

STATE OF ALABAMA — UNIFORM COMMERCIAL CODE — FINANCING STATEMENT FORM UCC-1 ALA.

14393

Important: Read Instructions on Back Before Filling out Form.

REGISTRAR FROM
Register, Inc.
514 PIERCE ST.
P.O. BOX 218
ANN ARBOR, MI 48103
(313) 421-1713

<input type="checkbox"/> The Debtor is a transmitting utility as defined in ALA CODE 7-9-105(n).	No. of Additional Sheets Presented	This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.
1. Return copy or recorded original to: Donald E. Malecki, Esquire Buchanan Ingersoll 301 Grant Street 22nd Floor One Oxford Centre Pittsburgh, PA 15219 Pre-paid Acct. # _____		THIS SPACE FOR USE OF FILING OFFICER Date, Time, Number & Filing Office <div style="font-size: 2em; transform: rotate(-90deg);"> INST. # 2000-13917 04/28/2000-13917 04:32 PM CERTIFIED SHELBY COUNTY JUDGE OF PROBATE 009 C31 </div>
2. Name and Address of Debtor (Last Name First if a Person) The Whitt Group of West Virginia, Inc. 330 Ridgewood Drive Beaver, West Virginia 25813 Social Security/Tax ID # Tax ID # [REDACTED]		
2A. Name and Address of Debtor (IF ANY) (Last Name First if a Person) The Whitt Group of West Virginia, Inc. 4672 Caldwell Mill Drive Birmingham, Alabama 35243 Social Security/Tax ID # Tax ID # [REDACTED]		
<input type="checkbox"/> Additional debtors on attached UCC-E		
3. NAME AND ADDRESS OF SECURED PARTY (Last Name First if a Person) Mellon Bank, N.A., as Agent Three Mellon Bank Center Attn: Loan Administration Room 153-2306 Pittsburgh, PA 15259-0001 Social Security/Tax ID # [REDACTED]		4. ASSIGNEE OF SECURED PARTY (IF ANY) (Last Name First if a Person) FILED WITH: Shelby County, Alabama
5. The Financing Statement Covers the Following Types (or items) of Property: See Exhibit "A" attached hereto and made a part hereof See Exhibit "B" attached hereto and made a part hereof for real property description		
Check X if covered: <input checked="" type="checkbox"/> Products of Collateral are also covered.		
6. This statement is filed without the debtor's signature to perfect a security interest in collateral (check X, if so) <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state. <input type="checkbox"/> already subject to a security interest in another jurisdiction when debtor's location changed to this state. <input type="checkbox"/> which is proceeds of the original collateral described above in which a security interest is perfected. <input type="checkbox"/> acquired after a change of name, identity or corporate structure of debtor <input type="checkbox"/> as to which the filing has lapsed.		7. Complete only when filing with the Judge of Probate: The initial indebtedness secured by this financing statement is \$ _____ Mortgage tax due (15¢ per \$100.00 or fraction thereof) \$ _____ 8. <input type="checkbox"/> This financing statement covers timber to be cut, crops, or fixtures and is to be cross indexed in the real estate mortgage records (Describe real estate and if debtor does not have an interest of record, give name of record owner in Box 5)
Signature(s) of Debtor(s) Signature(s) of Debtor(s)		Signature(s) of Secured Party(ies) or Assignee Signature(s) of Secured Party(ies) or Assignee Type Name of Individual or Business

EXHIBIT A

DEBTOR: THE WHITT GROUP OF WEST VIRGINIA, INC.

SECURED PARTY: MELLON BANK, N.A., AS AGENT

COLLATERAL

All of Debtor's 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 Permitted Liens (as defined in the Acquisition Agreement):

1. the Properties described on Exhibit B attached hereto;
2. the Leases, together with all of the right, title and interest of Debtor in and to all premises, rights and interests demised thereby;
3. the Coal;
4. the Mines;
5. the Required Mining Permits;
6. the Plants;
7. the Operating Equipment;
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, investment property, mineral rights, goods, equipment, instruments, chattel paper, 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; 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.

CERTAIN DEFINITIONS

"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;

"Leases" shall mean all of the leases or similar agreements entered into by the Debtor with any party for the mining of coal, haulage or use of surface;

"Acquisition Agreement" means that certain Acquisition Agreement, dated as of April __, 2000, among Secured Party, the banks party thereto and Debtor, as the same may be amended, supplemented, modified, and restated from time to time;

"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;

"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;

"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;

"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;

"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, further including the production, recovery or distribution of methane gas from the Coal;

"Environmental Laws" shall mean all federal, state, local and foreign Laws and regulations, including permits, licenses, authorizations, bonds, orders, judgments, and consent decrees issued, or entered into, pursuant thereto, relating to pollution or protection of human health or the environment or the operation of coal mines and related activities or employee safety in the workplace;

"Law" shall mean any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, release, ruling, order, injunction, writ, decree or award of any Official Body;

"Official Body" shall mean any national, federal, state, local or other government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of either, or any court, tribunal, grand jury or arbitrator, in each case whether foreign or domestic.

EXHIBIT B

Land Description

Land owned by Whitt Group: All of the following parcels of land, together with all improvements and structures thereon and all rights, privileges, tenements, hereditaments, appurtenances, easements and other interests therein, located in Shelby County, Alabama:

PARCEL 1: 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. Mineral 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 on 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.

