

EASEMENT

STATE OF ALABAMA)

SHELBY COUNTY)

THIS INDENTURE, made and entered into on this the 21st day of November, 1928, by and between Dan Holsomback, and his wife Mrs. Beckie Holsomback parties of the first part and Little Gem Coal Company, a corporation, party of the second part,

WITNESSETH

THAT WHEREAS, the parties of the first part own in fee simple and reside upon the following described tract or parcel of land situated in Shelby County, Alabama to-wit: 420 feet on the south side of Columbiana and Tuscaloosa road and running back of uniform width of 420 feet for enough to make and include a tract of land containing 12 acres, and said tract is bounded on the north by the Columbiana and Tuscaloosa road and on the east by McHenry Creek, all of which said land is a part of the lands formerly belonging to T. B. McClusky deceased, and being situated in the SW $\frac{1}{4}$ of Sec. 5, Ts. 22 south, Range 3 west in Shelby County, Alabama,

WHEREAS, the party of the second part owns certain lands and interests in lands in Section 29 and Section 32 of Township 21, Range 3 west, and in Section 5 and Section 7 and Section 8 of Township 22, Range 3 west, more particularly described in that certain indenture from Montevallo Hard Coal Company, a corporation, to Little Gem Coal Company, a corporation, dated the 15th day of July, 1922, and recorded in Deed Record 71, pages 576-80, in the office of the Probate Judge of Shelby County, Alabama; certain lands and interests in lands situated in Section 29, and Section 32 of Township 21, Range 3 west, more particularly described in that certain deed from Mary E. Hendrix to Little Gem Coal Company dated January 24, 1924, and recorded in Deed Record 77, page 12, in the office of the Probate Judge of Shelby County, Alabama; certain lands and interests in lands in Section 5 of Township 22, Range 3 west, more particularly described in that certain deed from Avery Boothe and wife to Little Gem Coal Company dated September 8, 1923, and recorded in Deed Record 75, page 25, in the office of the Probate Judge of Shelby County, Alabama; certain lands and interests in lands in Section 5 of Township 22, Range 3 west, more particularly described in that certain deed from S. H. Blan, as Auditor of the State of Alabama, to Little Gem Coal Company dated March 10, 1927, and recorded in Deed Record 81, page 421, in the office of the Probate Judge of Shelby County, Alabama; certain lands and interests in lands in Section 5 of Township 22, Range 3 west, more particularly described in that certain deed from Bird Bearden and wife to Little Gem Coal Company dated January 2, 1923, and recorded in Deed Record 70, page 624, in the office of the Probate Judge of Shelby County, Alabama; certain lands and interests in lands in Section 5 of Township 22, Range 3 west, more particularly described in that certain deed from Bird Bearden and wife to Little Gem Coal Company dated September 1, 1921, and recorded in Deed Record 69, page 364, in the office of the Probate Judge of Shelby County Alabama; certain lands and interests in lands in Section 5 of Township 22, Range 3 west, more particularly described in that certain indenture from Eliza Lawley to Little Gem Coal Company dated August 6, 1920, and recorded in Deed Record 68, pages 130-131, in the office of the Probate Judge of Shelby County, Alabama, certain lands and interests in lands in Section 5, of Township 22, Range 3 west, more particularly described in that certain indenture from Eliza Lawley to Little Gem Coal Company dated August 6, 1920, and recorded in Deed record 68, pages 131-133, in the office of the Probate Judge of Shelby County, Alabama; certain lands and interests in lands in Section 5 and Section 6 of Township 22,

Range 3 west, and in Section 31 and Section 32 of Township 21, Range 3 west, more particularly described in that certain indenture from John L. Watrous and others to Little Gem Coal Company dated August 1, 1920, and recorded in Deed Record 68, pages 228-233, in the office of the Probate Judge of Shelby County, Alabama; certain lands and interests in lands in Section 29, and Section 32 of Township 21, Range 3 west, and in Section 5 and Section 7 and Section 8 of Township 22, Range 3 west, more particularly described in that certain deed from Fleetwood Rice, W. E. Bonham and Montevallo Dogwood Mining Company dated October 20, 1923, and recorded in Deed Record 76, page 507, in the office of the Probate Judge of Shelby County, Alabama, all of which lands and interests in lands are situated in Shelby County, Alabama, and on which lands and interests in lands the party of the second part has constructed or opened and is now maintaining and operating and in the future will maintain and operate a coal mine, or coal mines, and coal mining machinery and equipment and appurtenances, including among other things coal washers, commissaries, corrals for horses and mules, livestock, residences for employees, and other buildings and appurtenances convenient or desirable in the mining and washing and preparation of coal, and through which lands and interests in lands flows a stream known as McHenry Creek and a stream known as King's Creek and other streams, feeders, tributaries, brooks, and branches; and

