

STATE OF ALABAMA)
SHELBY COUNTY)

2489

THIS AGREEMENT made and entered into as of the 20th day of September, 1974, by and between KIMBERLY-CLARK CORPORATION (hereinafter referred to as "Lessor") and SOUTHERN ELECTRIC GENERATING COMPANY (hereinafter referred to as "Lessee"),

W I T N E S S E T H :

WHEREAS, Lessor is the owner of the surface rights to the lands described hereinafter in Paragraph 1, as to which Lessee owns the coal rights thereunder, and Lessee is desirous of mining and removing any coal located thereunder by the strip mining technique, and is also interested in utilizing such lands as a spoil area for the placement of overburden removed in the strip mining of coal from adjacent lands; and

WHEREAS, Lessor has agreed to allow Lessee to remove such coal by such technique, and to utilize the lands hereinafter described in Paragraph 1 for the placement of overburden, subject to the terms and conditions hereinafter set out.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties herein assumed, it is specifically agreed between Lessor and Lessee as follows:

1. Leased Lands: Lessor does hereby lease to Lessee, for a two year period from the date hereof, for the consideration hereinafter set out, three hundred ninety three (393) acres of land in Shelby County, Alabama (hereinafter referred to herein as the "Leased Lands"), which are specifically described as follows, subject to all existing easements and rights-of-way:

Township 21 South, Range 4 West

Section 16

SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, South and East of Southern Railway	30 Acres More or Less
SE $\frac{1}{4}$ of the SW $\frac{1}{4}$	40 Acres More or Less
NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, South and East of Southern Railway	10 Acres More or Less
NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, South and East of Southern Railway	39 Acres More or Less
SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, South and East of Southern Railway	15 Acres More or Less

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Section 16 continued

SE $\frac{1}{4}$ of the SE $\frac{1}{4}$, excluding all lands within 300' of Jesse Creek	39 Acres More or Less
SW $\frac{1}{4}$ of the SE $\frac{1}{4}$	40 Acres More or Less
NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, excluding all lands within 300' of Piney Woods Creek	35 Acres More or Less
NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, excluding all lands within 300' of Piney Woods Creek	30 Acres More or Less
SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, excluding all lands within 300' of Piney Woods Creek	25 Acres More or Less
SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, excluding all lands within 300' of Piney Woods Creek	5 Acres More or Less
NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, South and East of the Southern Railway; South of a line 300' south of the Cahaba River and West of a line 300' west of Piney Woods Creek	5 Acres More or Less
NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, South and East of a line 300' east of the Cahaba River and East of a line 300' east of Piney Woods Creek	20 Acres More or Less

Section 15

SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, excluding all lands within 300' of Jesse Creek	20 Acres More or Less
SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, excluding all lands within 300' of Piney Woods Creek	30 Acres More or Less
NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, excluding all lands within 300' of Piney Woods and Jesse creeks	<u>10</u> Acres More or Less

Total Acreage	393 Acres More or Less
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2. Term: This lease is for a period of two (2) years from its date with the Lessee having the right to renew for an additional period of two (2) years under the same conditions contained herein, provided Lessee is not in arrears with any royalties or in default of any conditions of this lease. Such renewal will be made by written notice at least thirty (30) days prior to the expiration of this lease.

3. Lease Rights: Lessee is hereby given the right to strip mine the coal from lands, to the extent Lessor owns the surface rights therein, as are specifically described in Paragraph 1 above, and to construct temporary roads thereover at locations acceptable to Lessor.

4. Timber Salvage: Prior to commencing a strip mining operation on any of such lands, Lessee will notify Lessor at least thirty (30) days in advance of the time any strip mining operation is to be commenced in order that Lessor may remove, at its option, any and all merchantable timber which may be located on the area proposed to be strip mined.

