

This instrument prepared by:



Michael A. Donadee, Esquire
Buchanan Ingersoll
Professional Corporation
One Oxford Centre, 20th Floor
301 Grant Street
Pittsburgh, PA 15219-1410
(412) 562-8981

Inst # 1997-12155

**FUTURE ADVANCE
FEE AND LEASEHOLD MORTGAGE AND SECURITY AGREEMENT
(Alabama)**

THIS FUTURE ADVANCE FEE AND LEASEHOLD MORTGAGE AND SECURITY AGREEMENT (this "Mortgage") is made this 16th day of April, 1997, to be effective as of April 17, 1997, by **Oak Mountain Energy, L.L.C.**, an Alabama limited liability company, having an address at 1051 Oak Mountain Drive, Pelham, AL 35214 ("Debtor"), in favor of **Mellon Bank, N.A., as Agent** ("Agent"), as administrative and collateral agent for the financial institution or institutions (collectively "Banks") from time to time party to the Credit Agreement (as defined below), with an address at Two Mellon Bank Center, Pittsburgh, Pennsylvania, 15259 (Agent and the Banks are collectively referred to herein as "Secured Party").

THIS MORTGAGE IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-9-402 (6) OF THE CODE OF ALABAMA

THIS MORTGAGE IS A "CONSTRUCTION MORTGAGE" AS DEFINED IN SECTION 7-9-313 (1) (C) OF THE CODE OF ALABAMA AND SECURES, AMONG OTHER OBLIGATIONS, AN OBLIGATION INCURRED FOR THE CONSTRUCTION OF AN IMPROVEMENT ON LAND.

WITNESSETH:

WHEREAS, Debtor is the owner in fee simple of certain surface lands and interests situate in Shelby County, Alabama, as more fully described in Exhibit A attached hereto and made a part hereof, together with various improvements now or hereafter erected thereon (collectively, the "Fee Property"); and

WHEREAS, pursuant to certain Leases (as hereinafter defined), Debtor is the lessee of certain other lands and Coal and mineral interests situate in Shelby County and Bibb County, Alabama, as more fully described in Exhibit B, C and D attached hereto and made a part hereof, together with various improvements now or hereafter erected thereon (collectively, the

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"Leasehold Properties") (the Leasehold Properties and the Fee Property are collectively referred to herein as the "Properties"); and

WHEREAS, Secured Party is making a series of loans to Debtor in an amount not to exceed Thirty Million Dollars (\$30,000,000), comprising a standby/term credit facility in an aggregate principal amount not to exceed \$27,000,000 and a revolving credit facility in an aggregate principal amount not to exceed \$3,000,000, the proceeds of which will be advanced to Debtor from time to time pursuant to the terms and conditions of a certain Credit Agreement, dated as of April 17, 1997 (the "Loan Agreement"), between Debtor and Secured Party for the purposes set forth in the Loan Agreement (as used in this Mortgage, the term "Loans" shall have the meaning set forth in the Credit Agreement); and

WHEREAS, the Loans are further evidenced and secured by a certain Security Agreement delivered by Debtor to Secured Party dated as of April 17, 1997 (the "Security Agreement") pursuant to which the Debtor has granted a security interest to Secured Party in certain property and interests, as set forth therein;

NOW, THEREFORE, in consideration of the Loans and for the purpose of securing the obligation of Debtor with respect to the Loan, and intending to be legally bound hereby, Debtor and Secured Party covenant and agree as follows:

1. Certain Definitions

Except as otherwise provided herein, capitalized terms used in this Mortgage shall have the meanings ascribed in the Loan Agreement. When used herein, unless the context otherwise requires:

1.1 "Accounts" shall have the meaning set forth in Section 2.9 (b)

1.2 "Claims" shall have the meaning set forth in Section 6.10;

1.3 "Coal" means all of the coal and other minerals produced, including any coalbed methane gas, in which Debtor may have any interest, severed from or located on the Properties, together with all of the in-place coal located in, on or under the Properties, and granted and conveyed to Debtor pursuant to the Leases. With respect to rights or interests in and to any properties hereafter acquired by Debtor, "Coal" means in-place, produced and severed coal, as to such Properties which are mortgageable, and produced and severed coal, as to such Properties which are not mortgageable;

1.4 "Collateral" shall have the meaning set forth in Article 2 hereof;

1.5 "Leases" shall mean (i) that certain Underground Coal Mining Lease dated November 13, 1995 by and between M. Brian Gordon, Sr. and Janice O. Gordon, as "Lessor", and Oak Mountain Energy Corporation, as "Lessee", a Memorandum of which was recorded in the Office of the Shelby County Judge of Probate on January 25, 1996 as Inst. # 1996-02522;

(ii) that certain Coal Mining Lease between USX Corporation, as "lessor", and Oak Mountain Energy Corporation, as "lessee", originally dated September 17, 1990 and originally entered into between USX Corporation and Bibb Energy, Inc., a Memorandum of which was recorded in the Office of the Shelby County Judge of Probate on August 8, 1996 as Inst. # 1996-25583; and (iii) that certain Coal Mining Lease and Prospecting Agreement dated as of September 1, 1996 by and between Southern Electric Generating Company, as lessor, and Oak Mountain Energy Corporation, as lessee, a Memorandum of which was recorded December 30, 1996 in the Office of the Shelby County Judge of Probate as Inst. # 1996-42532, and further recorded December 30, 1996 in the Office of the Bibb County Judge of Probate in Book 22, page 774; all of the foregoing Leases have been assigned to Debtor pursuant to instruments of assignment recorded in the Offices aforesaid immediately prior to the recordation of this Mortgage; the Leases are summarized, and the property demised by the Lease referenced in subpart (i) above is described on Exhibit B, the property demised by the Lease referenced in subpart (ii) above is described on Exhibit C, and the property demised by the Lease referenced in subpart (iii) above is described on Exhibit D, each such exhibit being attached hereto and incorporated herein by this reference;

1.6 "Loan Agreement" means that certain Credit Agreement, dated as of April 17, 1997, among Agent, the Banks and Borrower, as the same may be amended, supplemented, modified, and restated from time to time;

1.7 "Loan Documents" shall have the meaning set forth in the Loan Agreement;

1.8 "Mine(s)" shall mean any excavation or opening into the earth, now and hereafter made, from which Coal is or can be extracted on or from any of the Properties, together with all appurtenances, fixtures, structures, improvements and all tangible property of whatsoever kind or nature in connection therewith, and together with each and every license, permit, bond, governmental approval and contract right in connection therewith;

1.9 "Note" or "Notes" shall mean, separately and collectively, any and all Term Notes and Revolving Credit Notes (as such terms are defined in the Loan Agreement), delivered pursuant to the Loan Agreement;

1.10 "Obligations" means all obligations of the Debtor, now existing or hereafter arising (including future advances), for principal, interest or otherwise, incurred under or in connection with the Loans, the Notes, this Mortgage, the Loan Agreement, and the other Loan Documents;

1.11 "Operating Equipment" shall mean all surface and subsurface machinery, equipment, facilities and other property of whatsoever kind or nature, now and hereafter located on any of the Properties and anywhere else, which are now and hereafter owned by the Debtor, and which are useful for the production, handling, treatment, processing, storage or transportation of Coal, including, but not by way of limitation, all hoisting shafts, air shafts, engines, boilers, dynamos, generators, belts and conveyor belts and other electrical apparatus, machinery and tipples, store houses and other buildings of every kind used by Debtor in connection with the Mines and the Properties, and all tools, supplies, equipment and personal property of every kind, sort or character, whether now owned or hereafter to be purchased or

acquired by the Debtor in connection with the Mines, the Properties or the processing and transportation of Coal;

1.12 "Plant(s)" shall mean the tipples, processing facilities, machinery and ancillary facilities now and hereafter owned or controlled by the Debtor, or to which the Debtor has rights, and all equipment, tools, supplies and other property now and hereafter owned by the Debtor and now and hereafter used in connection with each such facility, including, without limitation, each contract right, sidetrack agreement, easement and right-of-way, all advanced deposits, governmental approvals and bonds, and all similar agreements and rights;

1.13 "Reclamation Bonds" shall mean, to the extent assignable by Debtor to Secured Party, each and every security deposit of money or other property now and hereafter made with any regulatory authority for the purpose of securing the Debtor's obligation to reclaim any Mine and any of the Properties and the right to receive a refund or return of such security in the event a successor permittee (as that term is defined by local law) begins mining on any of the Properties;

1.14 "Required Mining Permits" shall mean all material licenses, permits, authorizations, plans, approvals and bonds necessary under the Environmental Laws for Debtor to continue to conduct Coal mining and related operations on, in or under the Properties substantially in the manner as such operations had been authorized immediately prior to Debtor's acquisition of its interests in the Properties and as may be necessary for Debtor to conduct Coal mining and related operations on, in or under the Properties as contemplated herein and in the Credit Agreement, further including the production, recovery or distribution of methane gas from the Coal;

1.15 "Security Agreement" shall mean that certain Security Agreement dated as of April 17, 1997, delivered by Debtor to Secured Party pursuant to the Loan Agreement; and

1.16 "Trust Moneys" shall have the meaning set forth in Article 9 hereof.

2. Grant of Mortgage and Security Interest

In order to secure the payment and performance of the Obligations, the Debtor, for good and valuable consideration and intending to be legally bound hereby, by these presents does give, grant, bargain, sell, mortgage, assign, grant a security interest in, transfer, convey and set over unto the Secured Party, its successors and assigns forever, all of its right, title and interest in and to all of its property of each and every kind whatsoever, including all real property, all personal property, both tangible and intangible, and all fixtures, and including all such property now owned and hereafter acquired or owned by it and all rents, issues, profits, products and proceeds thereof, as hereinafter set forth, including without limitation all of the following described property in which it now has or hereafter acquires an interest, subject only to security interests, liens and other matters permitted under this Mortgage or the Loan Agreement:

2.1 the Properties;

- 2.2 the Leases, together with all of the right, title and interest of Debtor in and to all premises, rights and interests demised thereby;
- 2.3 the Coal;
- *2.4 the Mines;
- 2.5 the Required Mining Permits;
- 2.6 the Plants;
- 2.7 the Operating Equipment;
- 2.8 All personal property and fixtures of the Debtor of any type or description, wherever located and now existing or hereafter arising or acquired, including but not limited to the following:
 - (a) all of the Debtor's goods, including, without limitation:
 - (i) all inventory, whether raw materials, in process or finished, all material or equipment usable in processing the same and all documents of title covering any inventory (all of the foregoing, "Inventory");
 - (ii) all other equipment (the "Other Equipment") employed in connection with the Debtor's business, together with all present and future additions, attachments and accessions thereto and all substitutions therefor and replacements thereof;
 - (b) all of the Debtor's present and future accounts, accounts receivable, general intangibles, contracts and contract rights (herein sometimes referred to as "Accounts"), together with
 - (i) all claims, rights, powers or privileges and remedies of the Debtor relating thereto or arising in connection therewith, including, without limitation, all rights of the Debtor to make determinations, to exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, waiver or approval, together with full power and authority to demand, receive, enforce, collect or receipt for any of the foregoing, to enforce or execute any checks or other instruments or orders, to file any claims and to take any action which (in the opinion of the Secured Party) may be necessary or advisable in connection with any of the foregoing,

- (ii) all liens, security, guaranties, endorsements, warranties and indemnities and all insurance and claims for insurance relating thereto or arising in connection therewith,
 - (iii) all rights to property forming the subject matter of the Accounts, including without limitation rights to stoppage in transit and rights to returned or repossessed property,
 - (iv) all writings relating thereto or arising in connection therewith, including without limitation all notes, contracts, security agreements, guaranties, chattel paper and other evidence of indebtedness or security, all powers-of-attorney, all books, records, ledger cards and invoices, all credit information, reports or memorandums and all evidence of filings or registrations relating thereto,
 - (v) all catalogs, computer and automatic machinery software and programs and the like pertaining to operations by the Debtor in, on or about any of its Plants or warehouses, all sales data and other information relating to sales or service of products now or hereafter manufactured on or about any of its Plants, all accounting information pertaining to operations in, on or about any of its plants, all media in which or on which any of the information or knowledge or data is stored or contained and all computer programs used for the compilation or printing out of such information, knowledge, records or data, and
 - (vi) all accounts, contract rights, general intangibles and other property rights of any nature whatsoever arising out of or in connection with the foregoing, including without limitation, payments due and to become due, whether as repayments, reimbursements (including, without limitation, refunds to which the Debtor is entitled, if any, under any Reclamation Bonds), contractual obligations, indemnities, damages or otherwise;
- (c) all other personal property of the Debtor of any nature whatsoever, including, without limitation, all accounts, bank accounts, deposits, credit balances, contract rights, inventory, general intangibles, mineral rights, goods, equipment, instruments, chattel paper, investment property, machinery, furniture, furnishings, fixtures, tools, supplies, appliances, plans and drawings, together with all customer and supplier lists and records of the business, and all property from time to time described in any financing statement (UCC-1) signed by the Debtor naming the Secured Party or any of the Banks as secured party; and

- (d) all additions, accessions, replacements, substitutions or improvements and all products and proceeds, including without limitation proceeds of insurance, of any and all of the Collateral described in this Section 2.9;
- 2.9 all items incorporated as part of or attributed to any of the Properties in such manner that an item is no longer personal property under applicable state law;
- 2.10 all easements, rights-of-way, licenses and privileges belonging to or appurtenant to the Properties, the Leases, the Mines and the Plants; and
- 2.11 all other records and data of the Debtor related to the mining and production of Coal, including without limitation all engineering and mining plans, data, surveys, assessments, appraisals and reports.

