

1168.

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FIRST AMENDMENT TO DEFERRED INTEREST AGREEMENT

THIS FIRST AMENDMENT TO DEFERRED INTEREST AGREEMENT is entered into effective as of the 1st day of June 1987 by and between CSX MINERALS, INC., a Virginia corporation ("CSXM"), CSX TRANSPORTATION, INC., a Virginia corporation ("CSXT"), and MID ALLEGHENY CORPORATION, a West Virginia corporation ("MAC") (CSXM, CSXT and MAC are sometimes collectively referred to as "Principal Sellers"); BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation ("B&O"), THE REAL ESTATE AND IMPROVEMENT COMPANY OF BALTIMORE CITY, a Maryland corporation ("RE&I"), ADRIAN REALTY COMPANY, a Pennsylvania corporation ("ARC"), THE SCHUYLKILL IMPROVEMENT LAND COMPANY OF PHILADELPHIA, a Pennsylvania corporation ("SILC"), WESTERN MARYLAND RAILWAY COMPANY, a Maryland corporation ("WMRC"), MARYLAND AND WEST VIRGINIA COMPANY, a West Virginia corporation ("M&WVC"), CHICAGO AND INDIANAPOLIS COAL COMPANY, INC., an Indiana corporation ("CICC") (B&O, RE&I, ARC, SILC, WMRC, M&WVC and CICC are sometimes collectively referred to as "Other Sellers"; Principal Sellers and Other Sellers are sometimes collectively referred to as "Sellers" and sometimes individually as a "Seller"); and WESTERN POCAHONTAS PROPERTIES LIMITED PARTNERSHIP, a Delaware limited partnership formerly a Texas limited partnership ("Buyer").

RECITALS

A. By various conveyances listed in Schedule A attached hereto (the "Conveyances") the principal Sellers and other sellers sold and conveyed to Buyer certain real property and related interests in West Virginia, Kentucky, Maryland, Alabama, Indiana and Pennsylvania more particularly described in the Conveyances.

B. Pursuant to the Conveyances, Sellers retained a reversionary interest, to be effective July 1, 2001, of 25% (28% in the case of MAC) of Sellers' respective interests in the Properties.

C. In connection with such Conveyances and reservation the parties entered into a Deferred Interest Agreement (the "Deferred Interest Agreement") dated as of December 31, 1986.

D. The parties desire to amend the Deferred Interest Agreement as herein provided.

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Vinson & Elkins
2200 First City Tower

NOW, THEREFORE, in consideration of the mutual benefits derived and to be derived herefrom by each party, Sellers and Buyer hereby agree that the Deferred Interest Agreement is amended as follows:

I.

The definition of "Excluded Transaction" contained in Article I is hereby amended to read as follows:

(i) any transfer to or among any Affiliate of Buyer or any entity directly or indirectly controlled by any descendants of the late H. R. Cullen and Lillie C. Cullen of Houston, Texas, or by any trust or trusts primarily for the benefit of any of them;

(ii) the reformation of Buyer as a Delaware limited partnership (in which case the term Buyer shall thereafter mean such Delaware limited partnership);

(iii) any transfer by one or more of Sellers to one or more of the other Sellers or to an Affiliate of one or more Sellers;

(iv) the granting by Buyer or Sellers of any lien, mortgage, security interest or other encumbrance (and any foreclosure or other sale or transfer pursuant thereto) on their respective interests in all or any portion of the Properties in connection with any financing secured by their respective interests in the Properties or any portion thereof;

(v) any other transfer which the other party or parties agree to treat as an Excluded Transaction; or

(vi) the granting of any coal mining lease, surface lease, timber harvesting contract, easement, license or similar agreement.

II.

The next to last sentence of Section 5.2 is hereby amended to read as follows:

"The term "Damages" means any and all obligations, liabilities, damages, penalties, deficiencies, losses, investigations, proceedings, judgments, costs and expenses (including, but not limited to, costs and expenses incurred in connection with performing obligations, interest, bonding and court costs and attorneys', accountants',

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engineers' and investigators' fees and disbursements), but only to the extent (a) such Damages are attributable to the period of time after the date hereof, (b) such Damages are not the result of Sellers' willful misconduct, and (c) Sellers were not responsible for such Damages on account of their ownership of the Properties before the date hereof or under any of the provisions of the Purchase Agreement".