5. Consideration: The consideration to be paid by Lessee to Lessor, for the rights herein granted has been divided into (1) damage

payments based on coal tonnage removed, plus (2) a possible supplementary damage payment based on disturbed area.

Damage payments in the amount of 4% of the cost of coal per ton at the tipple (including all severance tax and United Mine Workers of America welfare fund payments) will be paid by the 20th day of each month for coal removed during the preceding month.

The possible supplementary damage payment may be payable after completion of the coal removal, depending upon the precise amount of surface area disturbance. Lessee will, immediately following completion of stripping on the Leased Lands, have a survey made by a competent engineer to determine the amount of area disturbance. If the dollar sum reached when the area, in acres, of such disturbance is multiplied times \$300.00 per acre, exceeds amount of damage payment based on tonnage removed, Lessee will remit to Lessor a supplementary damage payment equal to such excess. Otherwise, no supplementary damage payment will be due.

Lessee will furnish to Lessor copies of surveys, maps, and calculations used in the determination of damage payments and possible supplementary damage payments. Such surveys shall be subject to verification and correction by Lessor, at its option and expense.

6. Determination of Coal Quantity: A "ton" is defined as 2,000 pounds avoirdupois. Where Lessee's production of coal is exclusively from lands of Lessor included herein during any one month, determination of quantity of coal removed in tons during such month shall be based upon receiving report weights of coal delivered during such month, adjusted to exclude the weight of extraneous water added by washing or rainfall. Where Lessee's production of coal includes production from lands other than those lands of Lessor included herein during any one month, determination of quantity of coal removed in tons during such month shall be based upon engineering allocation of receiving report weights of coal delivered during such month, adjusted to exclude extraneous water added by washing or rainfall, comparing measured volume of coal extracted during such month from all lands from which production occurred during such month.

7. Indemnification: Lessee hereby agrees (a) to reimburse and hold Lessor harmless from damages to any of Lessor's personnel, and damages



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to any of Lessor's land or properties (other than the Leased Lands), and shall also (b) indemnify and hold Lessor, its agents, contractors, servants, and employees, harmless from and against any and all claims, actions, damages and losses or injury to persons (including death) or damage to property (including the person or property of any third party); all as may be caused by Lessee, its employees, agents or contractors, or which may in any way arise out of, or in any way be related to, Lessee's mining activities on or in the vicinity of the Leased Lands.

8. Rehabilitation: Rehabilitation and reclamation of the surface of the Leased Lands, reforestation and other conservation measures imposed by proper governmental authorities, state, federal, or local, as a consequence of the mining and spoiling hereunder shall be the full responsibility of Lessee and shall be timely performed so as to satisfy all requirements.

In addition to such governmental requirements, unless otherwise agreed by Representatives of Lessor and Lessee for limited specific instances, reclamation and rehabilitation will also be performed at the sole expense of Lessee in accordance with the following:

- (a) The general idea expressed in Exhibit "A" where a theoretical cross-section of a typical strip mine is portrayed; with Figure 1 representing the area before mining, Figure 2 after mining, and Figure 3 after reclamation.
- (b) No vertical walls and no slopes in excess of 35° may remain following reclamation.
- (c) The highwall may be destroyed by backfilling and returning area to original contour or by the method depicted in Exhibit "B", which method consists of:
 - 1. Backfilling to a minimum of 50 percent of highwall height.
 - 2. Blasting and/or grading the remaining upper portion to a maximum slope of 35°. Earth disturbance in such blasting and/or grading must be limited to an area within 100 feet of the top of the highwall.
- (d) Spoil remaining after required backfilling will be spread to gentle, rolling contour with all "peaks and valleys" associated with spoil piles being obliterated.

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The area between the "former highwall" and "toe of spoil" (Exhibit "A", Figure 3) will be graded sufficiently to permit operation of rubber-tired farm tractors.