All of the above-described property is hereinafter collectively called the "Collateral," except that the Collateral shall not be deemed to include any property of the Debtor with respect to which the Debtor is obligated to obtain the approval of a third party or parties to transfer the same, until such approval has been obtained, whether by Debtor or by Secured Party, from each such third party.

TO HAVE AND TO HOLD the Collateral, subject to the terms and conditions herein, unto and to the use and benefit of the Secured Party forever, without the Secured Party having any liability in any respect for the performance of any covenant or obligation of the Debtor in respect of the Collateral, to secure the payment and performance of the Obligations, provided always that these presents are upon the express condition that if the Debtor shall pay and perform all Notes in strict accordance with their terms, and shall perform all other obligations under the Loan Documents, then these presents and the lien and estate hereby granted shall cease and terminate, and provided further that if any Note is paid following acceleration of the sums due thereunder or if any of the Notes is paid in the course of any bankruptcy, insolvency, reorganization, liquidation or other legal proceeding involving the sale or liquidation of the assets of the Debtor or the readjustment, composition or discharge of the debts of the Debtor, then the lien and estate hereby granted shall survive until such time as all of the Obligations have been fully paid and performed, and then these presents and the lien and estate hereby granted shall cease and terminate.

It is expressly understood that this Mortgage is intended to and does secure not only the Obligations, but also future advances and any and all other obligations, indebtedness and liabilities, direct or contingent, of Debtor to Secured Party, whether now existing or hereafter arising, and any and all extensions, renewals, modifications and refinancings of same, or any part thereof, existing at any time before actual cancellation of this instrument on the probate records of the county or counties where the Collateral is located and whether the same may be evidenced by note, open account, assignment, endorsement, guaranty, pledge or otherwise. The Loans and the Obligations may, if provided in any Loan Document, provide for revolving or open-end loans and advances, all of which shall be secured by this Mortgage.

3. Representations and Warranties of the Debtor

Debtor represents and warrants to Secured Party as follows:

3.1 Debtor has good and marketable title to an estate in fee simple absolute in the Fee Property, and has good and marketable title to a leasehold estate in and to the Leasehold Properties, and has all right, title and interest in all other property constituting a part of the Properties, in each case free and clear of all liens and encumbrances, except for Permitted Liens; this Mortgage is a valid and enforceable first lien on the Properties (except as aforesaid) and Secured Party shall, subject to Debtor's right of possession prior to an Event of Default, quietly enjoy and possess the Properties; Debtor shall preserve such title as Debtor warrants herein and the validity and priority of the lien hereof and shall forever warrant and defend the same to Secured Party against the claims of all persons and parties whomsoever.

3.2 Except as set forth in the Loan Agreement, all Required Mining Permits necessary to mine and recover Coal from the Properties have been obtained and are in full force and effect, and, with respect to Coal to be mined and recovered in the future, Debtor is aware of no reason why all necessary Required Mining Permits will not be acquired in the ordinary course of business.

3.3 The Collateral has been acquired by Debtor for business purposes.

3.4 A portion of the Loans will be utilized as a construction loan, and Secured Party may disburse that portion of the proceeds of the Loans directly to Debtor or to any contractor or subcontractor.

4. Covenants of the Debtor

The Debtor covenants and agrees with the Secured Party as follows, such covenants and agreements to survive the execution hereof and to continue until such time as the lien and security interest created hereby shall terminate:

4.1 As long as this Mortgage remains in effect, and all of the Notes and the other Obligations are paid in full or otherwise fully performed, Debtor will perform and comply with all obligations, terms, covenants and conditions by which Debtor is bound pursuant to the Loan Agreement, the Security Agreement, this Mortgage and the other Loan Documents.

4.2 Debtor shall maintain such insurance on the Collateral as is required pursuant to the Loan Agreement and the Security Agreement.

4.3 Debtor shall obtain and maintain as needed all Required Mining Permits in accordance with the Loan Agreement.

4.4 Debtor shall allow reasonable inspection by representatives of the Secured Party of Debtor's property and records, including without limitation, the Plants and the Mines, as further set forth in the Loan Agreement.

4.5 Except as otherwise provided in the Loan Agreement, Debtor shall pay all taxes or governmental assessments levied on it, or on any of the Collateral prior to the date on which penalties attach, and shall not create, incur or assume any security interest, lien, charge or encumbrance on or in any of the Collateral or its properties or assets, whether now owned or hereafter acquired, or enter into any arrangement for the acquisition of property subject to a conditional sale or other title retention agreement, except Permitted Encumbrances (as defined in the Loan Agreement).

4.6 Debtor agrees to assign or mortgage promptly to Secured Party all future coal leases or agreements to which Debtor may become a party, which by their terms do not prohibit such assignment or mortgaging, and to use its best efforts to obtain appropriate consents to such assignment or mortgaging where such prohibitions do exist.

4.7 For so long as the lien hereby created in favor of the Secured Party shall remain in effect, and subject only to Permitted Encumbrances, Debtor warrants and forever defends the Collateral unto the Secured Party against every person whomsoever lawfully claiming the same or any part thereof.

4.8 Debtor will execute and deliver such other and further instruments and will do such other and further acts as in the opinion of the Secured Party may be necessary or desirable to carry out more effectively the purpose of this Mortgage and the other Loan Documents, including, without limiting the generality of the foregoing, prompt correction of any defect occurring after the date hereof which may hereafter be discovered in the title to or description of any of the Collateral or in the execution and acknowledgment of this Mortgage, the Notes or any of the other Loan Documents.

4.9 Debtor shall promptly, insofar as not contrary to applicable law, do all things necessary or expedient to be done, including without limitation file and refile in such offices, at such times and as often as may be necessary, this instrument and every other instrument in addition or supplemental hereto, including applicable financing statements, in order to create, perfect, maintain and preserve the lien, mortgage and security interest created hereby and the rights and remedies of Secured Party hereunder, and shall promptly furnish to Secured Party evidence satisfactory to the Secured Party of all such filings and refilings and other necessary and expedient actions. Secured Party shall pay or reimburse the Debtor the expense of the initial filings required hereby, and Debtor shall bear such expenses for all future filings and any refilings.

4.10 Debtor will promptly comply with and conform to all present and future Laws which are applicable to the Properties, and all covenants, restrictions and conditions which may be applicable to Debtor or to any of the Properties or to the use, manner of use, occupancy, possession or operation of any of the Properties.

4.11 Debtor will pay all taxes of every kind and nature in accordance with Section 8.12, or as otherwise set forth in the Loan Agreement. In addition, Debtor shall pay promptly on demand all taxes, assessments and charges which may now or hereafter be imposed upon Secured Party by reason of its holding any of the Loan Documents, including intangibles,

business privilege and excise taxes, and further including any tax imposed on the execution, delivery or recordation of this Mortgage, or an related financing statements, but excluding any taxes upon the income derived by Secured Party upon the interest or other sums collected by Secured Party pursuant to the Loan Documents.

* 4.12 Except as otherwise permitted by the Loan Agreement, without the prior written consent of Agent, Debtor shall not enter into any lease for any personal property as lessee which is to be used in connection with the operation of Debtor's business, or create or cause or permit to exist any lien on, or security interest in, whether voluntary or involuntary, any part of the Collateral, other than in favor of Secured Party.

4.13 Except as otherwise permitted by the Loan Agreement, Debtor shall not sell, assign, give, mortgage, pledge, hypothecate, encumber, lease or otherwise transfer the Collateral or any part thereof or interest therein, voluntarily or involuntarily, without Secured Party's prior written consent, which may be granted or withheld in Secured Party's sole discretion.

5. Events of Default

5.1 The following shall constitute "Events of Default":

- (a) the occurrence of any Event of Default, as defined in the Loan Agreement, and as specified in Article 9 thereof; or
- (b) failure by the Debtor, within twenty (20) days after notice thereof from the Secured Party, to cure a default in the due performance or observance of any covenant contained in Sections 4.2 through 4.13 of this Mortgage.

6. Enforcement of the Security

6.1 If any Event of Default shall occur, all sums due and remaining unpaid under and of the Notes, together with all accrued interest thereon, and all Obligations shall, without further act, become and be immediately due and payable, and shall all be forthwith paid and performed, in each case without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by the Debtor.

6.2 Upon the occurrence, and during the continuance, of an Event of Default, or at any time thereafter, Secured Party may (i) exercise such remedies as are set forth in the Loan Agreement, (ii) institute foreclosure proceedings against the fee or leasehold estate of Debtor in the Properties secured hereby, in law or in equity, or (iii) Secured Party may proceed by a suit or suits in equity or at law, whether for a foreclosure hereunder, or for the sale of the Collateral, or for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or (iv) for the appointment of a receiver pending any foreclosure hereunder or the sale of the Collateral, and upon application to court of competent jurisdiction, Secured Party shall be entitled, without notice and without regard to the adequacy of

any security for the Obligations hereby secured or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Collateral and to collect the rents, profits, issues, royalties and revenues thereof, or (v) for the enforcement of any other appropriate legal or equitable remedy. Secured Party may elect to treat any fixtures included in the Collateral either as real property or personal property and proceed to exercise such rights as apply to the type of property selected.

