date. 2. Counsel for the parties shall submit Brief no later than March 30, 2007 to the Court. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith	Paul E. Cherry
2/13/2007	Certificate of Service, filed. Sent Pre-Trial Statements filed in the above case on January 15, 2007 to Judge Paul E. Cherry, James A. Naddeo Esq., and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
4/2/2007	Certificate of Service, filed. That a true and correct copy of Stipulation in the above-captioned action case was served on Peter F. Smith Esq on the 2nd day of April 2007, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Paul E. Cherry
4/5/2007	Stipulation, filed. By s/ James A. Naddeo, Esquire. No CC	Paul E. Cherry
4/11/2007	Certificate of Service, copy of Leitzinger Land Company, Inc.'s Brief served by Hand Delivery to James A. Naddeo, Esquire, and David S. Ammerman, Esquire, on April 10, 2007. Filed by s/ Peter F. Smith, Esquire. No CC	Paul E. Cherry
6/6/2007	Opinion, NOW, this 5th day of June, 2007, after review of briefs submitted by the Plaintiffs and the Defendant and examination of the exhibits submitted a part of the record this Court finds that the lease excludes the approximately 50 acres identified on the Henry F. Van Valzah map as the "Wharton Cole" tract. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith; 1CC Law Library, D. Mikesell (without memo)	Paul E. Cherry
6/22/2007	Filing: Praecipe to Enter Judgment. Please enter Judgment in favor of the Defendant, Leitzinger Land Company Inc., pursuant to the court's June 5, 2007 opinion. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1919513 Dated: 6/22/2007 Amount: \$20.00 (Check) Notices to Attys: Naddeo and Ammerman.	Paul E. Cherry
6/27/2008	Order, this 27th day of June, 2008, AGAIN, this court finds the approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement Frank Hertlein, Leitzinger Bros. Realty Company and Edward Redding. By The Court, /s/ Paul E. Cherry, Judge. CC to Attys: Naddeo, Ammerman, and Smith	Paul E. Cherry
7/14/2008	Filing: Praecipe to Enter Judgment. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1924968 Dated: 7/14/2008 Amount: \$20.00 (Check) Please enter Judgment in favor of the Defendants and against the Plaintiffs pursuant to the Court's Decision and Order entered in this matter on June 2, 2008, filed by s/ Peter F. Smith Esq. Notice to Attys: Naddeo and Ammerman.	Paul E. Cherry
	Certificate of Service, filed. Served a true and correct copy of the Praecipe to Enter Judgment filed in this matter on the Plaintiffs Attorney James A. Naddeo Esq and the Defendant River Hill Coal Company's Attorney David S. Ammerman, filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
7/25/2008	Filing: Appeal to High Court Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1925122 Dated: 7/25/2008 Amount: \$50.00 (Check) Notice of Appeal, to the Superior Court, from the Order entered on June 27, 2008 and Judgment there entered. Filed by s/ James A. Naddeo, Esquire. 6CC Atty. Naddeo; 1CC & Check for \$60.00 to Superior Court.	Paul E. Cherry

Date: 9/15/2008

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 03:30 PM

ROA Report

Page 3 of 3

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

Eva Jane Hertlein, et alvs. River Hill Coal Company, Inc., et al

Civil Other-COUNT

Date	Judge
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7/30/2008	<p>Order AND NOW, this 29th day of July 2008, the Court having been notified Paul E. Cherry of Appeal to the Superior Court of Pennsylvania in the above captioned matter, it is the ORDER of this Court that Appellant file a concise statement of the matters complained of on said Appeal no later than twenty-one (21) days therefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure. It is further ORDERED of this Court that the Statement shall be filed of record and shall be served upon the Judge pursuant to paragraph (b)(1). Any issue not properly included in the Statement timely filed and served pursuant to subdivision (b) shall be deemed waived. BY THE COURT /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith</p>
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8/7/2008	<p>Order, AND NOW, this 29th day of July 2008, it is the ORDER of this Court Paul E. Cherry that Status Conference with regard to this matter shall be and is hereby scheduled for the 8th day of August 2008, beginning at 9:00 a.m. in Judge's 2 Chambers, of the Clearfield County Courthouse, Clearfield PA. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Naddeo, D. Ammerman and P Smith.</p>
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8/7/2008	<p>Appeal Docket Sheet, filed. no CC <i>ve</i> 1244 WDA 2008 Paul E. Cherry</p>
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8/20/2008	<p>Plaintiff's Concise Statement of Matters Complained of on Appeal, filed by s Paul E. Cherry James A. Naddeo, Esquire. 3CC Atty. Naddeo <i>S</i></p>
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Civil Other-COUNT