WHEREAS, the said lands and interest in lands of the parties hereto are so situated as that the waters of said McHenry Creek and King's Creek and other streams, tributaries, feeders, brooks, and branches, flow from the lands and operations of the party of the second part down to and through or by the said lands of the parties of the first part, on or near which lands of the parties of the first part are located springs from which water is taken for drinking, domestic, and other purposes, the parties of the first part being the lower riparian owners;

NOW, THEREFORE, in consideration of the premises, and in further consideration of the sum of One Hundred Seventy *Five* & 00/100 in hand paid to the parties of the first part, the receipt whereof is hereby acknowledged, the parties of the first part do hereby release and forever discharge the party of the second part, its successors assigns, lessees, tenants, lessors, agents and grantees from any and all damages that have been sustained by the parties of the first part or members of their household or family by reason of or on account of the inundation or overflow of and the depositing of sediment and substance upon the said lands of the parties of the first part or any part thereof, and in the said springs and by reason of the discharge into the said McHenry Creek and King's Creek and other streams, tributaries, feeders, brooks, branches, springs, and wells of sediment and substances from the said coal mines, washers, corrals, stables, buildings, machinery, appurtenances, and equipment; and the parties of the first part for the said consideration do also hereby grant unto the party of the second part, its successors, assigns, lessees, lessors, and grantees the right, privilege and easement to divert the waters of the said creeks and streams from their course or courses and from the channels in which they flow and to use the same for washing coal and to cast and discharge such waters back into the channels of the said creeks or streams and their feeders and tributaries and to cause the waters of the said creeks and streams to flow from the lands and operations of the party of the second part down the said creeks and streams through, over and upon the lands of the parties of the first part in greater

or lesser volume than they would ordinarily and uniformly flow without such diversion and use and to discharge into the said springs, wells, creeks, and streams and their feeders and tributaries and upon the lands of the parties of the first part, water, debris, refuse, sediments and other substances of whatever kind and in whatever quantities as may accumulate in or may be caused by the maintenance and operation of the said mining properties, coal washers, corrals, stables, buildings, and other equipment, or other mining properties, washers, corrals, stables, buildings, and equipment hereafter constructed or operated by the party of the second part, its tenants employees, successors, assigns, lessees, and grantees on the said lands and interests in lands or on other lands and interests in lands.

The rights, privileges and easements herein granted shall inure to the benefit of the party of the second part and its successors, assigns, lessees, lessors, tenants employees, and grantees and shall extend and attach to any lands and interests in lands that the party of the second part, its successors, assigns, lessees, lessors and grantees may hereafter acquire in Shelby County, Alabama.

The parties of the first part, as a part of the consideration for the amount paid to them by the party of the second part as herein provided, here by covenant with the party of the second part that they are the owners in fee simple of the lands described in the first paragraph, hereof and that they do not own or have any interest in any other lands touching or bordering upon the said creeks or streams or any of them.

IN WITNESS WHEREOF, the parties of the first part, the said Dan Holsomback, and his wife Mrs. Beckie Holsomback have hereunto set their hands and seals the day and year first above written.

Witness:

Sam John

Jas. Holsomback his
 x
 mark

Joe M. Crumly

STATE OF ALABAMA)

SHELBY COUNTY)

Dan Holsomback his
 x (I.S.)
her mark
Beckie Holsomback (I.S.)
 mark

I, Joe M. Crumly, a Notary Public in and for said County in said State, hereby certify that Dan Holsomback and his wife Mrs. Beckie Holcomback whose names are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this the 21st. day of November, 1928.

Joe M. Crumly
Notary Public Shelby County
Alabama

STATE OF ALABAMA)

SHELBY COUNTY)

I, Joe M. Crumley, a Notary Public in and for said County in said State, do hereby certify that on the 21st. day of November, 1928, came before me the within named Mrs. Beckie Holcomback known to me to be the wife of the within named Dan Holcomback who being examined separate and apart from the husband touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord, and without fear, constraints or threats on the part of the husband,

Given under my hand and seal of office, this the 21 day of November, 1928.

Joe M. Crumly
Notary Public Shelby County, Alabama

THE STATE OF ALABAMA)

SHELBY COUNTY)

I, L.B. Riddle Judge of Probate hereby certify that the within easement was filed in this office for record Dec. 18th 1928 at 2 oclock P.M. and recorded in Deed record 87 page 342 and examined.

STATE OF ALABAMA
SHELBY COUNTY

L.B. Riddle--Judge of Probate

I hereby certify that
\$ 50.00 Ad Valorem Tax
has been paid on the within
instrument as required by
law.

L.B. Riddle
Judge of Probate.