6.3 In addition to any rights and remedies now or hereafter granted under applicable law and not by way of limitation of any such rights and remedies, upon the occurrence of an Event of Default, and during the continuance thereof, the Secured Party shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the States of Alabama and Pennsylvania, as applicable, in addition to the rights and remedies provided herein, in the Loan Agreement, the Security Agreement and the other Loan Documents. Without in any way limiting the foregoing, after the occurrence of an Event of Default and during the continuance thereof, upon the giving of notice to the Debtor of Secured Party's intent to pursue any one or all of the following or any other remedies:

- (a) The Secured Party shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as enacted in Alabama and in Pennsylvania in addition to the rights and remedies provided herein, in the Loan Agreement and in the Security Agreement. The Secured Party shall have the right, without further notice to, or assent by, the Debtor, in the name of the Debtor or in the name of the Debtor or in the name of the Secured Party or otherwise:
 - (i) to ask for, demand, collect, receive, compound and give acquaintance for the Accounts or any part thereof;
 - (ii) to extend the time of payment of, compromise or settle for cash, credit or otherwise, and upon any terms and conditions, any of the Accounts;
 - (iii) to endorse the name of the Debtor on any checks, drafts or other orders or instruments for the payment of moneys payable to the Debtor which shall be issued in respect of any Account;
 - (iv) to file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by the Secured Party necessary or advisable for the purpose of collecting or enforcing payment of any Account;
 - (v) to make test verifications of the Accounts or any portion thereof;
 - (vi) to notify any or all account debtors under any or all of the Accounts to make payment thereof directly to the Secured Party for

the account of the Secured Party and to require the Debtor to forthwith give similar notice to the account debtors;

- (vii) to require the Debtor forthwith to account for and transmit to the Secured Party in the same form as received all proceeds (other than physical property) of collection of Accounts received by the Debtor and, until so transmitted, to hold the same in trust for the Secured Party and not commingle such proceeds with any other funds of the Debtor;
- (viii) to take possession of any or all of the Collateral and, for that purpose, to enter, with the aid and assistance of any person or persons and with or without legal process, any premises where the Collateral, or any part thereof, is or may be, placed or assembled, and to remove any of such Collateral;
- (ix) to execute any instrument and do all other things necessary and proper to protect and preserve and realize upon the Collateral and the other rights contemplated hereby;
- (x) upon notice to such effect, to require the Debtor to deliver, at the Debtor's expense, any or all Collateral to the Secured Party at a place designated by the Secured Party, and after delivery thereof, the Debtor shall have no further claim to or interest in the Collateral; and
- (xi) without obligation to resort to other security, at any time and from time to time, to sell, re-sell, assign and deliver all or any of the Collateral, in one or more parcels at the same or different times, and all right, title, interest, claim and demand therein and right of redemption thereof, at public or private sale, for cash, upon credit or for future delivery, and at such price or prices and on such terms as the Secured Party may determine, with the amounts realized from any such sale to be applied to the Secured Obligations in the manner determined by the Secured Party.

The Debtor hereby agrees that all of the foregoing may be effected without demand, advertisement or notice (except as otherwise provided herein or as may be required by law), all of which (except as otherwise provided) are hereby expressly waived, to the extent permitted by law. The Secured Party shall not be obligated to do any of the acts hereinabove authorized, but in the event that the Secured Party elects to do any such act, the Secured Party shall not be responsible to the Debtor except for the gross negligence or willful misconduct of Secured Party.

- (b) The Secured Party may take legal proceedings for the appointment of a receiver (to which the Secured Party shall be entitled as a matter of right) to take possession of the Collateral pending the sale thereof pursuant either

to the powers granted by this Mortgage or to a judgment, order or decree made in any judicial proceeding for the foreclosure or involving the enforcement of this Mortgage. If, after the exercise of any or all of such rights and remedies, any of the Secured Obligations shall remain unpaid, the Debtor shall remain liable for any deficiency. After termination of this Mortgage and the Loan Agreement and the indefeasible payment in full of the Obligations, any proceeds of the Collateral received or held by the Secured Party shall be turned over to the Debtor, and the Collateral shall be reassigned to the Debtor by the Secured Party, without recourse to the Secured Party and without any representations, warranties or agreements of any kind.

- (c) Upon any sale of any of the Collateral, whether made under the power of sale hereby given or under judgment, order or decree in any judicial proceeding for the foreclosure or involving the enforcement of this Mortgage:
 - (i) the Secured Party may bid for and purchase the property being sold, and upon compliance with the terms of sale, may hold, retain, possess and dispose of such property in its own absolute right without further accountability, and may, in paying the purchase money therefor, deliver any Note or claims for interest thereon and any other instruments evidencing the Secured Obligations or agree to the satisfaction of all or a portion of the Obligations in lieu of cash in payment of the amount which shall be payable thereon, and the Notes and such instruments, in case the amounts so payable thereon shall be less than the amount due thereon, shall be returned to the Secured Party after being appropriately stamped to show partial payment;
 - (ii) the Secured Party may make and deliver to the purchaser or purchasers a good and sufficient deed, bill of sale, and instrument of assignment and transfer of the property sold;
 - (iii) the Secured Party is hereby irrevocably appointed the true and lawful attorney-in-fact of the Debtor, in its name and stead, to make all necessary deeds, bills of sale, and instruments of assignment and transfer of the property thus sold and for such other purposes as are necessary or desirable to effectuate the provisions (including without limitation this Section 6.3) of this Mortgage, and for that purpose it may execute and deliver all necessary deeds, bills of sale, and instruments of assignment and transfer, and may substitute one or more persons with like power, the Debtor hereby ratifying and confirming all that its said attorney, or such substitute or substitutes, shall lawfully do by virtue hereof; but if so

requested by the Secured Party or by any purchaser, the Debtor shall ratify and confirm any such sale or transfer by executing and delivering to the Secured Party or to such purchaser all property, deeds, bills of sale, instruments or assignment and transfer, and releases as may be designated in any such request;

- (iv) all right, title, interest, claim and demand whatsoever, either at law or in equity or otherwise, of the Debtor of, in and to the property so sold shall be divested; such sale shall be a perpetual bar both at law and in equity against the Debtor, its successors and assigns, and against any and all persons claiming or who may claim the property sold or any part thereof from, through or under the Debtor, its successors or assigns;
- (v) the receipt of the Secured Party or of the officer thereof making such sale shall be a sufficient discharge to the purchaser or purchasers at such sale for his or their purchase money, and such purchaser or purchasers, and his or their assigns or personal representatives, shall not, after paying such purchase money and receiving such receipt of the Secured Party or of such officer therefor, be obliged to see to the application of such purchase money or be in any way answerable for any loss, misapplication or nonapplication thereof; and
- (vi) to the extent that it may lawfully do so, and subject to any legal requirement that the Secured Party act in a commercially reasonable manner, the Debtor agrees that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any appraisement, valuation, stay, extension or redemption laws, or any law permitting it to direct the order in which the Collateral or any part thereof shall be sold, now or at any time hereafter in force, or to require marshalling of assets, which may delay, prevent or otherwise affect the performance or enforcement of this Mortgage, the Loan Agreement, the Notes, or the other Loan Documents whereby the Debtor has granted any lien to the Secured Party, and the Debtor hereby expressly waives all benefit or advantage of any such laws and covenants that it will not hinder, delay or impede the execution of any power granted or delegated to the Secured Party in this Mortgage, but will suffer and permit the execution of every such power as though no such laws were in force. In the event of any sale of Collateral pursuant to this Section 6.3, the Secured Party shall, at least ten (10) days before such sale, give the Debtor written notice (which may be sent by telecopy) of its intention to sell, except that, if the Secured Party shall determine in its sole discretion that any of the Collateral

threatens to decline speedily in value, any such sale may be made upon three (3) days' written notice to the Debtor (which may be sent by telecopy).

6.4 If an Event of Default shall have occurred, and during the continuance thereof, Secured Party may sell the Collateral, or any part thereof, to the highest bidder at public auction in front of the courthouse door in the county or counties, as may be required, where the Collateral is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county or counties, as may be required, and, upon payment of the purchase money, Secured Party or any person conducting the sale for Secured Party is authorized to execute to the purchaser at said sale a deed to the Collateral so purchased. Secured Party may bid at such sale and purchase the Collateral, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Collateral may be offered for sale and sold as a whole without first offering it any other manner or may be offered for sale and sold in any other manner as Secured Party may elect. The provisions of Section 6.3 of this Mortgage shall apply with respect to Secured Party's enforcement of rights or interests in personal property which constitutes Collateral hereunder.

6.5 In addition to, and not in limitation of the remedies set forth in Sections 6.2, 6.3 and 6.4, whenever from time to time and at any time an Event of Default hereunder occurs, and during the continuance thereof, the Secured Party may notify the purchasers of Coal produced from the Properties or coal otherwise produced or obtained and sold by Debtor to make direct payment to the Secured Party of any amounts due or to become due to the Debtor as proceeds of such transaction giving rise to the Account. All parties producing, purchasing or receiving any severed coal, or having such or proceeds therefrom in their possession, for which they or others are accountable to the Secured Party by virtue of the provisions of this Article 6, are hereby authorized and directed by the Debtor, upon receipt of notice from the Secured Party, to turn such coal or the proceeds thereof over to the Secured Party and to treat and regard the Secured Party as the assignee and transferee of the Debtor, entitled in the Debtor's place and stead to receive such coal and all proceeds therefrom; and said parties and each of them shall be fully protected in so treating and regarding the Secured Party and shall be under no obligation to investigate whether an Event of Default then actually exists or to see to the application by the Secured Party of any such proceeds or payments received by it. The Secured Party shall not be liable to the Debtor for failure to enforce collection of any proceeds so demanded by it or any action in connection therewith, except to use reasonable care, to give the Debtor promptly information concerning the proceeds received from time to time and to account to the Debtor therefor.

6.6 Except as otherwise provided in the Loan Agreement, all moneys which the Secured Party shall receive, in accordance with the provisions hereof, shall be applied (to the extent thereof) in the following manner: First, to the payment of all costs and expenses incurred in connection with the administration and enforcement of, or the preservation of any rights under, this Mortgage or any of the reasonable expenses and disbursements of the Secured Party (including without limitation the fees and disbursements of its counsel and agents); Second, to

the payment of all Obligations arising out of the Loan Agreement and the Notes and, if not therein provided, in such order as the Secured Party may determine; and Third to the payment of all other Obligations in such order as the Secured Party may determine. If after applying any amounts which the Secured Party has received in respect of the Collateral any of the Obligations remain unpaid, the Debtor shall continue to be liable for any deficiency, together with interest.

6.7 In addition to the other remedies set forth in this Article 6, Debtor irrevocably appoints Agent to be its attorney-in-fact and, at any time after the occurrence of an Event of Default, authorizes such officers as Agent may designate to execute on behalf of Debtor any document or instrument, or to take any other action necessary or desirable, to assign and transfer the Required Mining Permits to Agent or to its designee.

6.8 All costs and expenses, including reasonable attorneys' fees and legal expenses, incurred by Secured Party in protecting and enforcing its rights hereunder shall be a demand obligation of Debtor to Secured Party and, to the extent not paid within five (5) business days after notice to Debtor, shall bear interest at the rate of two percent (2%) per annum above the Prime Rate (as defined in the Loan Agreement), which sums shall constitute part of the Obligations.

6.9 In the event of an occurrence of an Event of Default which results in all or any portion of the Collateral being damaged, taken or acquired, either temporarily or permanently, by any condemning authority under any condemnation, eminent domain or similar proceeding such that operation of the Collateral for mining purposes is significantly impaired, the amount of any award or other payment for such damage, taking or acquisition made in consideration thereof, to the extent of the full amount of the then unpaid indebtedness secured hereby (both principal and interest), is hereby assigned to Secured Party, who may collect and receive the same and give proper receipts therefor in the name of the Debtor, and the same shall be paid forthwith by any such authority to Secured Party. Any award or payment so received by Secured Party shall be applied in accordance with the provisions of Article 9 hereof.

6.10 The Debtor agrees to indemnify the Secured Party against and hold Secured Party harmless from all claims, actions, liabilities, judgments, costs, attorneys' fees or other charges of whatsoever kind or nature, other than those arising under any sales contract (collectively, "Claims" and individually, a "Claim"), made against or incurred arising out of any assertion by a third party that it was entitled to Coal or the proceeds thereof received by the Secured Party pursuant to this Article. The Secured Party will notify the Debtor, in writing, promptly of the commencement of any legal proceedings with respect to any Claim, and the Debtor may elect to defend against such Claim. Should the Debtor fail to take such action, the Secured Party may defend such Claim, employing attorneys therefor, and, unless furnished with reasonable indemnity, shall have the right to pay or compromise and adjust all such Claims. The Debtor will indemnify and pay to the Secured Party any and all such amounts as may be paid by the Secured Party in respect thereof or as may be successfully adjudged against the Secured Party.

6.11 In case any sale of the Properties under this Mortgage occurs by virtue of judicial proceedings, or under the power of sale granted under Section 6.4 above, the Properties may be

sold in one parcel or unit and as an entity, or in such parcels or units, and in such manner or order, as Secured Party in its sole discretion may elect.

