

NOTE TO CLERK: THIS INSTRUMENT COVERS AS-EXTRACTED COLLATERAL AND SHOULD BE FILED FOR RECORD IN THE REAL PROPERTY RECORDS WHERE MORTGAGES ON REAL ESTATE ARE RECORDED. THIS INSTRUMENT SHOULD ALSO BE INDEXED AS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT COVERING AS-EXTRACTED COLLATERAL ON THE DESCRIBED REAL PROPERTY. THE MAILING ADDRESSES OF THE SECURED PARTY (THE LENDER HEREIN) AND THE DEBTOR (THE MORTGAGOR HEREIN) ARE SET FORTH WITHIN.

STATE OF ALABAMA)
SHELBY AND BIBB COUNTIES)

This Instrument Prepared By:
M. Beth O'Neill
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North, Ste. 2400
Birmingham, AL 35203
(205) 254-1000

MORTGAGE

THIS MORTGAGE (this "Agreement") dated December 21, 2017 is between **JESSE CREEK MINING, LLC**, a Delaware limited liability company (the "Mortgagor"), as mortgagor, and **RESOURCE CAPITAL FUND VI L.P.**, a Cayman Islands exempt limited partnership and **RCF V ANNEX FUND L.P.**, a Cayman Islands exempt limited partnership (collectively, the "Lender"), as mortgagee.

Recitals

Capitalized terms used in these Recitals have the meanings defined for them above or in Section 1.2. The Borrower has requested that the Lender extend a Loan to the Borrower under the Loan Documents. To secure the Obligations, and to induce the Lender to extend such Loan, the Mortgagor has agreed to execute this Agreement.

Agreement

NOW, THEREFORE, in consideration of the foregoing Recitals, and to induce the Lender to extend the Loan to the Borrower under the Loan Documents, the Mortgagor with the Lender as follows:

ARTICLE 1

RULES OF CONSTRUCTION AND DEFINITIONS

SECTION 1.1 Rules of Construction. For the purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of masculine, feminine or neuter gender include the correlative words of other genders. Singular terms include the plural as well as the singular, and vice versa.

(b) All references herein to designated "Articles," "Sections" and other subdivisions or to lettered Exhibits are to the designated Articles, Sections and subdivisions hereof and the Exhibits annexed hereto unless expressly otherwise designated in context. All Article, Section, other subdivision and Exhibit captions herein are used for reference only and do not limit or describe the scope or intent of, or in any way affect, this Agreement.

(c) The terms "include," "including," and similar terms shall be construed as if followed by the phrase "without being limited to."

(d) The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, other subdivision or Exhibit.

(e) All Recitals set forth in, and all Exhibits to, this Agreement are hereby incorporated in this Agreement by reference.

(f) No inference in favor of or against any party shall be drawn from the fact that such party or such party's counsel has drafted any portion hereof.

(g) All references in this Agreement to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(h) Unless otherwise expressly indicated, each reference to a time or date in this Agreement shall be to the date and time in Birmingham, Alabama, United States of America.

SECTION 1.2 Definitions. As used in this Agreement, capitalized terms that are not otherwise defined herein have the meanings defined for them in the Note Purchase Agreement described in Exhibit C (the "Note Purchase Agreement"), and the following terms are defined as follows:

(a) **Borrower** means, jointly and severally, Mortgagor and Piney Woods Resources, Inc., a Delaware corporation.

(b) **Business Day** means a day on which banks in Birmingham, Alabama and Denver Colorado are open for business.



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(c) **Consents** means any third party consents or approvals required in order to grant to Lender the Lien hereunder, including, without limitation, any consents required of the lessors of any of the Mining Leases.

(d) **Default Rate** means an interest rate per annum equal to the Interest Rate plus five percent (5%), or the maximum rate permitted by law, whichever is less.