PARCEL III: Commence at the Southeast corner of Section 20, Township 21 South, Range 4 West; thence run Northwesterly 290 feet, more or less, along the North line of the South diagonal of the South half of the Southeast Quarter of the Southeast Quarter of said Section 20, Township 21 South, Range 4 West to the East right of way line of Southern Railway Company, said point being the point of beginning; thence continue Northwesterly 1,201 feet, more or less, to the Northwest corner of the Southwest Quarter of the Southeast Quarter of the Southeast Quarter of said Section 20, Township 21 South, Range 4 West; thence run Southwesterly 932 feet, more or less, to the Southwest corner of the Southeast Quarter of the Southwest Quarter of the Southeast Quarter of said Section 20, Township 21 South, Range 4 West, said point also being on the South line of said Section 20, Township 21 South, Range 4 West, and also being on the North line of Section 29, Township 21 South, Range 4 West; thence run 1,474 feet, more or less, to the Southeast corner of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of the Northeast Quarter of said Section 29, Township 21 South, Range 4 West, said point also being on the South line of the North half of the Northeast Quarter of said Section 29, Township 21 South, Range 4 West; thence run Easterly 1,459 feet, more or less, along the South line of said North half of the Northeast Quarter of said Section 29, Township 21 South, Range 4 West to a point on the West line of a tract of land quitclaimed by USX Corporation to Oak Mountain Energy Corporation by deed dated August 24, 1996; thence run Northeasterly along the West line of said tract 207.29 feet, more or less; thence turn a deflection angle to the right of 7 degrees, 42 minutes, 34 seconds and run Northeasterly along the West line of said tract 122.28 feet; thence turn a deflection angle to the right of 10 degrees, 18 minutes, 36 seconds and run Northeasterly along the West line of said tract 191.87 feet;

thence turn a deflection angle to the right of 2 degrees, 11 minutes, 40 seconds and run Northeasterly along the West line of said tract 490.22 feet; thence turn a deflection angle to the right of 86 degrees, 36 minutes, 16 seconds and run Southeasterly 100 feet, more or less, to the East right of way line of Southern Railway Company; thence run Northeasterly along the East right of way line of Southern Railway Company to the point of beginning. Minerals and Mining rights excepted.

Land owned by USX Corporation: The lands described below are lands where USX Corporation owns the indicated interests which are leased to the Whitt Group for the mining of coal:

Group I : Fee interests (all interests in surface and minerals).

1. TOWNSHIP 21 SOUTH, RANGE 4 WEST

Section	Description	Acres
10	The Southeast quarter.	160.00
11	The East half of the section.	320.00
	The Southwest quarter.	160.00
	The Southeast quarter of the Northwest quarter.	40.00
12	The entire section.	640.00
13	The North half of the Northwest quarter.	80.00
14	The North half of the Northeast quarter.	80.00
15	The West half of the Northeast quarter.	80.00
	The Southeast quarter of the Northeast quarter.	40.00
	The Southeast quarter.	160.00
	The Northeast quarter of the Southwest quarter.	40.00
	The Northwest quarter.	160.00
20	The Northeast quarter of the Southeast quarter.	40.00
	The portion of the Southeast quarter of the Southeast quarter lying south and west of a line from the southeast corner of the quarter to the mid point of the west line of the quarter section and lying west of the railroad right of way.	30.75
21	The entire section except for the Northwest quarter of the Northwest quarter.	600.00
22	The entire section except for the Southeast quarter of the Southeast quarter.	600.00
27	The North half of the Northwest quarter.	80.00
	The Southwest quarter of the Northwest quarter.	40.00
28	The entire section.	640.00
29	That portion of the East half of the Northeast quarter lying south and east of the property conveyed to Oak Mountain Energy by deeds dated August 24, 1996 and May 30, 1997.	57.11
a.	Total Acres : Group I	4,047.86

Group II : Minerals and mining rights only (no interests in surface).

2. TOWNSHIP 21 SOUTH, RANGE 4 WEST -

A tract of land comprising 13.14 acres 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.

A tract of land comprising approximately 58 acres described as follows: Commence at the southeast corner of Section 20, Township 21 South, Range 4 West; thence run northwesterly 290 feet, more or less, along the north line of the south diagonal of the South half of the South-East quarter of the South-East quarter of said Section 20, to the east right-of-way of Southern Railway Company, said point being the point of beginning; thence continue northwesterly 1,201 feet, more or less, to the northwest corner of the South-West quarter of the South-East quarter of the South-East quarter of said Section 20; thence run southwesterly 932 feet, more or less, to the southwest corner of the South-East quarter of the South-West quarter of the South-East quarter of said Section 20, said point also being on the south line of said Section 20, and also being on the north line of Section 29, Township 21 South, Range 4 West; thence run 1,474 feet, more or less, to the southeast corner of the South-West quarter of the South-West quarter of the North-West quarter of the North-East quarter of said Section 29, said point also being on the south line of the North half of the North-East quarter of said Section 29; thence run easterly 1,459 feet, more or less, along the south line of said North half the North-East quarter of said section 29, to a point on the west line of a tract of land quitclaimed by USX Corporation to Oak Mountain Energy Corporation by deed dated August 24, 1996; thence run northeasterly along the west line of said tract 207.29 feet, more or less; thence turn a deflection angle to the right of 7 degrees 42 minutes 34 seconds and run northeasterly along the west line of said tract 122.28 feet; thence turn a deflection angle to the right of 10 degrees 18 minutes 36 seconds and run northeasterly along the west line of said tract 191.87 feet; thence turn a deflection angle to the right of 2 degrees 11 minutes 40 seconds and run northeasterly along the west line of said tract 490.22 feet; thence turn a deflection angle to the right of 86 degrees 36 minutes 16 seconds and run southeasterly 100 feet, more or less, to the east right-of-way line of Southern Railway Company; thence run northeasterly along the east right-of-way line of Southern Railway Company to the point of beginning.

Total Acres : Group II

71.14

Exhibit A-2 to UCC
Page 2 of 2

Inst # 2000-13917

04/28/2000-13917
04:32 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

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23.00