- (e) Standing water resulting from mining, reclaiming, or associated activities will not be permitted following reclamation. All pits or depressions capable of holding water must have adequate drainage.
- (f) Immediately following reclamation a perennial ground cover will be established to insure early soil stabilization. Species to be used must be compatible with pine tree establishment. The recommendation of Dr. E. S. Lyle, Jr., Auburn University, as to species to use, will be accepted.
- (g) Pine seed, or seedlings, will be sown or planted during the season immediately following reclamation. In the event seeding or planting does not result in the establishment of 400 to 450 trees per acre, reasonably spaced, one year after seeding or planting, additional seeding or planting will be done as necessary to result in the establishment of 400 to 450 trees per acre.

While Lessee has responsibility for performance and expense of reforestation, Lessor retains the right to specify method of reforestation (planting of seedlings, or direct seeding) and species to use, provided such species of seedlings or seeds are of Southern pine trees native to this area. Lessor agrees to provide necessary seed and/or seedlings for such reforestation work at the expense, however, of Lessee.

- (h) Any roads on the Leased Lands severed by Lessee in its operations hereunder shall be reconnected and compacted to Lessor's satisfaction within sixty (60) days following completion of mining operations. Temporary access shall be maintained to Leased Lands during such time as existing roads may be severed or unserviceable.

It is the responsibility of Lessee to conduct sufficient prior planning and engineering studies to insure that mining is done only at

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locations where reclamation requirements can be met, and that mining is done by methods and techniques that permit reclamation requirements to be met. Thus, all land mined hereunder must be reclaimed in accordance with the above reclamation requirements or as otherwise agreed upon by Representatives of Lessor and Lessee. Under this lease, Lessee shall be deemed the operator for compliance with the requirements of the Code of Alabama 1940 (Recompiled 1958), Title 26, Article 3, entitled "Alabama Surface Mining Act of 1969," and Lessee shall obtain all permits, post all bonds, and accomplish all reclamation, or other requirements of such Act. Lessee shall furnish to Lessor a copy of each application for permit filed by Lessee with the State of Alabama under the above Act.

9. Special Access Road: Notwithstanding the 300-foot restriction as covered in Paragraph 1, Lessor hereby further grants Lessee the right to build an access road across Piney Woods Creek in the vicinity of the southwest corner of the Northeast Quarter of the Northeast Quarter of Section 16. The road will be so constructed and designed to accommodate the flow of the creek.

10. Inspection: Lessor or its agents shall have the right at any convenient time to inspect the operation of Lessee or to examine any records of Lessee pertaining to coal shipments in order to determine the amount of coal actually mined by Lessee.

11. Representatives: For purposes of Paragraph 8 of this Agreement, and for coordination of activities thereunder, Lessor and Lessee appoint Representatives as follows:

Lessor - C. H. Webb
Chief Forester
Coosa Forest Products Operations
Kimberly-Clark Corporation
Coosa Pines, Alabama 35044

Lessee - W. H. Haynes, Jr.
Assistant Manager
Fuel Department
Southern Services, Inc.
P. O. Box 2625
Birmingham, Alabama 35202

Representatives may be changed at any time by either party by appropriate notice in writing.



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12. Notices: Any notice, request, demand, report, or statement authorized or required by this Agreement shall be deemed properly given if mailed postage prepaid as follows:

To Lessor - Kimberly-Clark Corporation
Coosa Forest Products Operations
Coosa Pines, Alabama 35044
Attention: Chief Forester

To Lessee - Southern Electric Generating Company
Central Bank Building
P. O. Box 2641
Birmingham, Alabama 35291
Attention: Mr. C. E. Brackett

With copy to - Southern Services, Inc.
P. O. Box 2625
Birmingham, Alabama 35202
Attention: Manager, Fuel Department

IN WITNESS WHEREOF, the Lessor and the Lessee have executed this instrument on the day and year first above written.