(e) **Environmental Laws** means Governmental Requirements relating to pollution or protection of the environment, including, without limitation, Governmental Requirements relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances or wastes and those Governmental Requirements relating to reclamation, restoration, rehabilitation and other similar activities, in each case, which are applicable to the Mortgagor, any Project or the other activities of and Properties or assets owned, controlled or managed by the Mortgagor, including, without limitation, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Clean Air Act, 42 U.S.C. §§ 741 et seq., the Clean Water Act, 33 U.S.C. § 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2629, the Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j (all as heretofore or hereafter amended from time to time), all applicable statutes of the State in which the Real Property is located, including any so-called "Superfund" or "Superlien" law, and all Governmental Requirements now or hereafter promulgated under any of the foregoing, including any Governmental Requirement relating to emissions, discharges, releases or threatened releases of Hazardous Substances into the workplace or the environment.

(f) **Event of Default** is defined in Section 5.2. An Event of Default "exists" if the same has occurred and is continuing.

(g) **Governmental Authority** means the government of any nation and any state, provincial, territorial, divisional, county, regional, city and other political subdivision thereof, any tribal, aboriginal or native government or corporation, and any union or commonwealth of multiple countries, such as the European Union, in each case in which any Property of any the Mortgagor is located or which exercises valid jurisdiction over any such Property or the Mortgagor, or in which the Mortgagor conducts business or is otherwise present, and any entity, court, arbitrator or board of arbitrators, agency, department, commission, board, bureau, regulatory authority or instrumentality of any of them exercising executive, legislative, judicial, regulatory or administrative functions that exercises jurisdiction over the Mortgagor or its Properties or assets, including the Projects, and any securities exchange or securities regulatory authority to which the Mortgagor is subject.

(h) **Governmental Requirements** means any law, statute, code, ordinance, treaty, order, rule, regulation, judgment, ruling, decree, injunction, franchise, permit, certificate, license,

authorization, approval or other direction or requirement (including Environmental Laws, the Project Permits, energy regulations, occupational, safety and health standards or controls, taxation laws and Securities Laws) of any Governmental Authority.

(i) **Hazardous Substances** means all pollutants, effluents, contaminants, emissions, toxic or hazardous wastes and other substances, the removal of which is required or the manufacture, use, maintenance, handling, discharge or release of which is regulated, restricted, prohibited or penalized by any Governmental Requirement, or even if not so regulated, restricted, prohibited or penalized, might pose a hazard to the health and safety of the public or the occupants of the property on which it is located or the occupants of the property adjacent thereto, including (1) asbestos or asbestos-containing materials, (2) urea formaldehyde foam insulation, (3) polychlorinated biphenyls (PCBs), (4) flammable explosives, (5) radon gas, (6) laboratory wastes, (7) experimental products, including genetically engineered microbes and other recombinant DNA products, (8) petroleum, crude oil, natural gas, natural gas liquid, liquefied natural gas, other petroleum products and synthetic gas usable as fuel, (9) radioactive materials and (10) any substance or mixture listed, defined or otherwise determined by any Governmental Authority to be hazardous, toxic or dangerous, or otherwise regulated, affected, controlled or giving rise to liability under any Governmental Requirement.

(j) **Interest Rate** means ten percent (10%) per annum, compounded annually.

(k) **Impositions** means all taxes, assessments, dues, fines, rents, levies, fees, permits and other governmental and quasi-governmental charges imposed or levied upon the Property (or any part thereof), the operations thereon, the use or occupancy thereof, the Liens or other interests created by this Agreement, the filing or recording of this Agreement or the Obligations.

(l) **Improvements** is defined in Section 2.1(b).

(m) **Land** is defined in Section 2.1(a).

(n) **Leased Land** is defined in Section 2.1(a).

(o) **Leased Real Property** is defined in Section 2.1(c).

(p) **Lien** means any mortgage, pledge, assignment, charge, encumbrance, lien, security title, security interest or other preferential arrangement.

(q) **Loan** means, individually and collectively, all loans, forbearances, renewals, extensions, advances, disbursements and other extensions of Loan now or hereafter made by the Lender to or for the account of the Borrower under the Loan Documents.

(r) **Loan Documents** means this Agreement and the documents described in Exhibit C and all other documents now or hereafter executed or delivered in connection with the transactions contemplated thereby.

(s) **Minerals** means all coal, oil, gas and other minerals owned by the Mortgagor or which the Mortgagor has the right to mine and remove from the Leased Real Property or the Owned Real Property, whether in the ground or as-extracted

(t) **Mining Leases** is defined in Section 2.1(b).