Except as expressly provided herein the Deferred Interest Agreement shall remain in full force and effect as originally entered into.

By deed dated April 1, 1987, recorded in Volume 310, Page 302, of the Records of Floyd County, Kentucky and in Volume 605, Page 100, of the Records of Pike County, Kentucky, Buyer and CSX Minerals, Inc. sold their interests in the Property described therein to Industrial Fuels Minerals Company and Buyer and CSX Minerals, Inc. acknowledge that the Property described in said Deed is no longer subject to the Deferred Interest Agreement.

WITNESS THE EXECUTION HEREOF by each party on the date of its acknowledgement, but effective as of the date set forth first herein above.

CSX MINERALS, INC.

By: *Tom A. Hight*
Title: *Authorized Representative*

CSX TRANSPORTATION, INC.

By: *Tom A. Hight*
Title: *Authorized Representative*

MID ALLEGHENY CORPORATION

By: *Tom A. Hight*
Title: *Authorized Representative*

BALTIMORE AND OHIO RAILROAD
COMPANY

By: P. M. Rife
Title: Authorized Representative

THE REAL ESTATE AND IMPROVEMENT
COMPANY OF BALTIMORE CITY

By: P. M. Rife
Title: Authorized Representative

ADRIAN REALTY COMPANY

By: P. M. Rife
Title: Authorized Representative

THE SCHUYLKILL IMPROVEMENT LAND
COMPANY OF PHILADELPHIA

By: P. M. Rife
Title: Authorized Representative

WESTERN MARYLAND RAILWAY
COMPANY

By: P. M. Rife
Title: Authorized Representative

MARYLAND AND WEST VIRGINIA
COMPANY

By: P. M. Rife
Title: Authorized Representative

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CHICAGO AND INDIANAPOLIS COAL
COMPANY

By: P. M. Apter

Title: Authorized Representative

WESTERN POCAHONTAS PROPERTIES
LIMITED PARTNERSHIP

By: WESTERN POCAHONTAS
CORPORATION, a Texas
corporation, its general
partner

By: [Signature]

Title: Chairman of the Board

This Instrument Was Prepared By:
Fielding B Cochran, III
Vinson & Elkins
3500 First City Tower
1001 Fannin
Houston, Texas 77002-6760

6552:3472
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Alabama Corporate
Acknowledgment

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of CSX TRANSPORTATION, INC., a Virginia corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 27th day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

Printed Name of Notary:

2/2/91

Diana B. Flowers

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as General Counsel of CSX MINERALS, INC., a Virginia corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 27th day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

Printed Name of Notary:

2/2/91

Diana B. Flowers

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THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Officer of MID ALLEGHENY CORPORATION, a West Virginia corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 21st day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

Printed Name of Notary:

2/2/91

Diana B. Flowers

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 21st day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

Printed Name of Notary:

2/2/91

Diana B. Flowers

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of THE REAL ESTATE AND IMPROVEMENT COMPANY OF BALTIMORE CITY, a Maryland corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 27th day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

2/2/91

Printed Name of Notary:

Diana B. Flowers

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of ADRIAN REALTY COMPANY, a Pennsylvania corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 27th day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

2/2/91

Printed Name of Notary:

Diana B. Flowers

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THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of THE SCHUYLKILL IMPROVEMENT LAND COMPANY OF PHILADELPHIA, a Pennsylvania corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 27th day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

Printed Name of Notary:

2/2/91

Diana B. Flowers

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of WESTERN MARYLAND RAILWAY COMPANY, a Maryland corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 27th day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

Printed Name of Notary:

2/2/91

Diana B. Flowers

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of MARYLAND AND WEST VIRGINIA COMPANY, a West Virginia corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 21st day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

2/2/91

Printed Name of Notary:

Diana B. Flowers

THE STATE OF VIRGINIA §
City §
COUNTY OF Richmond §

I, Diana B. Flowers, a notary public in and for said county in said state, hereby certify that P. M. GIFTOS, whose name as Agent of CHICAGO AND INDIANAPOLIS COAL COMPANY, a Indiana corporation, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 21st day of April, A.D., 1989.