6.12 All remedies contained in this Mortgage are cumulative and Secured Party also has all other remedies provided by law or in equity or in any of the other Loan Documents. No delay or failure by Secured Party to exercise any right or remedy under this Mortgage will be construed to be a waiver of that right or remedy or a waiver of any Event of Default. Secured Party may exercise any one or more of its rights and remedies without regard to the adequacy of its security. One or more of the other Loan Documents may contain provisions pursuant to which all or a part of the Obligations shall become immediately and automatically due and payable upon the occurrence of certain events described therein. Nothing in this Mortgage shall be construed as limiting the effectiveness of such provisions, and in the event of any inconsistency with the terms of this Mortgage, those provisions more advantageous to Secured Party shall govern.

6.13 Debtor waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage, and Debtor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the Collateral be set off against any part of the indebtedness secured hereby.

7. The Leases

7.1 Debtor hereby covenants, warrants and represents as follows:

- (a) each of the Leases is in full force and effect, unmodified by any writing or otherwise;
- (b) all rent and other charges reserved in or due and payable under each Lease, including without limitation, all minimum, advance and other royalties of any kind payable under any of the Leases, have been paid to the extent due and payable to the date hereof;
- (c) Debtor is in material compliance with all of its obligations to mine and recover Coal under each of the Leases;
- (d) Debtor enjoys the quiet and peaceful possession of the leasehold estate granted pursuant to each of the Leases;
- (e) Debtor has not delivered or received any notices of default under any Lease and is not in default under any of the terms of any Lease and there are no circumstances known to Debtor which, with the passage of time or the giving of notice or both, would constitute a default under any Lease;
- (f) no lessor under any Lease is in default, after any applicable grace or cure period, under any of the terms of the Lease on its part to be observed or performed;

- (g) Debtor has delivered to Secured Party a true, accurate and complete copy of each Lease;
- (h) Debtor promptly shall pay the rent and all other sums and charges mentioned in, and payable under, each Lease, subject to the terms and conditions of each Lease;
- (i) Debtor promptly shall perform and observe all of the terms, covenants and conditions required to be performed and observed by the lessee under each Lease, the breach of which could permit any party to such Lease to validly terminate such Lease (including, but without limiting the generality of the foregoing, any payment obligations), shall do all things necessary to preserve and to keep unimpaired its rights under the Lease, shall not waive, excuse or discharge any of the obligations of the lessor under each such Lease without Secured Party's prior written consent in each instance and shall diligently and continuously enforce the obligations of the lessor under each Lease;
- (j) Debtor shall not do, permit or suffer any event or omission as a result of which there could occur a default under any Lease or any event which, with the giving of notice or the passage of time, or both, would constitute a default under any Lease which could permit any party to any Lease to validly terminate any Lease (including, but without limiting the generality of the foregoing, a default in any payment obligation);
- (k) Debtor shall not cancel, terminate, surrender, modify or amend or in any way alter or permit the alteration of any of the provisions of any Lease or agree to any termination, amendment, modification or surrender of the Lease without Secured Party's prior written consent in each instance;
- (l) Debtor shall deliver to Agent copies of any notice of default by any party under any Lease, or of any notice from the lessor under any Lease of its intention to terminate the Lease or to re-enter any take possession of the demised premises, immediately upon delivery or receipt of such notice, as the case may be;
- (m) Debtor shall promptly furnish to Agent copies of such information and evidence as Agent may request concerning Debtor's due observance, performance and compliance with the terms, covenants and conditions of each Lease;
- (n) Debtor shall not consent to the subordination of any Lease to any mortgage or similar encumbrance of the fee interest in any portion of the premises demised by such Lease;

- (o) any default, beyond any applicable grace or cure period, under any Lease, or any failure by Debtor to perform its obligations under any Lease shall constitute a default hereunder; and
- (p) Debtor, at its sole cost and expense, shall execute and deliver to Agent, within five (5) days after request, such documents, instruments or agreements as may be required to permit Agent to cure any default under any Lease.

7.2 In the event of default by Debtor in the performance of any of its obligations under any Lease, after any applicable grace or cure period, including, but without limiting the generality of the foregoing, any default in the payment of any sums payable thereunder, or any default in any obligations related to the mining and recovery of Coal, then, in each and every case, Secured Party may, at its option, cause the default or defaults to be remedied and otherwise exercise any and all of the rights of Secured Party thereunder in the name of and on behalf of Debtor. Debtor shall, on demand, reimburse Secured Party for all advances made and expenses incurred by Secured Party in curing any such default (including, without limiting the generality of the foregoing, reasonable attorneys' fees and disbursements), together with interest thereon at 2% above the Prime Rate.

7.3 Debtor shall use reasonable, diligent and good faith efforts to obtain and deliver to Agent, within twenty (20) days after written demand by Agent, an estoppel certificate from the lessor under each Lease setting forth (i) the name of the lessee and the lessor thereunder, (ii) that the Lease is in full force and effect and has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the basic rent and royalty payments required under the Lease, (iv) the date to which all rental charges have been paid by the lessee under the Lease, (v) whether a notice of default has been received by the lessor under the Lease which has not been cured, and if such notice has been received, the date it was received and the nature of the default, (vi) whether there are any alleged defaults of the lessee under the Lease and, if there are, setting forth the nature thereof in reasonable detail, and (vii) if the lessee under the Lease shall be in default after the giving of notice or the passage of time, or both, the circumstances relating to such default.

7.4 Secured Party shall be liable for the obligations of the lessee arising under the Lease for only that period of time which Secured Party is in possession of the demised premises or has acquired, by foreclosure or otherwise, and is holding all of Debtor's right, title and interest therein.

7.5 It is hereby agreed that the fee title and leasehold estate shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates in either the lessor under the Lease, Debtor or a third party, whether by purchase or otherwise. If Debtor shall acquire fee title to any of the Leasehold Properties, or any other estate, title or interest in any property demised under any Lease, or any portion thereof, then, immediately upon Debtor's acquisition thereof, this Mortgage automatically shall spread to cover Debtor's interest in such leased property on the same terms, covenants and conditions as set forth herein. It is the intention

of Debtor and Secured Party that no documents, instruments or agreements shall be necessary to confirm the foregoing spread of this Mortgage to cover Debtor's interest in such leased property, as aforesaid, and that such spreader shall occur automatically upon the consummation of Debtor's acquisition of such estate, title or interest to such leased property. Notwithstanding the foregoing, Debtor shall make, execute, acknowledge and deliver to Secured Party or so cause to be made, executed, acknowledged and delivered to Secured Party, in form satisfactory to Secured Party, all such further or other documents, instruments, agreements or assurances as may be required by Debtor to confirm the foregoing spread of this Mortgage to cover Debtor's interest in such leased property. Debtor shall pay all expenses incurred by Secured Party in connection with the preparation, execution, acknowledgment, delivery and/or recording of any such documents, including but without limiting the generality of the foregoing, all filing, registration and recording fees and charges, documentary stamps, mortgage taxes, intangible taxes and reasonable attorneys' fees, costs and disbursements.

8. Use of Property

8.1 So long as no Event of Default shall have occurred and be continuing, the Debtor shall be permitted, subject to the provisions of this Mortgage, the Loan Agreement and the Security Agreement, to possess, use, manage, operate and enjoy the Collateral and to collect, receive, use, invest and dispose of the rents, issues, tolls, profits, revenues and other income from the Collateral, with power, in the ordinary course of business, freely and without let or hindrance on the part of the Secured Party, subject to the terms of the Leases, to gather, cut, mine and produce Coal, timber, peat, minerals, products, materials and supplies and to use, consume and dispose of any thereof, and to alter, repair and change the position of any of its Mines, mills, Plants, warehouses, buildings, works, structures, machinery, Operating Equipment, Other Equipment and other property, and to deal with, exercise any and all rights under, receive and enforce performance under, and adjust and settle all matters relating to current performance of chooses in action, leases and contracts.

8.2 If any property owned by Debtor which is subject to the lien and security interest hereof shall be taken by the exercise of the right of eminent domain or transferred to a governmental authority in contemplation thereof, the Secured Party shall release the property so taken from the lien and security interest hereof upon being furnished with an opinion of counsel to the effect that such property has been lawfully taken by exercise of such right or transferred in contemplation thereof. Cash equal to the proceeds from the taking or transfer of such property shall be held by Debtor and applied in accordance with the Loan Agreement.

9. Application of Trust Moneys

9.1 All moneys received by Debtor:

- (a) for application under this Article 9 as elsewhere herein provided, or whose disposition is not elsewhere herein otherwise specifically provided for, or

(b) as compensation for, or proceeds of sale of, any part of the Collateral taken by eminent domain or purchased by, or sold pursuant to an order of, a governmental authority, or

(c) as proceeds of insurance upon any part of the Collateral

(all such moneys being hereinafter sometimes called "Trust Moneys"), shall be held in trust by Debtor for the benefit of the Secured Party and shall be held and disbursed subject to the Loan Agreement and the Security Agreement.

9.2 To the extent that any Trust Moneys consist of amounts referred to in Section 9.1(c), they may be withdrawn by Debtor to reimburse Debtor for expenditures made, or to pay costs incurred, by such Debtor to repair, rebuild or replace the property destroyed or damaged, subject to the prior written approval of Secured Party in each such instance, it being understood that disbursement of all insurance proceeds received by Debtor shall occur pursuant to the terms of the Loan Agreement.

10. Miscellaneous

10.1 Except as otherwise permitted in this Mortgage, any notice delivered under this Mortgage shall be deemed to have been sufficiently given or served for all purposes thereof (i) when mailed, postage prepaid, by registered or certified mail, return receipt requested, or (ii) when sent by Federal Express (or similar overnight express or courier service) to the addresses set forth above or at such other address as either party may designate in a writing delivered to the other party, or (iii) personally delivered, provided that in the case where the Secured Party is required to give only three days' notice of a proposed sale of the Collateral, such notice shall not be deemed given until delivered to the chief executive office of the Debtor provided for herein.

10.2 No delay on the part of the Secured Party in exercising any of its rights, remedies, powers and privileges hereunder, or partial or single exercise thereof, shall constitute a waiver thereof. None of the terms and conditions of this Mortgage may be changed, waived, modified or varied in any manner whatsoever unless in a writing duly signed by the Debtor and the Secured Party. No notice to or demand on the Debtor in any case shall entitle the Debtor to any other or further notice or demand in similar or other circumstances or constitute a waiver of any of the rights of the Secured Party to any other or further action in any circumstances without notice or demand.

10.3 The obligations of the Debtor hereunder shall remain in full force and effect without regard to, and shall not be impaired by, (i) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of the Debtor; (ii) any exercise or nonexercise, or any waiver of, any right, remedy, power or privilege under or in respect of the Loan Agreement, the Notes, this Mortgage, the other Loan Documents whereby the Debtor has granted any lien to the Secured Party or any other agreement executed in connection with any of the foregoing, the Obligations or any security for any of the Obligations; or (iii) any amendment to or modification of any of the foregoing; whether or not the Debtor shall have notice or

knowledge of any of the foregoing. The rights and remedies of the Secured Party herein provided are cumulative and not exclusive of any rights or remedies which the Secured Party would otherwise have.

10.4 This Mortgage shall be binding upon the Debtor and its successors and assigns and shall inure to the benefit of the Secured Party and its successors and assigns, except that the Debtor may not transfer or assign any of its obligations, rights or interest hereunder without the prior written consent of the Secured Party, and any such purported assignment by the Debtor shall be void. All agreements, representations and warranties made herein shall survive the execution and delivery of this Mortgage.

10.5 The descriptive headings of the several sections of this Mortgage are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Mortgage.

10.6 Any provision of this Mortgage which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.7 All rights, remedies and powers provided by this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and the provisions hereof are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable in whole or in part or not entitled to be recorded, registered or filed under the provisions of any applicable law.

10.8 This Mortgage and the rights and obligations of the parties hereunder shall be construed in accordance with and be governed by the laws of the Commonwealth of Pennsylvania, except to the extent that matters of title, or creation, perfection, priority or enforcement of the security interests created hereby, including without limitation, matters of judicial procedure, are otherwise required to be governed by the laws of the State of Alabama, then the laws of the State of Alabama shall apply.