(u) **Mining Title** means fee simple title to surface and/or coal or an undivided interest in fee simple title thereto or a leasehold interest in all or an undivided interest in surface and/or coal together with no less than those real property rights, easements, licenses, privileges, rights and appurtenances as are necessary to mine, remove, process and transport coal in the manner presently operated or contemplated being operated.

(v) **Obligations** means (1) the payment of all amounts now or hereafter becoming due and payable under the Loan Documents, including the principal amount of the Loan, all interest thereon (including interest that, but for the filing of a petition in bankruptcy, would accrue on any such principal) and all other fees, charges and costs (including attorneys' fees and disbursements) payable in connection therewith; (2) the observance and performance by the Borrower and each of its Subsidiaries (as defined in the Note Purchase Agreement) that executes a guaranty or a joinder to a guaranty of all of the provisions of the Loan Documents; (3) the payment of all sums advanced or paid by the Lender in exercising any of its rights, powers or remedies under the Loan Documents, and all interest (including post-bankruptcy petition interest, as aforesaid) on such sums provided for herein or therein; (4) the payment and performance of all other indebtedness, obligations and liabilities of the Borrower to the Lender (including obligations of performance) of every kind whatsoever, arising directly between the Borrower and the Lender or acquired outright, as a participation or as collateral security from another person by the Lender, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, general partner, drawer, tort-feasor, account party with respect to a letter of Loan, indemnitor or otherwise; and (5) all renewals, extensions, modifications and amendments of any of the foregoing, whether or not any renewal, extension, modification or amendment agreement is executed in connection therewith.

(w) **Obligors** means the Borrower, each of its Subsidiaries that executes a guaranty or a joinder to a guaranty, each other person, if any, executing any Security Document as a grantor, (if the Borrower is a partnership) any general partner thereof, and any other maker, endorser, surety, guarantor or other person now or hereafter liable for the payment or performance, in whole or in part, of any of the Obligations.

(x) **Owned Real Property** is defined in Section 2.1(c).

(y) **Permitted Encumbrances** means any Liens and other matters affecting title to the Property that are described in Exhibit D and all other minor defects in title that do not materially interfere with Mortagor's ability to conduct its business as currently conducted or to use the Property for intended purposes.

(z) **Person** (whether or not capitalized) includes natural persons, sole proprietorships, corporations, trusts, unincorporated organizations, associations, companies, institutions, entities, joint ventures, partnerships, limited liability companies and Governmental Authorities.

- (aa) **Personal Property** is defined in Section 2.1(d).
- (bb) **Projects** means, either individually or collectively, the coal mining projects and Properties of the Mortgagor, together, in each case, with all Properties associated with or forming part of such Project.
- (cc) **Project Permits** means those permits, licenses, approvals, authorizations and consents of Governmental Authorities necessary to undertake and conduct the business of the Mortgagor or any Subsidiary thereof as it is currently being conducted at the Projects.
- (dd) **Property** is defined in Section 2.1.
- (ee) **Real Property** is defined in Section 2.1(b).
- (ff) **Security Documents** means all Loan Documents that now or hereafter grant or purport to grant to the Lender any guaranty, collateral or other security for any of the Obligations.
- (gg) **UCC Property** means the Personal Property and all other personal property and fixtures included in the Property.

ARTICLE 2

GRANTING CLAUSES

SECTION 2.1 Granting Clauses. As security for the Obligations, Mortgagor hereby grants, bargains, sells, assigns and conveys unto the Lender, and hereby grants to the Lender a security interest in, all of the Mortgagor's right, title and interest in, to and under the following property and interests in property (collectively, the "Property"):

(a) **Land.** The land located in Shelby and Bibb Counties, Alabama more particularly described in Exhibit A, and all reversions and remainders in and to said land and all tenements, hereditaments, easements, rights-of-way, rights (including all Minerals and mining rights, and all water, oil and gas rights), privileges, royalties and appurtenances to said land, now or hereafter belonging or in anywise appertaining thereto, including any right, title and interest in, to or under any agreement or right granting, conveying or creating, for the benefit of said land or the Minerals, any easement, right or license in any other property, and in, to or under any streets, ways, alleys, vaults, gores or strips of land adjoining said land or any parcel thereof, or in or to the air space over said land; and all claims or demands of the Mortgagor, at law or in equity, in possession or expectancy of, in or to any of the same (all of the foregoing hereinafter collectively called the "Land").