LESSOR
KIMBERLY-CLARK CORPORATION
COOSA FOREST PRODUCTS OPERATIONS

By W. S. Pullman
As Its Vice-President

LESSEE
SOUTHERN ELECTRIC GENERATING COMPANY

By C. E. Brackett
As Its Vice President



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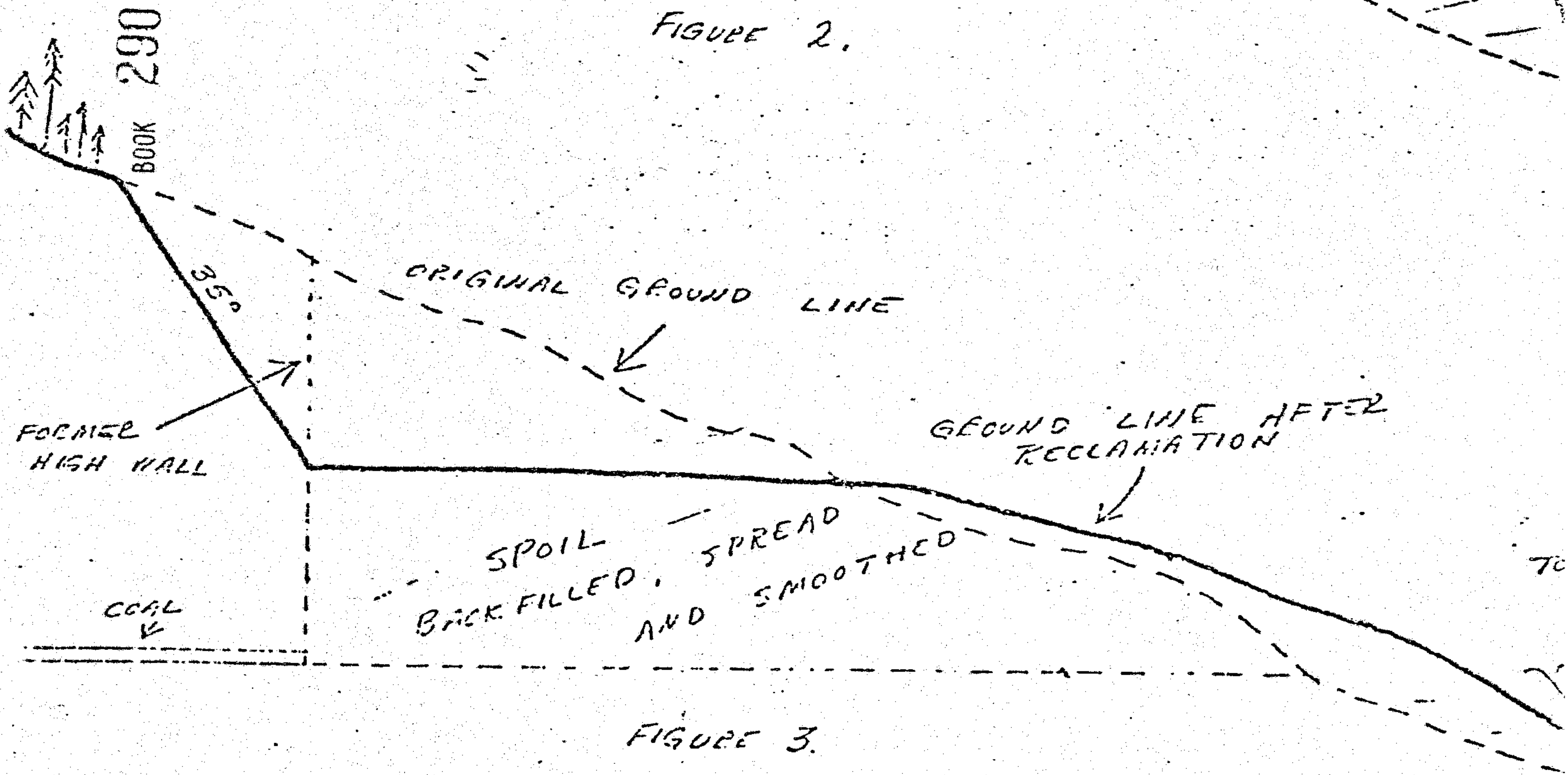
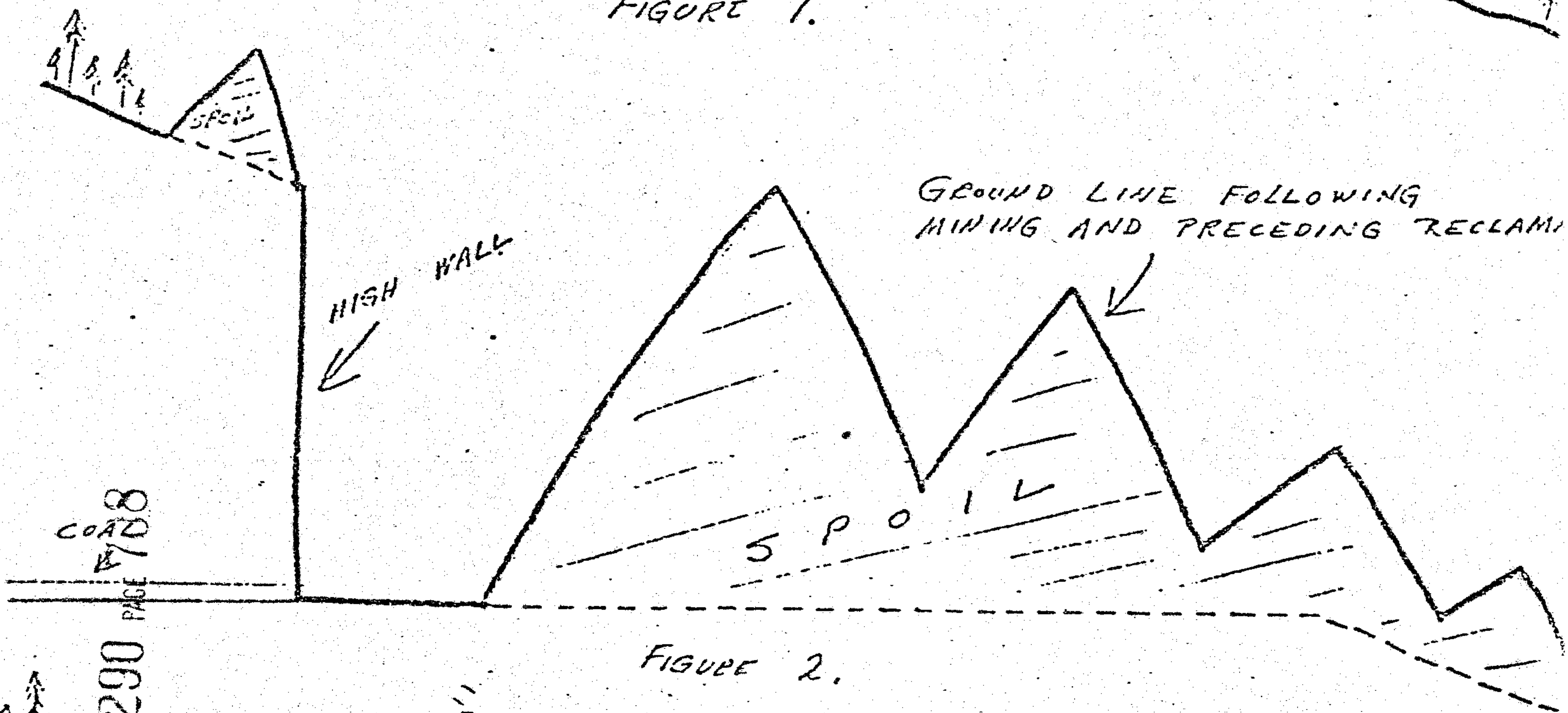
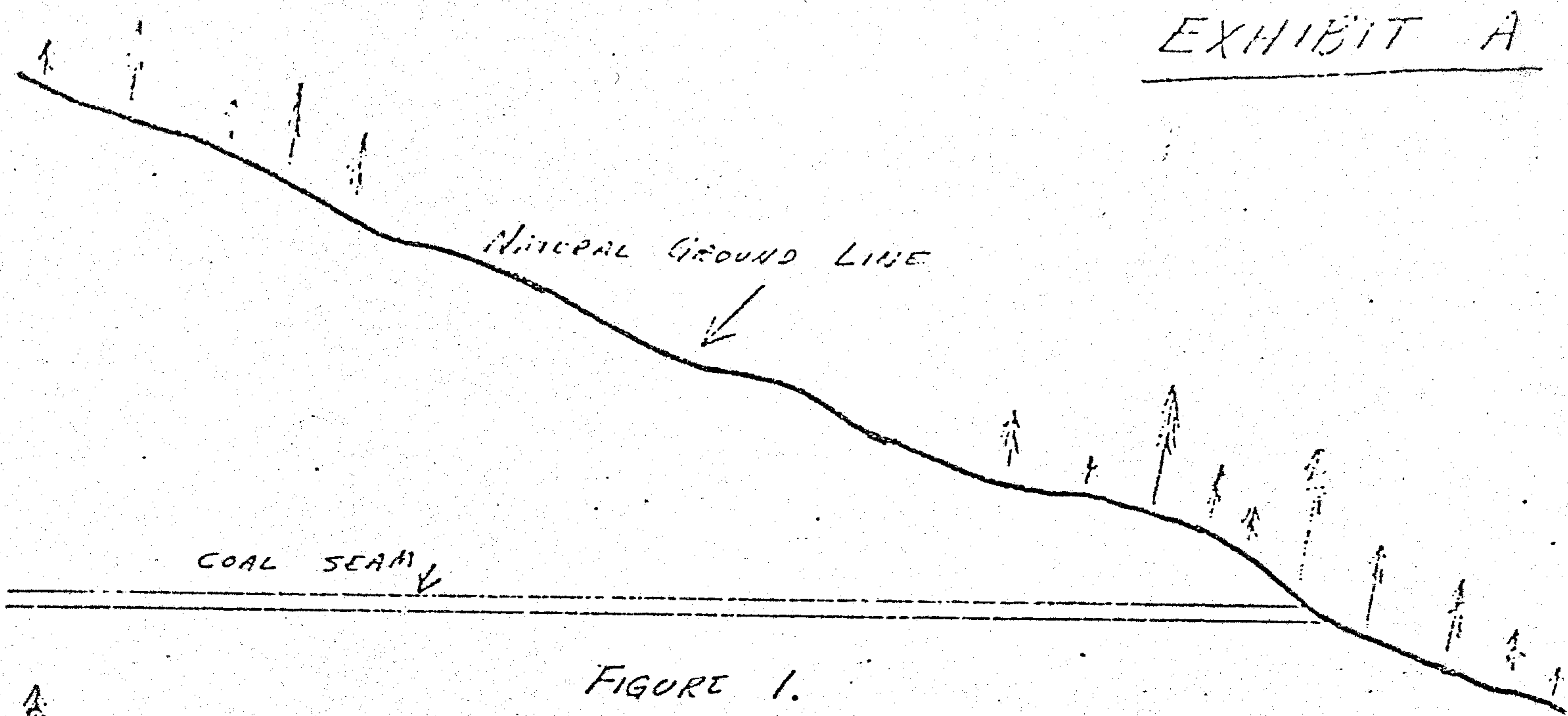