10.9 It is expressly agreed, anything herein in the Loan Documents or in any other agreement or instrument executed in connection with the Loan to the contrary notwithstanding, that the Debtor shall remain liable to perform all of the obligations, if any, assumed by it with respect to the Collateral, and the Secured Party shall not have any obligations or liabilities with respect to any Collateral by reason of or arising out of this Mortgage, nor shall the Secured Party be required or obligated in any manner to perform or fulfill any of the obligations of the Debtor under or pursuant to or in respect of any Collateral.

10.10 EACH OF THE SECURED PARTY AND THE DEBTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHTS EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION

BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF THE BANKS, THE SECURED PARTY OR THE DEBTOR. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE SECURED PARTY ENTERING INTO THIS MORTGAGE AND FOR THE BANKS AND THE SECURED PARTY ENTERING INTO THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS.

10.11 Except as otherwise provided herein, each and every covenant herein contained shall be performed and kept by the Debtor solely at its expense. Upon the occurrence of an Event of Default, the Secured Party, or any receiver appointed hereunder, may, but shall not be obligated to, make advances to perform the same on the Debtor's behalf and the Debtor hereby agrees to repay such sums upon demand plus interest thereon at the rate of 2% per annum above the Prime Rate. No such advance shall be deemed to relieve the Debtor from any Event of Default hereunder.

10.12 This Mortgage is a "security agreement" as defined in the Uniform Commercial Code. Notwithstanding the filing of a financing statement covering any of the Collateral in the records normally pertaining to personal property, at Secured Party's option all of the Collateral, for all purposes and in all proceedings, legal or equitable, shall be regarded (to the extent permitted by law) as part of the Properties. The mention in any such financing statement of any of the Collateral shall not be construed as in any way altering any of the rights of Secured Party or adversely affecting the priority of the lien granted hereby or by any other Loan Document, but such mention in the financing statement is hereby declared to be for the protection of Secured Party in the event any court shall at any time hold that notice of Secured Party's priority of interest, to be effective against any third party, must be filed in the Uniform Commercial Code records. This Mortgage constitutes a fixture filing under the Uniform Commercial Code. The following information is provided in order that this Mortgage shall comply with the requirements of the Uniform Commercial Code, as enacted in the State of Alabama, for instruments to be filed as financing statements:

(a) Name of Debtor:	Oak Mountain Energy, L.L.C.
- Address of Debtor:	1051 Oak Mountain Drive Pelham, AL 35214
(b) Name of Secured Party:	Mellon Bank, N.A., as Agent
Address of Secured Party:	Two Mellon Bank Center Room 230 Pittsburgh, PA, 15259 Attn: Robert E. Heuler, Vice-President
(c) Record Owner of Real Estate:	

Property Described on Exhibit A: Debtor

Property Described on Exhibit B: M. Brian Gordon, Sr. and Janice Gordon;

Property Described on Exhibit C: USX Corporation ("USX"); and

Property Described on Exhibit D: Southern Electric Generating Company ("SEGCO").

10.13 No release from the lien of this Mortgage of any part of the Collateral by Secured Party shall in anywise alter, vary or diminish the force, effect or lien of this Mortgage on the balance of the Collateral.

10.14 No provision of this Mortgage, the Notes or of any other instrument or agreement which creates any of the Obligations secured hereby shall require the payment or permit the collection of interest in excess of the maximum permitted by law or which is otherwise contrary to law. If any excess of interest in such respect is provided for herein, in any Note or in any of such other instruments or agreements, or shall be adjudicated to be so provided for herein in any Note or in any of such other instruments or agreements, the Debtor shall not be obligated to pay such excess.

10.15 Debtor agrees to execute such further assurances, documents and instruments as may be desirable by Secured Party for the purposes of further evidencing, carrying out and/or confirming this Mortgage and for all other purposes intended by this Mortgage.

10.16 This Mortgage is given under the seal of all parties hereto, and it is intended that this Mortgage is and shall constitute and have the effect of a sealed instrument according to law.

IN WITNESS WHEREOF, this Future Advance Fee and Leasehold Mortgage and Security Agreement has been duly executed by Debtor the day and year first above written.

ATTEST:

OAK MOUNTAIN ENERGY, L.L.C., an
Alabama limited liability company

By: 

Name: Michael M. Matesic

Title: Assistant Secretary

[Corporate Seal]

By: 

Name: Bruce Sparks

Title: Vice-President

Date Executed: April 16, 1997

COMMONWEALTH OF PENNSYLVANIA)

) SS:

COUNTY OF ALLEGHENY)

I, Elaine L. Stanton, a notary public in and for said county in said state hereby certify that Bruce Sparks, whose name as Vice-President of Oak Mountain Energy, L.L.C., an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 16th day of April, 1997.

Elaine L. Stanton
Notary Public

[Notarial Seal]

My commission expires: Oct. 30, 1999

266526

Notarial Seal
Elaine L. Stanton, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Oct. 30, 1999
Member, Pennsylvania Association of Notaries

EXHIBIT A

THE OWNED REAL PROPERTY

Those two certain parcels of land situated in Shelby County, Alabama, which are more particularly described as follows:

Parcel I

All that part of W 1/2 of Section 14, lying south of Norfolk Southern Railroad Right of way, Township 21 South, Range 4 West.

Minerals and mining rights excepted.

Parcel II

A tract of land, MINERALS AND MINING RIGHTS EXCEPTED, situated in the East half of the North-East quarter of Section 29, Township 21 South, Range 4 West of the Huntsville Principal Meridian, Shelby County, Alabama being more particularly described as follows:

Commence at the northeast corner of Section 29, Township 21 South, Range 4 West; thence in a Westerly direction along the north boundary of said Section, 180.22 feet; thence turning an angle of 50 degrees 31 minutes 33 seconds to the left in a southwesterly direction, 482.08 feet to the point of beginning of tract herein described; thence turning an angle of 93 degrees 21 minutes 45 seconds to the left in a southeasterly direction, 96.69 feet; thence turning an angle of 61 degrees 53 minutes 18 seconds to the right in a southwesterly direction, 323.04 feet; thence turning an angle of 16 degrees 19 minutes 28 seconds to the right in a southwesterly direction, 801.74 feet; thence turning an angle of 20 degrees 57 minutes 16 seconds to the right in a southwesterly direction, 303.15 feet; thence turning an angle of 55 degrees 21 minutes 07 seconds to the right in a northwesterly direction, 258.54 feet; thence turning an angle of 91 degrees 40 minutes 24 seconds to the right in a northeasterly direction, 535.80 feet; thence turning an angle of 7 degrees 42 minutes 34 seconds to the right in a northeasterly direction, 122.28 feet; thence turning an angle of 10 degrees 18 minutes 36 seconds to the right in a northeasterly direction, 193.10 feet; thence turning an angle of 2 degrees 11 minutes 48 seconds to the right in a northeasterly direction, 191.47 feet; thence turning an angle of 6 degrees 59 minutes 06 seconds to the right in a northeasterly direction, 490.22 feet; thence turning an angle of 86 degrees 36 minutes 15 seconds to the right in a southeasterly direction, 121.64 feet to the point of beginning.

Prior Deed References:

Parcel I

Deed of M. Brian Gordon, Sr. dated January 29, 1996, recorded in Shelby County Alabama on January 25, 1996 as Instr. #1996-02519.

Parcel II

Deed of USX Corporation dated August 24, 1995, recorded in Shelby County, Alabama on _____, 1995 as Instr. #1995-21551.

EXHIBIT B

LEASES

1. Underground Coal Mining Lease dated November 13, 1995, between M. Brian Gordon, Sr. and Janice O. Gordon collectively as Lessor and Oak Mountain Energy Corporation as Lessee, granting the right to mine and remove coal existing in or under the lands, properties and holdings described as follows to wit:

All the part of W1/2 of Section 14, lying South of Norfolk
Southern Railroad Right of Way, Township 21 South, Range 4
West, Shelby County, Alabama (hereinafter "Premises"),

for the purpose of mining coal and carrying on any mining related business including but not limited to the removal of economical mineable and merchantable coal by the underground method, and documented by that certain Memorandum of Underground Coal Mining Lease dated January 24, 1996, recorded January 25, 1996 as Instrument #1996-02522, Shelby County, Alabama.

2. That certain lease dated July 25, 1996, between USX Corporation as lessor and Oak Mountain Energy Corporation as lessee and filed of record in the Office of the Judge of Probate of Shelby County, Alabama, on August 8, 1996, and all amendments, assignments and extensions thereto described in that certain Memorandum of Lease as follows: the original Lease was dated September 17, 1990, was between USX and Bibb Energy, Inc., an Alabama corporation, was for a term of five (5) years with a five (5) year option to extend based on contingencies; the Lease was amended on May 31, 1991 to include additional property; the Lease was further amended on November 1, 1992 to include additional property; the Lease was further amended on May 1, 1993 to include additional seams and to include additional property; the Lease was assigned on October 29, 1994 so that Oak Mountain Energy Corporation became the lessee under the Lease; the Lease was further amended on August 24, 1995 to include additional seams of coal, to include additional property, and to provide to two (2) ten (10) year extensions provided Oak Mountain Energy Corporation met certain conditions; and subsequently the option to extend the Lease for an additional five (5) years pursuant to the original term was exercised so that the expiration date without extensions authorized on August 24, 1995 is September 17, 2000 (see attached legal description). Memorandum of Lease recorded August 8, 1996 as Instr. #25583, Shelby County, Alabama.
3. That certain Coal Mining Lease and Prospecting Agreement dated September 1, 1996 by and between Oak Mountain Energy Corporation and Southern Electric Generating Company (which company is referred to herein as "SEGCO") (see attached legal description).

USX PROPERTY

LEGAL DESCRIPTION

All lands described below are located in Township 21 South, Range 4 West of the Huntsville Principal Meridian, Shelby County, Alabama and are lands in which USX Corporation owns all interests, and are lands in which Bibb Energy was granted the right to mine coal in the Gholson and Helena Coal Seams.

Bibb County, Alabama

Township 21 South, Range 4 West

<u>Section</u>	<u>Description</u>	<u>Acres</u>
10	The Southeast Quarter	160.0
11	Entire Section	640.0
21	The East Half	320.0
22	The West Half	<u>320.0</u>
	Total Acres	1,440.0