(b) **Mining Leases.** (1) The mining and mineral leases more particularly described in Exhibit B and the Mortgagor's leasehold estate and interest thereunder in and to the land located in Shelby and Bibb Counties, Alabama more particularly described therein, and all reversions and remainders in and to said land and the tenements, hereditaments, easements, rights-of-way, rights (including the Minerals and mining rights, and all water, oil and gas rights), privileges,

royalties and appurtenances to said land, now or hereafter belonging or in any way appertaining thereto, including any right, title, interest of the Mortgagor in, to or under the leases in any agreement or right granting, conveying or creating, for the benefit of said land or the Minerals, any easement, right or license in any other property, and in, to or under any streets, ways, alleys, vaults, gores or strips of land adjoining said land or any parcel thereof, or in or to the air space over said land; and all claims or demands of the Mortgagor at law or in equity, in possession or expectancy of, in or to the same (all of the foregoing hereinafter collectively called the "Leased Land"); (2) all other rights, titles and interests under the leases in and to the Leased Land, or any part thereof, including any reversions and remainders in and to the Mortgagor's interest in the Leased Land; and (3) all right, title and interest of the Mortgagor in and to (A) all modifications, extensions, renewals, supplements and restatements of the leases; (B) all credits and deposits made thereunder; (C) all options and rights to renew or extend the same; (D) all options and rights to purchase or of first refusal with respect to the Leased Land, or any part thereof; and (E) all other titles, estates, options, privileges, interests and rights that the Mortgagor may now have or hereafter acquire in and to the Leased Land and the leases, including the right of the Mortgagor to possession under Section 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., as amended (the "Bankruptcy Code") in the event of the rejection of the lease by the lessor or its trustee pursuant to said section, the right to exercise options or give consents with respect to the lease, or to modify, extend or terminate the lease, the right to surrender the lease, reject the lease or elect to treat the lease as rejected or remain in possession under Section 365 of the Bankruptcy Code, and the right to receive all deposits and other amounts payable to the Mortgagor under any lease (collectively, the "Mining Leases").

(c) **Improvements.** All buildings, structures, facilities and other improvements now or hereafter located on the Land and Leased Land, and all building materials, building equipment and fixtures of every kind and nature now or hereafter located on the Land or the Leased Land or attached to, contained in, or used in connection with, any such buildings, structures, facilities or other improvements, and all appurtenances and additions thereto and betterments, renewals, substitutions and replacements thereof, now owned or hereafter acquired by the Mortgagor (all of the foregoing hereinafter collectively called the "Improvements." The Improvements, together with the Land on which they are located, are collectively, the "Owned Real Property." The Improvements, together with the Leased Land on which they are located, are collectively the "Leased Real Property." and the Owned Real Property and the Leased Real Property are collectively, the "Real Property").

(d) **Personal Property.** All goods, equipment, inventory, supplies, as-extracted Minerals, and other items or types of tangible personal property (including additions and accessions thereto and replacements and substitutions therefor) now owned or hereafter created or acquired by the Mortgagor and attached to the Real Property (other than fixtures); or placed on the Real Property and used or useful in connection with, or in any way pertaining or relating to, the Real Property or the use and occupancy thereof, though not attached to the Real Property; or for which the proceeds of the Loan have been or may be advanced, wherever the same may be located (all of the foregoing hereinafter collectively called the "Personal Property").

(e) **Rents and Leases.** All leases, subleases, lettings and licenses, and other use and occupancy agreements, now or hereafter pertaining to any of the Real Property or Personal Property, and all rents, profits, issues and revenues of the Real Property and Personal Property

now or hereafter accruing, whether accruing before or after the filing of any petition by or against the Mortgagor under the federal Bankruptcy Code; provided, however, that if no Event of Default exists, the Mortgagor shall have a license (but limited as set forth in Section 5.3(f)) to collect and receive all of such rents, profits, issues and revenues.