[SEAL]

Diana B. Flowers
Notary Public in and for
The State of Virginia

My Commission Expires:

2/2/91

Printed Name of Notary:

Diana B. Flowers

THE STATE OF TEXAS §
CITY OF HOUSTON §
COUNTY OF HARRIS §

I, Cherry C. Peters, a notary public in and for said county in said state, hereby certify that CORBIN J. ROBERTSON, JR., whose name as ~~President~~ ^{Chairman of the Board} of WESTERN POCAHONTAS CORPORATION, General Partner of WESTERN POCAHONTAS PROPERTIES LIMITED PARTNERSHIP, a Delaware Limited Partnership, is signed to the foregoing conveyance, and who is know to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited partnership.

Given under my hand and seal of office this 16th day of June, A.D., 1988.
[SEAL]

Cherry C. Peters
Notary Public in and for
The State of Texas

My Commission Expires:

Printed Name of Notary:

Cherry C. Peters
Commission Expires 10/31/92

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SCHEDULE A

Conveyance, dated December 31, 1986, from CSX Transportation, Inc. to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page or Fiche/Frame</u>
Alabama	Bibb	123/236
	Blount	17/229
	Chilton	025/886
	Cullman	389/A-1
	Jefferson	3083/870
	Morgan	1207/360
	St. Clair	159/133
	Shelby	112/876
	Tuscaloosa	939/385
	Walker	1283/712

Conveyance, dated December 31, 1986, from Chicago and Indianapolis Coal Company to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
Indiana	Clay	203/261
	Greene	256/95
	Sullivan	259/331
	Vigo	410/69

Conveyance, dated December 31, 1986, from The Real Estate and Improvement Company of Baltimore City, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
Indiana	Parke	168/36
West Virginia	Nicholas	317/508

Deed of Conveyance, dated December 31, 1986, from CSX Minerals, Inc. to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
Kentucky	Breathitt	156/565
	Floyd	307/221
	Knott	139/635
	Magoffin	134/53
	Pike	601/155
Maryland	Garrett	488/808
West Virginia	Barbour	318/83
	Boone	182/48
	Clay	143/403
	Fayette	448/535
	Grant	151/168
	Greenbrier	379/67
	Logan	451/177
	Mineral	246/279
	Mingo	288/517
	Nicholas	317/460
	Pocahontas	191/593
	Preston	532/606
	Raleigh	718/304
	Randolph	381/462
	Tucker	118/634
	Wyoming	354/34

Conveyance, dated December 31, 1986, from The Baltimore and Ohio Railroad Company to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
Ohio	Muskingum	988/323
West Virginia	Marion	871/261

Conveyance, dated December 31, 1986, from Western Maryland Railway Company to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
Pennsylvania	Adams	448/803
	Somerset	988/237
West Virginia	Randolph	382/333
	Tucker	119/369
	Webster	208/436

Conveyance, dated December 31, 1986, from Adrian Realty Company to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
Pennsylvania	Elk	251/629

Conveyance, dated December 31, 1986, from Schuylkill Land Improvement Company of Philadelphia to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
Pennsylvania	Fayette	250/24

Conveyance, dated December 31, 1986, from Mid Allegheny Corporation to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
West Virginia	Braxton	431/624
	Gilmer	360/708
	Greenbrier	379/111
	Harrison	1170/620
	Lewis	454/328
	Nicholas	317/412
	Pocahontas	191/639
	Webster	208/117
	Wetzel	319/549

Conveyance, dated December 31, 1986, from Maryland and West Virginia Company to Western Pocahontas Properties Limited Partnership, recorded as follows:

<u>State</u>	<u>County</u>	<u>Volume/Page</u>
West Virginia	Pendleton	118/32

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RECORDING FEES

Recording Fee	\$ <u>37.50</u>
Index Fee	<u>11.00</u>
TOTAL	<u>48.50</u>

FILED IN BOOK 247
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JUDGE OF PROBATE

Please Return To:
Vinson & Elkins
Attn: Michelle Robichaux
3300 First City Tower
1001 Fannin
Houston, Texas 77002-6760