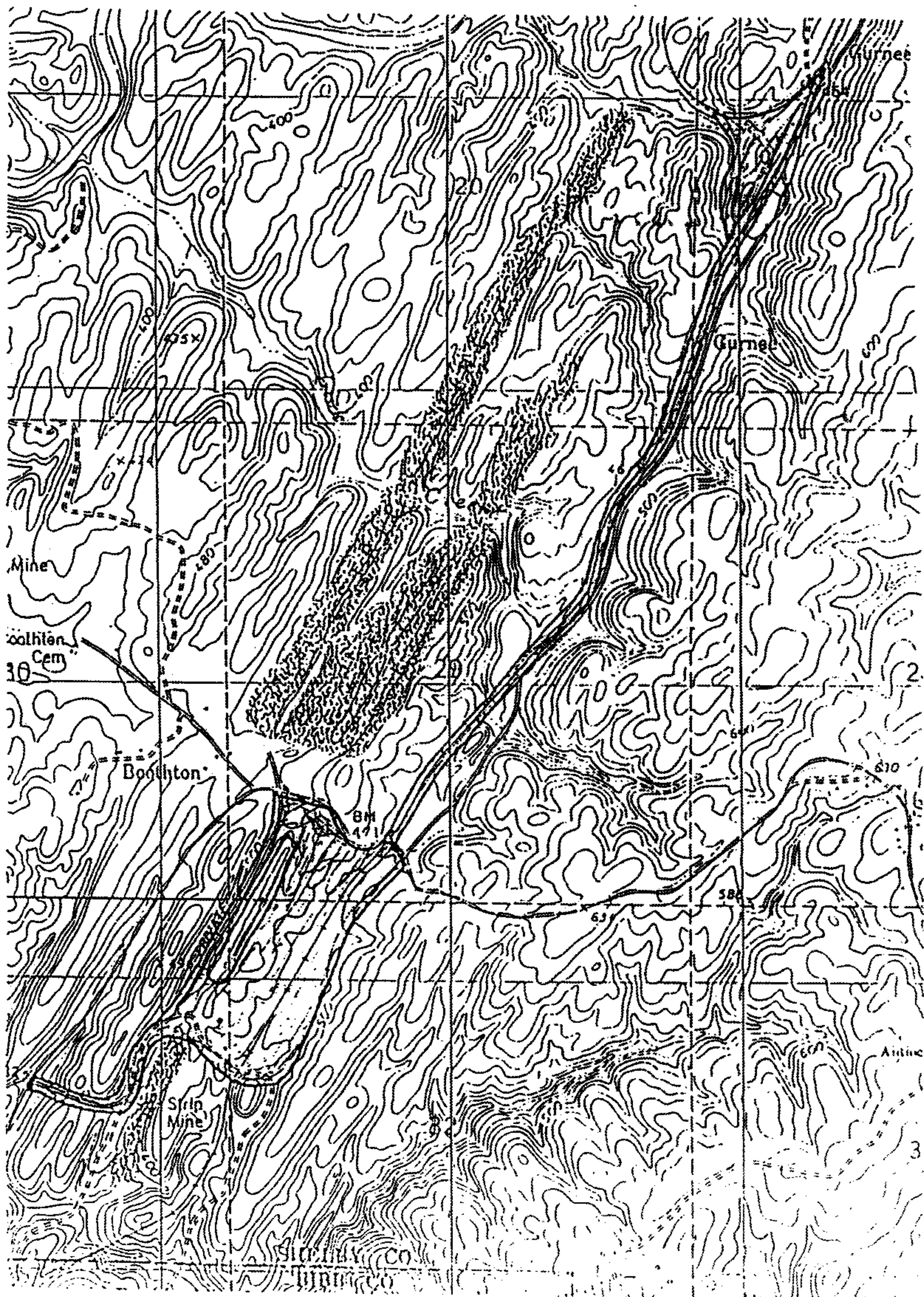
EXHIBIT C

USX Property
LEGAL DESCRIPTION

Lands in which USX Corporation owns all interests.

Approximately one hundred fifty (150) acres of USX surface lands are hereby added to the lands described in said Contract, which lands include the site of the old Burgess Washer, a site at a rail junction known as Gurnee Junction, and the abandoned rail grade between Burgess and Gurnee Junction, all of which are located in Sections 19, 20, 29, 31 and 32, Township 21 South, Range 4 West of the Huntsville Principal Meridian, Shelby County, Alabama, and shown on map attached hereto and made a part hereof.

TOWNSHIP 21 SOUTH, RANGE 4 WEST
SHELBY COUNTY, ALABAMA



LANDS FOR WHICH TAX IS DEDUCTIBLE. THE ABOVE FOR COAL, WOOD, OR OTHER MINERAL RIGHTS BY THE LAND OWNER.

USX Property

LEGAL DESCRIPTION

Lands in which USX Corporation owns all interests and in which Bibb Energy was granted the right to use the surface.

Township 21 South, Range 4 West

<u>Section</u>	<u>Description</u>	<u>Acres</u>
22	The South half of the North-East quarter.	80
	The South half of the North-West quarter of the North-East quarter.	20
	The North-West quarter of the North-East quarter of the South-East quarter.	10
	The North-West quarter of the South-East quarter	40
23	The west half of the South-West quarter of the North-West quarter	20

	Total	170

LEGAL DESCRIPTION

USX PROPERTY

Lands in which USX Corporation owns all interests.

TOWNSHIP 21 SOUTH, RANGE 4 WEST

<u>SECTION</u>	<u>DESCRIPTION</u>	<u>ACRES</u>
21	That part of the West half of Section 21 lying south and east of Southern Railway	219.00
22	The South-West quarter of North-East quarter; the North-West quarter of South-East quarter	80.00
27	The West half of North-West quarter	80.00
28	The North-East quarter; the East half of North-West quarter; the East half of West half of North-West quarter; The South-West quarter of South-West quarter of North-West quarter; the North half of South-West quarter; that part of the South-West quarter of South-West quarter lying north and east of a diagonal line beginning at the northwest corner of the South-West quarter of South-West quarter and ending at the southeast corner of the South-East quarter of South-East quarter; the North half of South-East quarter	463.33
TOTAL		842.33

Lands in which USX Corporation owns mineral interests only.

TOWNSHIP 21 SOUTH, RANGE 4 WEST

<u>SECTION</u>	<u>DESCRIPTION</u>	<u>ACRES</u>
28	That part of the South-East quarter of South-West quarter lying north of a line beginning at the northwest corner of the South-West quarter of South-West quarter and ending at the southeast corner of the South-East quarter of South-West quarter	26.67
GRAND TOTAL		869.00

USX PROPERTY

LEGAL DESCRIPTION OF LANDS TO BE ADDED TO LEASE PREMISES FOR UNDERGROUND MINING
OF COAL IN THE COKE, CLARK, CHOLSON, THOMPSON AND HELENA SEAMS OF COAL

Group I - Lands in which USX Corporation owns all interests

Township 20 South, Range 3 West

<u>Section</u>	<u>Description</u>	<u>Acres</u>
11	The South-East quarter	160.0
	The South half of the South-West quarter	80.0

Township 21 South, Range 3 West

<u>Section</u>	<u>Description</u>	<u>Acres</u>
5	The North-West quarter	160.0
	The West half of the South-West quarter	80.0
6	The entire section	640.0
7	The entire section	640.0
8	The West half of the West half	160.0

Township 21 South, Range 4 West

<u>Section</u>	<u>Description</u>	<u>Acres</u>
1	The North-East quarter of the North-East quarter	40.0
	The South half of the North-East quarter	80.0
	The South-East quarter of the North-West quarter	40.0
	The South half of the section	320.0
2	The South half of the South-East quarter	80.0
10	The South half of the South-West quarter	80.0
12	The entire section	640.0
13	The North half of the North-West quarter	80.0
	The South-West diagonal half of the South-West quarter	80.0
14	The North-East quarter	160.0
	The West half of the South-East quarter	80.0
15	The North-West quarter of the North-East quarter	40.0
	The South half of the North-East quarter	80.0
	The North-West quarter	160.0
	The North-East quarter of the South-West quarter	40.0
	The South-East quarter	160.0

Township 21 South, Range 4 West (continued)

<u>Section</u>	<u>Description</u>	<u>Acres</u>
20	The South-East diagonal half of the South-East quarter of the South-East quarter	20.0
22	The North-West quarter of the North-East quarter	40.0
	The East half of the North-East quarter	80.0
	The South-West quarter of the South-East quarter	40.0
	The East half of the South-East quarter	80.0
23	The entire section	640.0
24	The West half of the section	320.0
25	The North-West diagonal half of the North-East quarter of the North-West quarter	20.0
	The North-West quarter of the North-West quarter	40.0
	The West half of the South-West quarter of the North-West quarter	20.0
	The West half of the North-West quarter of the South-West quarter	20.0
26	The North half of the section	320.0
	The South-West quarter	160.0
	The North half of the South-East quarter	80.0
27	The North-East quarter	160.0
	The East half of the North-West quarter	80.0
	The South half of the section	320.0
28	The South half of the South-East quarter	80.0
	The West half of the North West quarter of the North-West quarter	20.0
	The North-West quarter of the South-West quarter of the North-West quarter	10.0
29	The East half of the North-East quarter	80.0
	The North-East diagonal half of the North-East quarter of the South-East quarter	20.0
33	The East half of the section excepting 7.58 acres lying in the West half of the North-East quarter	312.42

EXHIBIT C

Township 21 South, Range 4 West (continued)

<u>Section</u>	<u>Description</u>	<u>Acres</u>
34	The North half of the North-East quarter	80.0
	The North-West quarter of the North-West quarter	40.0
	The South half of the North-West quarter	80.0
	The North half of the South-West quarter	80.0
	The South-West quarter of the South-West quarter	40.0
	The North-West quarter of the South-East quarter	40.0
35	The North-West quarter	160.0
	The North-West diagonal half of the South-West quarter	80.0
	The North half of the North-East quarter	80.0
	The North-West diagonal half of the South half of the North-East quarter	40.0
TOTAL ACRES - GROUP I		7,762.42

Group II - Lands in which USX Corporation owns mineral interests only.

Township 21 South, Range 4 West

<u>Section</u>	<u>Description</u>	<u>Acres</u>
25	The West half of the South-West quarter of the South-West quarter	20.0
26	The South half of the South-East quarter	80.0
33	An irregular tract lying in the West half of the North-East quarter	7.58
34	The South half of the North-East quarter	80.0
	The South-East quarter of the South-West quarter	40.0
	The South half of the South-East quarter	80.0
	The North-East quarter of the South-East quarter	40.0
TOTAL ACRES - GROUP II		147.58

SEGCO PROPERTY

TOWNSHIP 21 SOUTH, RANGE 3 WEST

SECTION 18 - Northwest Quarter of Southwest Quarter; North Half of North Half of Southwest Quarter of Southwest Quarter; Southwest Quarter of Northwest Quarter

SECTIONS 19, 29, AND 30 - Start at a point 140.0 feet north along the east boundary from the Southeast corner of SW 1/4 of SW 1/4 Section 29, known as the point of beginning. Thence from the said point of beginning on the following mees and bounds:

<u>Course No.</u>	<u>Distance</u>	<u>Bearing</u>
1	890'	N 82 00 W
2	1720'	N 49 05 W
3	2215'	N 27 25 W
4	405'	N 4 15 W
5	430'	N 33 10 W
6	405'	N 4 35 E
7	180'	N 66 20 W
8	498'	N 1 10 E
9	775'	N 25 15 E
10	542'	N 51 35 E
11	364'	N 78 05 E
12	483'	N 25 55 E
13	703'	N 48 15 E
14	435'	S 2 45 E
15	360'	S 48 15 W
16	585'	S 25 55 W
17	460'	S 78 05 W
18	375'	S 51 35 W
19	620'	S 25 15 W
20	200'	S 1 10 W
21	195'	S 66 20 E
22	530'	S 4 35 W
23	403'	S 33 10 E
24	445'	S 4 15 E
25	2075'	S 27 25 E
26	1540'	S 49 05 E
27	820'	S 82 00 E
28	345'	S 3 35 E

(Arriving at the point of beginning)

EXHIBIT D

SECTION 19 - Beginning at the northwest corner of Section 19, thence in a southerly direction with a bearing of S 18 31 E a distance of 1120.1 feet to the point of beginning; thence in a westerly direction with a bearing of S 79 17 30 W a distance of 216 feet; thence in a southerly direction with a bearing of S 10 42 30 E a distance of 276.0 feet; thence in an easterly direction with a bearing of N 79 17 30 E a distance of 216.0 feet; thence in a northerly direction with a bearing of N 10 42 30 W a distance of 216.0 feet to the point of beginning.

SECTION 31 -Start at southwest corner of NW 1/4 of SE 1/4 of Section 31, proceed on a bearing of N 5 49 E for a distance of 1318.30 feet to the point of beginning. Thence westerly 660 feet, thence northerly 660 feet, thence easterly 660 feet, thence southerly 660 feet to the point of beginning.

Also, start at the Southwest corner of the Northwest Quarter of the Southeast Quarter, thence proceed North 82 degrees 46 minutes 18 seconds West a distance of 587.50 feet to the point of beginning; from such point of beginning proceed North 70 degrees 43 minutes West a distance of 236 feet; thence proceed South 19 degrees 17 minutes West a distance of 236 feet; thence proceed South 19 degrees 17 minutes West a distance of 236 feet; thence proceed South 70 degrees 43 minutes East for a distance of 236 feet; thence proceed North 19 degrees 17 minutes East for a distance of 236 feet to the point of ending.