(f) **Insurance Policies.** All policies of hazard insurance now or hereafter in effect that insure the Real Property, the Personal Property or any other property conveyed or encumbered hereby, together with all right, title and interest of the Mortgagor in and to each and every such policy, and all proceeds thereof, including any premiums paid and rights to returned premiums.

(g) **Litigation Awards.** All judgments, damages, settlements, awards, payments and compensation, including all interest thereon, that may be made or due to the Mortgagor or any subsequent owner of any of the Real Property, the Personal Property or any other property conveyed or encumbered hereby, as a result of the exercise of the right of eminent domain or condemnation, the alteration of the grade of any street or any other injury to or diminution or decrease in value of the Real Property, the Personal Property, or any other such property.

(h) **General Intangibles and Agreements.** (1) All general intangibles relating to the development or use of the Real Property, the Personal Property or any other property conveyed or encumbered hereby, or the management and operation of any business of the Mortgagor thereon, including all patents, patent applications, trade names, trademarks, trademark applications, knowledge and process, licensing arrangements, blueprints, technical specifications, manuals and other trade secrets; (2) the good will of any business conducted or operated on the Real Property, all governmental licenses and permits relating to the construction, renovation or operation thereof, all names under or by which the same may at any time be operated or known and all rights to carry on business under any such names or any variant thereof; and (3) all contracts and agreements (including construction, renovation, maintenance, engineering, architectural, leasing, management, operating and concession agreements) affecting the Real Property, the Personal Property or any other property conveyed or encumbered by this Agreement, or used or useful in connection therewith, whether now or hereafter entered into.

(i) **Supplemental Documents.** All changes, additions, supplements, modifications, amendments, extensions, renewals, revisions and guaranties to, of or for any agreement or instrument included in the foregoing.

(j) **Proceeds.** All proceeds of any of the foregoing.

SUBJECT, HOWEVER, to the Permitted Encumbrances.

TO HAVE AND TO HOLD the Property, together with all the rights, privileges and appurtenances thereunto belonging, unto the Lender, its successors and assigns forever.



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ARTICLE 3

REPRESENTATIONS AND WARRANTIES

The Mortgagor represents and warrants to the Lender that:

SECTION 3.1 Valid Title, Debt, etc. The Mortgagor has Mining Title to the Real Property, subject to Permitted Encumbrances and subject to the terms and conditions of the Mining Leases; provided, however, the Mortgagor shall not be in breach of the foregoing if, other than with respect to the Lolley Basin Mine and the Mining Leases associated therewith to which the following caveats do not apply (a) it fails to own a valid leasehold interest which, either considered alone or together with all other such valid leaseholds which it fails to own, is not material to the continued or presently anticipated operations of the Mortgagor; or (b) the Mortgagor's interest under a Mining Lease is less than fully marketable because the consent of lessor to assignments has not been obtained. For all Property, other than Real Property, the Mortgagor has good right and title thereto free of all Liens other than Permitted Encumbrances. Subject to the first sentence of this Section 3.1, (x) the Mortgagor has good right to mortgage, assign and grant a security interest in the Property as aforesaid and (y) this Agreement is and will remain a valid and enforceable first priority mortgage lien on, and security interest in, the Property, subject only to Permitted Encumbrances. Notwithstanding anything herein to the contrary, to the extent any Mining Lease requires that the Mortgagor obtain the Consent of the lessor thereunder, such Mining Leases shall not be encumbered by this Agreement unless and until the Mortgagor obtains such Consent.