Date		Judge
6/5/2006	New Case Filed.	No Judge
	X Filing: Civil Complaint, located in Karthaus Township Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1914137 Dated: 06/05/2006 Amount: \$85.00 (Check) 1CC Atty.	No Judge
6/20/2006	X Sheriff Return, June 7, 2006 at 11:35 am served the within Complaint on River Hill Coal Company Inc. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Naddeo \$41.74	No Judge
7/6/2006	X Praeipe For Entry of Appearance, filed by Atty. Ammerman 2 Cert. to Atty. Enter appearance on behalf of Defendant River Hill Coal Company, Inc.	No Judge
	X Praeipe for Writ to Join Additional Defendant, filed by Atty. Ammerman noc cert copies, issued 2 Writs to Join Addintional Defendant to Atty.	No Judge
7/7/2006	X Entry of Appearance, filed. Please enter my appearance as attorney for additional defendant Leizinger Land Company Inc., in the above-captioned matter, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	X Acceptance of Service, filed. I accept service of the Writ to Join Additional Defendant in the above reference case on behalf of Leitzinger Land Company Inc., the additional defendant, and certify that I am counswl of record for Leitzinger Land Company Inc., and authorized to do so, filed by s/ Peter F. Smith Esq. No CC.	No Judge
	X Certificate of Service, filed. Peter F. Smith attorney for Leitzinger Land Company Inc., in the above-captioned matter, hereby certify that I served a true and corect copy of the Praeipe for Entry of Apperance and Acceptance of Service filed in this matter on James A. Naddeo Esq. and David S. Ammerman Esq., filed by s/ Peter F. Smith Esq. No CC.	No Judge
7/14/2006	X Answer and New Matter filed by David S. Ammerman Esq. 3CC atty.	No Judge
7/27/2006	X Plaintiffs' First Request for Production of Documents directed to Defendant River Hill Coal Company Inc., filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	No Judge
8/15/2006	X Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo	No Judge
9/8/2006	X Certificate of Service, filed. Served Additional Defendant's Interrogatories directed to Plaintiffs and Additional Defendant's Request for Production of Documents directed to Plaintiffs on James A. Naddeo Esq., filed by Peter F. Smith Esq. No CC.	No Judge
10/4/2006	X Certificate of Service, filed. That a true and correct copy of Plaintiffs' Answer to Additional Defendant's Interrogatories Directed to Plaintiffs and Plaintiffs' Response to Additional Defendant's Request for Production of Documents Directed to Plaintiffs in the above-captioned action case was served on David S. Ammerman Esq., and Peter F. Smith Esq., on the 3rd day of October 2006, filed by s/ James A. Naddeo Esq. NO CC.	No Judge
10/10/2006	X Certificate of Readiness for Non-Jury Trial, filed by s/ James A. Naddeo, Esquire. No CC	No Judge

Civil Other-COUNT

Date		Judge
1/23/2007	X Order, NOW, this 22nd day of Jan, Ordered: 1. Counsel shall submit all documents relative their respective positions to opposing counsel and the Court within 20 days of today's date. 2. Counsel for the parties shall submit Brief no later than March 30, 2007 to the Court. By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith	Paul E. Cherry
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4/5/2007	X Stipulation, filed. By s/ James A. Naddeo, Esquire. No CC	Paul E. Cherry
4/11/2007	X Certificate of Service, copy of Leitzinger Land Company, Inc.'s Brief served by Hand Delivery to James A. Naddeo, Esquire, and David S. Ammerman, Esquire, on April 10, 2007. Filed by s/ Peter F. Smith, Esquire. No CC	Paul E. Cherry
6/6/2007	X Opinion, NOW, this 5th day of June, 2007, after review of briefs submitted by the Plaintiffs and the Defendant and examination of the exhibits submitted as part of the record this Court finds that the lease excludes the approximately 50 acres identified on the Henry F. Van Valzah map as the "Wharton Cole" tract. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Naddeo, D. Ammerman, P. Smith; 1CC Law Library, D. Mikesell (without memo)	Paul E. Cherry
6/22/2007	X Filing: Praeipce to Enter Judgment. Please enter Judgment in favor of the Defendant, Leitzinger Land Company Inc., pursuant to the court's June 5, 2007 opinion. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1919513 Dated: 6/22/2007 Amount: \$20.00 (Check) Notices to Attys: Naddeo and Ammerman.	Paul E. Cherry
6/27/2008	X Order, this 27th day of June, 2008, AGAIN, this court finds the approximately 20 acres conveyed to Clayton Wooster in 1876 was excluded from the 1950 lease agreement Frank Hertlein, Leitzinger Bros. Realty Company and Edward Redding. By The Court, /s/ Paul E. Cherry, Judge. CC to Attys: Naddeo, Ammerman, and Smith	Paul E. Cherry
7/14/2008	X Filing: Praeipce to Enter Judgment. Paid by: Smith, Peter F. (attorney for Leitzinger Land Company, Inc.) Receipt number: 1924968 Dated: 7/14/2008 Amount: \$20.00 (Check) Please enter Judgment in favor of the Defendants and against the Plaintiffs pursuant to the Court's Decision and Order entered in this matter on June 27, 2008, filed by s/ Peter F. Smith Esq. Notice to Attys: Naddeo and Ammerman.	Paul E. Cherry
	X Certificate of Service, filed. Served a true and correct copy of the Praeipce to Enter Judgment filed in tris matter on the Plaintiffs Attorney James A. Naddeo Esq and the Defendant River Hill Coal Company's Attorney David S. Ammerman, filed by s/ Peter F. Smith Esq. No CC.	Paul E. Cherry
7/25/2008	X Filing: Appeal to High Court Paid by: Naddeo, James A. (attorney for Hertlein, Eva Jane) Receipt number: 1925122 Dated: 7/25/2008 Amount: \$50.00 (Check)	Paul E. Cherry

should have gone to 07-1448-CD

Makes this wrong

Date: 7/29/2008

Time: 08:35 AM

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Clearfield County Court of Common Pleas

ROA Report

Case: 2006-00903-CD

Current Judge: Paul E. Cherry

User: DPETERS

Civil Other-COUNT

Date	Judge
7/25/2008	Notice of Appeal, to the Superior Court, from the Order entered on June 27, Paul E. Cherry 2008 and Judgment there entered. Filed by s/ James A. Naddeo, Esquire. 6CC Atty. Naddeo; 1CC & Check for \$60.00 to Superior Court.

7-30-08 Order, dated 7-29-08
7-30-08 Order, dated 7-29-08 (status conference)
8-7-08 Appeal docket Sheet