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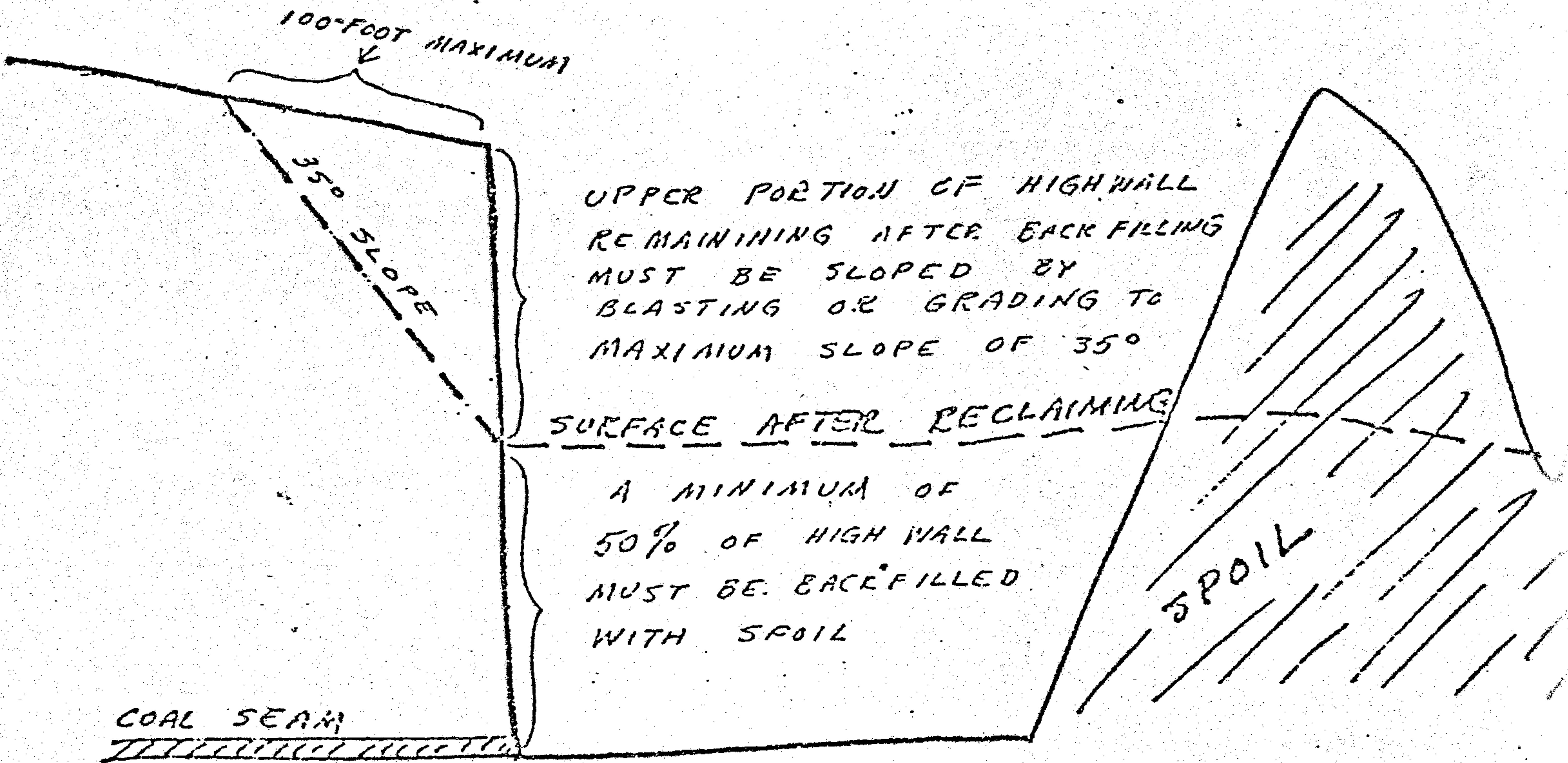
ATTEST:

SECRETARY

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EXHIBIT A





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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
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