ARTICLE 4

COVENANTS AND AGREEMENTS OF MORTGAGOR

SECTION 4.1 Payment of Impositions. Unless the Mortgagor is making monthly deposits pursuant to Section 4.6, the Mortgagor shall pay or cause to be paid all Impositions and at the Lender's request shall furnish evidence of the payment thereof at least ten (10) business days before the Impositions are due. The Mortgagor may, at the Mortgagors own expense, in good faith contest any such Impositions and, in the event of any such contest, may permit the Impositions so contested to remain unpaid during the period of such contest and any appeal therefrom, provided that during such period enforcement of the contested items shall be effectively stayed. If, subsequent to the date hereof, any Governmental Requirement should become effective that in any manner changes or modifies the Governmental Requirements in effect on the date hereof governing the taxation of mortgages, deeds of trust, deeds to secure debt, assignments of rents and leases or security agreements, or the debts or other obligations secured thereby, or the manner of collecting such taxes, so as to adversely affect the Lender or the Mortgagor, in the opinion of the Lender, the Mortgagor shall pay any such tax on or before the due date thereof and shall reimburse the Lender for any out-of-pocket loss or expense suffered by the Lender as a result of such Governmental Requirement. If the Mortgagor fails to make such prompt payment or reimbursement, or if, in the opinion of the Lender, any such Governmental Requirement prohibits the Mortgagor from making such payment or

reimbursement or would penalize the Lender if the Mortgagor makes such payment or reimbursement or if, in the opinion of the Lender, the making of such payment or reimbursement might result in the imposition of interest beyond the maximum amount permitted by applicable Governmental Requirement, then the entire balance of the Obligations and all interest accrued thereon shall, at the option of the Lender, become immediately due and payable.

SECTION 4.2 Insurance. The Mortgagor shall keep or cause to be kept the Property insured against loss or damage by flood (if the Property is located in a flood-prone area) fire, windstorm, extended coverage perils, vandalism, malicious mischief and such other hazards, casualties and other contingencies as from time to time may be required by the Lender, all in such manner and with such companies and in such amounts as the Lender may approve. All such policies shall be subject to the Lender's approval and shall name the Lender as a named insured and provide that any losses payable thereunder shall (pursuant to loss payable clauses, in form and content acceptable to the Lender, to be attached to each policy) be payable to the Lender, subject to the rights of the holders of any prior mortgages. The Mortgagor shall cause duplicate originals of such insurance policies (or, at the Lender's option, certificates satisfactory to the Lender) to be deposited with the Lender. If requested by the Lender, the Mortgagor shall furnish to the Lender evidence of the payment of the premiums for such policies. The Mortgagor shall cause each insurer under each of the policies to agree (either by endorsement upon such policy or by letter addressed to the Lender) to endeavor give the Lender at least ten (10) business days' prior written notice of the cancellation of such policies in whole or in part or the lapse of any coverage thereunder. The Mortgagor shall not take any action or fail to take any action that would result in the invalidation of any insurance policy required hereunder. In case of a sale pursuant to the foreclosure provisions hereof, or any conveyance of all or any part of the Property in extinguishment of the Obligations, complete title to all insurance policies held by the Lender and the unearned premiums with respect thereto shall pass to and vest in the purchaser or grantee of the Property.

SECTION 4.3 Damage and Destruction.

(a) **Mortgagor's Responsibilities.** In the event of any damage to or loss or destruction of the Property, the Mortgagor shall (1) promptly notify the Lender of such event and take such steps as shall be necessary to preserve any undamaged portion of the Property, and (2) unless otherwise instructed by the Lender, promptly, regardless whether any insurance proceeds are sufficient for the purpose or (unless such insurance proceeds are otherwise applied by the Lender as provided herein), commence and diligently pursue to completion the restoration, replacement or rebuilding of the Property as nearly as possible to the value, condition and character thereof immediately prior to such damage, loss or destruction and in accordance with plans and specifications approved, and with other provisions for the preservation of the security hereunder established, by the Lender.

(b) **Lender's Rights; Application of Proceeds.** If any portion of the Property is so damaged, destroyed or lost, and such damage, destruction or loss is covered, in whole or in part, by insurance described in Section 4.2, then (1) the Lender may, but shall not be obligated to, make proof of loss, and may settle, adjust or compromise any claims thereunder, (2) each insurance company concerned is hereby authorized and directed to make payment therefor directly to the Lender, and (3) the Lender shall have the right to apply the insurance proceeds,

first, to reimburse the Lender for all reasonable costs and expenses, including all attorneys' fees and disbursements, incurred in connection with the collection of such proceeds, and second, the remainder of such proceeds shall be applied, at the Lender's option, (a) in payment of all or any part of the Obligations in the order and manner determined by the Lender in its sole discretion (provided that the remainder of the Obligations shall continue in full force and effect and the Obligors who are obligated therefor shall not be excused from the payment thereof), (b) to the cure of any then-existing Event of Default, or (c) to the repair, restoration, or replacement, in whole or in part, of the Property. The Mortgagor expressly assumes all risk of loss, including a decrease in the use, enjoyment or value, of the Property from any casualty whatsoever, whether or not insurable or insured against. The Lender shall not be liable for any failure to collect, or exercise any due diligence in the collection of, any insurance proceeds.