TOWNSHIP 21 SOUTH, RANGE 4 WEST

SECTION 13 - Northeast Quarter of Southwest Quarter; Northeast diagonal half of Southeast Quarter of Southwest Quarter; South 26.1 acres of the Southeast Quarter of Southeast Quarter; starting at the northeast corner of the Southeast Quarter of the Southeast Quarter of Section 13, as a point of beginning, thence northerly along the section line a distance of 466.69 feet, thence westerly a distance of 466.69 feet, thence southerly a distance of 933.38 feet, thence easterly a distance of 466.69 feet to the section line, thence northerly along the section line a distance of 466.69 feet to the point of beginning. Beginning at the northwest corner of SE 1/4 of SE 1/4 of Section 13; thence east along the north line of said 1/4-1/4, a distance of 858.0 feet to a point; thence south with an interior angle of 88 degrees 11 minutes a distance of 451.9 feet to a point; thence west with an interior angle of 91 degrees 49 minutes a distance of 857.4 feet to a point on the west line of said 1/4-1/4; thence north along said west line a distance of 451.9 feet to the point of beginning. Beginning at the northwest corner of the NE 1/4 of SE 1/4, Section 13; run thence east along the north line of said NE 1/4 of SE 1/4 a distance of 1325.9 feet more or less to the east line of said 1/4-1/4; thence south along said east line a distance of 849.6 feet to a point; thence west with an angle of 90 degrees a distance of 466.7 feet to a point, thence south with an angle of 90 degrees a distance of 481.2 feet more or less to a point on the south line of said 1/4-1/4; thence west along said line a distance of 858.0 feet more or less to the southwest corner of said 1/4-1/4; thence north along the west line of said 1/4-1/4 a distance of 1318.3 feet more or less to the point of beginning. Beginning at the southeast corner of the NW 1/4 of NE 1/4 of Section 13, run thence north along the east line of said 1/4-1/4 a distance of 548.2 feet, more or less, to a point on Southern Railway Company's south right of way line, said point being 50 feet from center line of and measured perpendicular to the main

track; thence in a Westerly direction along said right of way line, said line being 50 feet from and parallel to center line of main tract, a distance of 352.5 feet; thence south with an interior angle with the right-of-way line of 109 degrees 46 minutes a distance of 438.4 feet to a point on the south line of said 1/4-1/4; thence east along said line a distance of 331.8 feet to the point of beginning. Beginning at the southeast corner of the NE 1/4 of NE 1/4, Section 13; thence run north along the east line of said 1/4-1/4 a distance of 954.7 feet to a point on Southern Railway Company' South right-of-way line, said point being 50 feet from center line of an measured perpendicular to the main track; thence west along the said south right-of-way line, said line being 50 feet from and parallel to center line of said track, a distance of 1410 feet more or less to a point on the west line of said 1/4-1/4; thence south along said west line a distance of 548.2 feet more or less to the southwest corner of said 1/4-1/4; thence east along the south line of said 1/4-1/4 a distance of 1327.3 feet to the point of beginning. Southwest Quarter of Southeast Quarter; Northwest Quarter of Southeast Quarter; Southwest Quarter of Northeast Quarter; Southeast Quarter of Northeast Quarter.

SEGCO PROPERTY

MINERAL RIGHTS

The following tracts in Shelby County, Alabama:

TOWNSHIP 21 SOUTH, RANGE 3 WEST

SECTION 17 -- Northeast Quarter of Southeast Quarter, less one acre near the northwest corner, and less 1.29 acres being that portion of the Kendrick-Holcomb Lot as described by deed recorded in the office of the Judge of Probate of Shelby County, Alabama, in Deed Book 139 at page 299; Southwest Quarter of Southeast Quarter, less .50 acre as described by deed recorded in such office at Deed Book 26 at page 394.

SECTION 18 -- Northeast Quarter of Northwest Quarter and 1/3 interest in the Northwest Quarter of Northwest Quarter.

SECTION 19 -- North Half of North Half and South Half of Northwest Quarter less part described in Fee ownership above; West Half of Southwest Quarter.

SECTION 20 -- Northeast Quarter of Northeast Quarter; Northeast Quarter of Southeast Quarter.

SECTION 21 -- The part of the Northwest Quarter of Northwest Quarter lying west of the Montevallo -- Bessemer Road, less lots described as follows: Lot described in Deed Book 148 at page 178; Lot described in Deed Book 163 at page 553; Lot described in Deed Book 173 at page 463; also less, begin at the intersection of the north line of Section 21 and the west boundary of the right-of-way of the Montevallo -- Bessemer Road and run along the north line of said section 21 a distance of 300 feet; run thence south 100 feet; run thence east 320 feet to the west boundary of said road; run thence north along the west boundary of said road; run thence north along the west boundary of said road 100 feet to the point of beginning. That part of the Southwest Quarter of Northwest Quarter lying west of the Montevallo -- Bessemer Road and West of Lots 39, 40 and 41, as shown by G.F. Peter's Map of the Town of Maylene, drawn on November 13, 1946, and surveyed by I.E. Gillespie. Northwest Quarter of Southwest, less a portion of the Jacob Zeiderhook, P.C. Means, and Lon Nabors Lots, all in the northeast corner of said forty and described by deeds recorded in such office in Deed Book 25, page 270, Deed Book 62, page 339, and Deed Book 62, page 436, respectively.

SECTION 29 -- South Half of Northwest Quarter; North Half of Southwest Quarter; Southwest Quarter of Northeast Quarter; Northwest Quarter of Southeast Quarter.

SECTION 30 -- South Half of North Half less part described in Fee ownership above; North Half of Northwest Quarter; Northwest Quarter of Southwest Quarter.

SECTION 32 -- Northwest Quarter of Northwest Quarter.

TOWNSHIP 21 SOUTH, RANGE 4 WEST

SECTION 14 -- East Half of Southeast Quarter.

SECTION 24 -- East Half.

SECTION 25 -- Northeast Quarter.

TOWNSHIP 22 SOUTH, RANGE 4 WEST

SECTION 3 -- North Half of Northeast Quarter; Southeast Quarter of Northeast Quarter; North Half of Northwest Quarter; Southeast Quarter of Southeast Quarter.

SECTION 5 -- All.

SECTION 6 -- All, except undivided 1/2 interest in Southwest Quarter of Northwest Quarter.

SECTION 7 -- Southwest Quarter; South Half of Southeast Quarter; North Half.

SECTION 8 -- Northwest Quarter of Northwest Quarter; Southwest Quarter of Southwest Quarter; East Half of Southeast Quarter.

SECTION 9 -- West Half of Northwest Quarter.

SECTION 10 -- Southeast Quarter of Southwest Quarter; Southeast Quarter.

SECTION 11 -- West Half of Southwest Quarter; South Half of Southwest Quarter of Southeast Quarter.

SECTION 14 -- West Half of Northwest Quarter; East Half of Northwest Quarter; West Half of Northeast Quarter.

SECTION 15 -- East Half of Northeast Quarter; Northeast Quarter of Northwest Quarter; West Half of Northwest Quarter; Southeast Quarter of Northwest Quarter; South Half of Southwest Quarter; South Half of Southeast Quarter.

SECTION 16 -- Northwest Quarter.

SECTION 17 -- Northeast Quarter of Southwest Quarter; Southeast Quarter; North Half.

SECTION 18 -- East Half of Northeast Quarter.

SECTION 29 -- North Half of Northeast Quarter, fractional. The following tracts in B.36 County, Alabama:

The following tracts in Bibb County, Alabama:

TOWNSHIP 22 SOUTH, RANGE 5 WEST

SECTION 1 -- South Quarter; North Half.

SECTION 12 -- North Half of Northeast Quarter.

SECTION 26 -- All, fractional.

SECTION 27 -- All, fractional.

TOWNSHIP 24 NORTH, RANGE 11 EAST

SECTION 3 -- Northeast Quarter of Northeast Quarter; West Half of Northwest Quarter.

SECTION 5 -- Northwest Quarter of Southeast Quarter; North Half.

SECTION 7 -- Northwest Quarter of Northeast Quarter; Northwest Quarter of Southwest Quarter.

TOWNSHIP 24 NORTH, RANGE 10 EAST

SECTION 1 -- All.

SECTION 11 -- All.

SECTION 15 -- North Half of Northeast Quarter; Southwest Quarter of Northeast Quarter; West Half of Southeast Quarter; Southeast Quarter of Southeast Quarter; West Half.

SEGCO PROPERTY

Properties located in Shelby County, Alabama, except as otherwise indicated:

TOWNSHIP 21 SOUTH, RANGE 3 WEST

SECTION 17 - Southwest Quarter of Northeast Quarter; South Half of Northwest Quarter; Southwest Quarter; Northwest Quarter of Southeast Quarter; Southeast Quarter of Southeast Quarter; North Half of North Half of Northwest Quarter of Northeast Quarter; North Half of Northwest Quarter.

SECTION 18 - East Half; East Half of Southwest Quarter; Southeast Quarter of Northwest Quarter; 2/3 int. in Northwest Quarter of Northwest Quarter; Southwest Quarter of Southwest Quarter less North Half of North Half.

SECTION 19 - South Half of Northeast Quarter; Southeast Quarter less part belonging to SEGCo; East Half of Southwest Quarter

SECTION 20 - West Half; West Half of Northeast Quarter; Southeast Quarter of Northeast Quarter; West Half of Southeast Quarter; Southeast Quarter of Southeast Quarter.

SECTION 29 - North Half of North Half; Southeast Quarter of Northeast Quarter; Northeast Quarter of Southeast Quarter; Southwest Quarter of Southwest Quarter less part belonging to SEGCo.

SECTION 30 - Southeast Quarter less part belonging to SEGCo; East Half of Southwest Quarter; Southwest Quarter of Southwest Quarter; North Half of Northeast Quarter less part belonging to SEGCo.

SECTION 31 - North Half less part belonging to SEGCo; Northwest Quarter of Southeast Quarter; Southwest Quarter.

SECTION 32 - Northeast Quarter of Northwest Quarter

TOWNSHIP 21 SOUTH, RANGE 4 WEST

SECTION 13 - Northeast Quarter of Northeast Quarter north of R.R.; East Half of East Half of Northwest Quarter of Northeast Quarter north of R.R.; South Half of Northwest Quarter; Northeast diagonal Half of Northwest Quarter of Southwest Quarter; West Half of Northwest Quarter of Northeast Quarter; West Half of East Half of Northwest Quarter of Northeast Quarter.

SECTION 25 - Southeast diagonal Half of Northeast Quarter of Northwest Quarter; Northwest diagonal Half of East Half of Southwest Quarter of Northwest Quarter; Southeast Quarter; Northeast Quarter of Southwest Quarter; East Half of Northwest Quarter of Southwest Quarter; Southeast diagonal Half of East Half of Southwest Quarter of Northwest Quarter; Southeast Quarter of Southwest Quarter; East Half of Southwest Quarter of Southwest Quarter; Southeast Quarter of Northwest Quarter

SECTION 35 - Southeast diagonal Half of South Half of Northeast Quarter;
Southeast diagonal Half of Southwest Quarter; Southeast Quarter

SECTION 36 - Northeast Quarter; Northwest Quarter of Northwest Quarter;
South Half of Northwest Quarter; South Half less 4 acres in the Northeast corner of
the Southeast Quarter of Southeast Quarter; Northeast Quarter of Northwest
Quarter.

TOWNSHIP 22 SOUTH, RANGE 3 WEST

SECTION 6 - Southwest Quarter of Northeast Quarter; West Half of
Northwest Quarter; West Half of East Half of Southeast Quarter; West Half of
Southeast Quarter; Southwest Quarter

SECTION 7 - Northwest Quarter of Northeast Quarter; West Half; Southwest
Quarter of Southeast Quarter

SECTION 18 - West Half of West Half; North Half of Northeast Quarter of
Southwest Quarter West of the old Montevallo-Tuscaloosa dirt road; a parcel of land
in the Southwest corner of the East Half of Northwest Quarter more fully described
as follows: Begin at Southwest corner of East Half of Northwest Quarter, thence
Northeast about 150 yards to a certain spring, thence down said spring branch 50
yards, thence direct to the Tuscaloosa road, thence down said road about 150 yards
to the south boundary of Southeast Quarter of Northwest Quarter, thence West
along the line between the Northwest Quarter and Southwest Quarter of said Section
to the beginning.