SECTION 4.4 Condemnation.

(a) **Mortgagor's Responsibilities; Proceedings.** The Mortgagor, immediately upon obtaining knowledge thereof, shall notify the Lender of any pending or threatened proceedings for the condemnation of any of the Property or of the exercise of any right of eminent domain with respect thereto, or of any other pending or threatened proceedings arising out of injury or damage to any of the Property. The Lender may participate in any such proceedings, and the Mortgagor from time to time shall execute and deliver to the Lender all instruments requested by the Lender to permit such participation. The Mortgagor shall, at the Mortgagor's expense, diligently prosecute any such proceedings, deliver to the Lender copies of all papers served in connection therewith and consult and cooperate with the Lender, its attorneys and agents, in carrying on and defending any such proceedings. No settlement of any such proceedings shall be made by the Mortgagor without the Lender's consent, not to be unreasonably withheld.

(b) **Lender's Rights to Proceeds.** All proceeds of condemnation awards or proceeds of sale in lieu of condemnation, and all judgments, decrees and awards for injury or damage to the Property shall be paid to the Lender. The Mortgagor authorizes the Lender to collect and receive the same, to give receipts and acquittances therefor, and to appeal from any such judgment, decree or award. The Lender shall not be liable for any failure to collect, or exercise diligence in the collection of, any of the same.

(c) **Application of Proceeds.** The Lender shall have the right to apply any proceeds, judgments, decrees or awards referred to in Section 4.4(b), first, to reimburse the Lender for all reasonable costs and expenses, including attorneys' fees and disbursements, incurred in connection with the proceeding in question or the collection of such amounts, and second, the remainder thereof in the same manner as provided in Section 4.3(b) with respect to insurance proceeds.

SECTION 4.5 Liens and Liabilities.

(a) **Discharge of Liens.** The Mortgagor shall pay, bond or otherwise discharge, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers and others that, if unpaid, might result in, or permit the creation of, a Lien on any of the Property, and in general, the Mortgagor shall do, or cause to be done, at the

Mortgagor's sole cost and expense, everything necessary to fully preserve the Lien and priority of this Agreement.

(b) **Creation of Liens.** The Mortgagor shall not, without the Lender's consent, create, place or permit to be created or placed, or allow to remain, any voluntary or involuntary Lien on any of the Property, whether prior to, on a parity with or subordinate to the Lien of this Agreement, other than Permitted Encumbrances. If any such Lien is created or placed on the Property without the Lender's consent, the Mortgagor shall cause the same to be discharged, released or bonded off to the Lender's satisfaction within ten (10) days after the filing thereof.

(c) **No Consent.** Nothing in the Loan Documents shall be deemed or construed as constituting the consent or request by the Lender, express or implied, to any contractor, subcontractor, laborer, mechanic or materialman for the performance of any labor or the furnishing of any material for any improvement, construction, renovation, alteration or repair of the Property. The Mortgagor agrees that the Lender does not stand in any fiduciary relationship to the Mortgagor by reason of the transactions contemplated by the Loan Documents.