SECTIONS 18 AND 19 - Begin a Southeast corner of Southwest Quarter of
Southwest Quarter, Section 19, go North along the East line of said Southwest
Quarter of Southwest Quarter for 362.79 feet, thence right 55 degrees 25 minutes for
160.88 feet, thence left 25 degrees 35 minutes for 140.10 feet, thence left 115
degrees 11 minutes for 202.83 feet to said East line, thence North along said East
line 19.87 feet, thence left 67 degrees 03 minutes for 71.90 feet, thence right 40
degrees 05 minutes for 85.73 feet, thence right 25 degrees 53 minutes for 20.0 feet,
thence left 35 degrees 22 minutes for 124.14 feet, thence left 37 degrees 28 minutes
for 105.68 feet, thence right 16 degrees 23 minutes for 131.60 feet, thence right 118
degrees 05 minutes for 271.44 feet, thence left 10 degrees 15 minutes for 122.62
feet, thence left 4 degrees 48 minutes for 85.18 feet to said East line of Southwest
Quarter of Southwest Quarter, thence left 45 degrees 29 minutes for 134.30 feet to
Northeast corner of said Southwest Quarter of Southwest Quarter, thence right 91
degrees 26 minutes for 81.15 feet to the West line of Lot 4, Block 8, Thomas
Addition to the Town of Aldrich, map of which is recorded on the office of Judge of
Probate of Shelby County. Thence left 121 degrees for 63.37 feet along West line of
said Lot 4, thence right 98 degrees 57 minutes for 270 feet, thence left 112 degrees
04 minutes for 161.10 feet, thence right 93 degrees 26 minutes for 290.90 feet,
thence left 90 degrees 10 minutes for 123.71 feet, thence right 4 degrees 13 minutes
for 562.11 feet, thence left 61 degrees 41 minutes for 16.26 feet, thence right 12

degrees 48 minutes for 315.73 feet, thence left 95 degrees 56 minutes for 296.12 feet, thence left 61 degrees 22 minutes for 358.61 feet to the east line of Northwest Quarter of Southwest Quarter of said Section 19, thence South along said East line for 157.72 feet, thence right 102 degrees 49 minutes for 324.50 feet, thence right 90 degrees for 20.1 feet, thence left 62 degrees 26 minutes for 355.95 feet, thence left 22 degrees 27 minutes for 125.53 feet, thence left 10 degrees 16 minutes for 187.42 feet, thence right 90 degrees for 364.08 feet, thence right 90 degrees for 326.91 feet, thence left 89 degrees 54 minutes for 606.58 feet, thence right 28 degrees 35 minutes for 350 feet, thence left 90 degrees for 150 feet, thence right 71 degrees 32 minutes to the public road, thence in an Easterly direction along the public road to the intersection of the North line of the public road with the South line of Lot 2, Block 3, said Thomas' Addition to the Town of Aldrich, thence Northwest along the South line of said Lot 2 for 298.39 feet, thence right 86 degrees 13 minutes for 205.65 feet along the west side of said Lot 2, thence Easterly along the North line of said Lot 2 for 208 feet, thence Easterly along the North line of Summit Part "B" for 398 feet to the Northwest corner of Lot 6, Block 2, said Thomas' Addition to the Town of Aldrich, thence looking East along the North line of said Lot 6, Block 2, turn an angle of 65 degrees 18 minutes for 303.48 feet, thence right 0 degrees 19 minutes for 580.46 feet, thence left 85 degrees 55 minutes for 696.48 feet, thence right 54 degrees 16 minutes for 109.50 feet, thence right 5 degrees 22 minutes for 636.67 feet, thence right 33 degrees 50 minutes for 173.78 feet to the center line of Davis Creek, thence East along the center line of Davis Creek to the East line of Southeast Quarter of Southwest Quarter, Section 18, thence North along said East line to the Northeast corner of said Southeast Quarter of Southwest Quarter, thence West along the North line of said Southeast Quarter of Southwest Quarter to Northwest corner of said forty, thence South along West line of said forty to North line of Section 19, thence West to Northwest corner of said Section 19, thence South to Southwest corner of said Section 19, thence East to point of beginning, except the following tracts: Commence the Northwest corner of Southeast Quarter of Southwest Quarter, Section 19, and run South 798 feet along the West side of said forty to the point of beginning; thence turn an angle of 70 degrees right, run a distance of 40 feet to the Northwest corner of church lot, thence turning an angle of 90 degrees left, run a distance of 80 feet to the Southwest corner, thence turning an angle of 90 degrees left, run a distance of 100 feet to the Southeast corner, thence turning an angle of 90 degrees left, run a distance of 80 feet to the Northeast corner, thence turning an angle of 90 degrees left, run 60 feet to the point of beginning, containing 0.183 acres, more or less. There is also included the following tract: From the Southwest corner of Southeast Quarter of Southwest Quarter, Section 19, go East along the South line of said Southeast Quarter of Southwest Quarter for 970.89 feet to a point of beginning; run thence left 36 degrees 48 minutes for 163.06 feet, thence right 29 degrees 36 minutes for 90.60 feet to the west edge of the Southern Railroad right-of-way, thence South along said West edge of right-of-way to the South line of said Southeast Quarter of Southwest Quarter, thence West to the point of beginning.

SECTION 30 - All of Fractional Section West of Southern Railway right-of-way.

TOWNSHIP 22 SOUTH, RANGE 4 WEST

SECTION 1 - Northeast Quarter; Northeast Quarter of Northwest Quarter less 9 acres; North 31 acres of Northwest Quarter of Northwest Quarter; Southeast Quarter; South Half of Southwest Quarter; South Half of Northwest Quarter; North Half of Southwest Quarter.

SECTION 2 - South Half of Southeast Quarter; Northwest Quarter of Southeast Quarter of Southwest Quarter; Northwest Quarter of Northeast Quarter; South Half of Southwest Quarter; Northeast Quarter of Southwest Quarter; Northwest Quarter of Northeast Quarter; South Half of Northeast Quarter; that part of the Southeast Quarter of Northwest Quarter lying south of Montevallo and Tuscaloosa dirt road; North Half of Northwest Quarter; Southwest Quarter of Northwest Quarter; Northeast Quarter of Southeast Quarter; Northwest Quarter of Southwest Quarter; Northeast Quarter of Northeast Quarter.

SECTION 3 - Northeast Quarter of Southeast Quarter.

SECTION 4 - All except Northeast Quarter of Southeast Quarter.

SECTION 6 - An undivided 1/2 interest in Southwest Quarter of Northwest Quarter, Bibb County, Alabama

SECTION 9 - West Half of Northeast Quarter; East Half of Northwest Quarter.

SECTION 10 - East Half of Northeast Quarter; Northeast Quarter of Southwest Quarter; West Half of Northeast Quarter; Southeast Quarter of Northwest Quarter; Northwest Quarter of Southwest Quarter.

SECTION 11 - South Half of Northeast Quarter; Northwest Quarter of Northeast Quarter; East Half of Northwest Quarter; Northwest Quarter of Northwest Quarter; East Half of Southwest Quarter; North Half of Southeast Quarter; Southeast Quarter of Southeast Quarter; North Half of Southwest Quarter of Southeast Quarter; Northeast Quarter of Northeast Quarter.

SECTION 12 - East Half; East Half of West Half; Northwest Quarter of Northwest Quarter; Northeast Quarter of Southwest Quarter of Northwest Quarter; Southeast Quarter of Northwest Quarter of Southwest Quarter.

SECTION 13 - East Half; East Half of West Half; East Half of Northwest Quarter of Northwest Quarter; Southeast Quarter of Southwest Quarter of Northwest Quarter; Southwest Quarter of Southwest Quarter.

SECTION 14 - South Half except East Half of Northeast Quarter of Southeast Quarter.

SECTION 15 - West Half of Northeast Quarter; North Half of South Half.

SECTION 16 -- Northeast Quarter; South Half.

SECTION 20 -- North Half; Southeast Quarter, Bibb County, Alabama

SECTION 21 -- All.

SECTION 22 -- East Half; North Half of Northwest Quarter; Southeast Quarter of Northwest Quarter; East Half of Southwest Quarter.

SECTION 23 -- All.

SECTION 24 -- All.

SECTION 25 -- (All (Fractional Section).

SECTION 26 -- All (Fractional Section).

SECTION 27 -- Fractional Northeast Quarter.

TOWNSHIP 22 SOUTH, RANGE 5 WEST

SECTION 1 -- Southwest Quarter, Bibb County, Alabama

SECTION 2 -- Southeast Quarter of Northeast Quarter; East Half of Southeast Quarter, Bibb County, Alabama

SECTION 12 -- West Half of Northwest Quarter; Southwest Quarter of Southwest Quarter, Bibb County, Alabama

TOWNSHIP 24 NORTH, RANGE 12 EAST

SECTION 5 -- Northwest Quarter of Southwest Quarter; that part of the North Half of Fractional Section West of Southern Railroad right-of-way except that part of the following tract which lies West of said right-of-way; commencing at a certain Sweetgum tree on the west bank of Simmons Creek, run South 86 degrees West 13.31 chains, thence North 3 degrees 30 minutes West 9 chains to Section line, thence North 86 degrees East along Section line to aforesaid creek, thence down and along said creek to point of beginning; Southwest Quarter of Southwest Quarter.

SECTION 6 -- Northeast Quarter of Southeast Quarter; Northeast Quarter (Fractional); East Half of Northwest Quarter; Northwest Quarter of Southwest Quarter; Northwest Quarter of Southeast Quarter; West Half of West Half; East Half of Southeast Quarter of Southeast Quarter.

SECTION 7 -- North Half of Northeast Quarter; Southwest Quarter of Northeast Quarter; South Half of Northwest Quarter; Northwest Quarter of Northwest Quarter; 1/2 interest in Southwest Quarter of Southwest Quarter.

SECTION 18 -- Northwest Quarter of Northwest Quarter.

TOWNSHIP 24 NORTH, RANGE 11 EAST

SECTION 1 -- All.

SECTION 2 -- All.

SECTION 3 -- Southeast Quarter of Northeast Quarter; West Half of Northeast Quarter; East Half of West Half; Northwest Quarter of Southwest Quarter; Southeast Quarter, Bibb County, Alabama

SECTION 4 -- Northeast Quarter of Southwest Quarter; South Half of Southwest Quarter; Southeast Quarter, Bibb County, Alabama

SECTION 5 -- Southwest Quarter; Northeast Quarter of Southeast Quarter; South Half of Southeast Quarter, Bibb County, Alabama

SECTION 6 -- Northeast Quarter; North Half of Southeast Quarter, Bibb County, Alabama

SECTION 8 -- Northeast Quarter of Northeast Quarter, less 2.70 acres on the East side thereof.

SECTION 9 -- Northwest Quarter of Northwest Quarter, Less 2.60 acres described as follows: begin at the Southwest corner of said forty, run thence East 506 feet to Blockton-Piper Road, thence in a Northwesterly direction along said road 675 feet, thence South along the West line of said forty, 448 feet to the point of beginning, Bibb County Alabama.

SECTION 11 -- Northeast Quarter of Southwest Quarter; South Half of Southwest Quarter; Southwest Quarter of Southeast Quarter; North Half of Southeast Quarter; West Half of Northwest Quarter; Northeast Quarter; East Half of Northwest Quarter.

SECTION 12 -- North half; Southeast Quarter; North Half of Southwest Quarter.

SECTION 13 -- West Half of Northeast Quarter.

TOWNSHIP 24 NORTH, RANGE 10 EAST

SECTION 12 -- Northeast Quarter; North Half of Northwest Quarter; Southwest Quarter of Northwest, Bibb County, Alabama.

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