SECTION 4.6 Tax and Insurance Deposits. At any time during the term of this Agreement if an Event of Default exists, upon demand by the Lender, the Mortgagor shall deposit with the Lender a sum that bears the same relation to the annual insurance premiums for all insurance required by the terms hereof and Impositions assessed against the Property for the insurance period or tax year then in effect, as the case may be, as the number of months elapsed as of the date of such demand since the last preceding installment of said premiums or Impositions shall have become due and payable bears to twelve (12). For the purpose of this computation, the month in which the last preceding installment of premiums or Impositions became due and payable and the month in which such demand is given shall be included and deemed to have elapsed. On the first day of the month next succeeding the month in which such demand is given, and thereafter on the first day of each and every month during the term of this Agreement, the Mortgagor shall deposit with the Lender a sum equal to one-twelfth of such insurance premiums and such Impositions for the then-current annual insurance period and tax year, so that as each installment of such premiums and Impositions shall become due and payable, the Mortgagor shall have deposited with the Lender a sum sufficient to pay the same. All such deposits shall be received and held by the Lender, and shall be applied to the payment of each installment of such premiums and Impositions as they shall become due and payable. The Lender shall, upon demand, furnish evidence to the Mortgagor of the making of each such payment. If the amount of such premiums and Impositions has not been definitely ascertained at the time when any such monthly deposits are required to be made, the Mortgagor shall make such deposits based upon the amount of such premiums and Impositions for the preceding year, subject to adjustment as and when the amount of such premiums and Impositions are ascertained. If at the time when any installment of such premiums and such Impositions becomes due and payable the Mortgagor shall not have deposited a sum sufficient to pay the same, the Mortgagor shall, within ten (10) days after demand, deposit any deficiency with the Lender. Upon the termination of this Agreement in accordance with Section 6.19, any remaining amount on deposit with the Lender shall be repaid to the Mortgagor without interest. The Mortgagor shall deliver to the Lender all insurance and tax bills promptly following receipt during any period when such monthly deposits are to be made with the Lender. If the Obligations are accelerated as provided in Section 5.3(a), all funds so deposited may, at the Lender's option, be applied to the

Obligations in any order determined by the Lender or to cure any existing Event of Default or to the payment of insurance premiums and Impositions as provided in this Section 4.6.

SECTION 4.7 Operations; Utilities; Waste, Demolition, Alteration or Replacement. The Mortgagor shall (a) continuously operate the Mortgagor's business (if any) on the Property in accordance with sound business practices; (b) not engage in any activity that would diminish the value of the Property or decrease the income from the Property; (c) pay or cause to be paid all bills for utilities and other materials and services used on or in connection with the Property; (d) cause the Property and every part thereof to be maintained and kept in good and safe repair, working order and condition; (e) not commit or permit waste thereon; (f) not remove, demolish or alter the design or structural character of any Improvements without Lender's prior written consent; and (g) make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. The Mortgagor shall not remove from the Real Property any of the fixtures or Personal Property included in the Property unless the same are immediately replaced with like property of at least equal value and utility.

SECTION 4.8 Sale, Lease or Transfer, etc.

(a) **Real Property.** Except for Permitted Encumbrances, the Mortgagor shall not (1) sell, assign, transfer, convey, lease with an option to purchase, exchange or otherwise dispose of, any of the Real Property or any interest therein; (2) contract with any person for any of the foregoing; or (3) subject any of the Real Property or any interest therein to any additional Lien, either voluntarily or involuntarily.

(b) **Equity Interests in Mortgagor.** The Mortgagor (if a partnership or corporation) shall not be dissolved, liquidated or terminated, whether by operation of law or otherwise. Any sale, pledge, encumbrance, contract to sell, assignment or other transfer of any equity interest in the Mortgagor, or any other transaction whereby the legal or beneficial ownership of the Mortgagor is changed, including the sale of additional stock or other equity interests, the liquidation or dissolution of the Mortgagor, the merger or consolidation of the Mortgagor with any other person, or the participation by the Mortgagor in a statutory share exchange with any other person, shall be treated as a transfer of the Real Property for purposes of this Section 4.8.

(c) **Lender's Rights.** The occurrence of any of the events described in Section 4.8(a) or Section 4.8(b) will constitute an Event of Default under this Agreement, and the Lender may, in its sole discretion, exercise any of its rights and remedies on default under Section 5.3 or require the payment after the date of such occurrence of a higher rate of interest on the unpaid principal portion of the Obligations as a condition to not exercising such rights and remedies, whether such rights and remedies be exercised by the Lender to obtain a higher rate of interest on the Obligations or to protect the security afforded by this Agreement.

(d) **Lender's Reliance.** The Mortgagor acknowledges the Lender's express reliance on this Section 4.8 in extending any Loan under the Loan Documents based on the security of this Agreement.

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SECTION 4.9 Use, Governmental Compliance, etc. The Mortgagor shall (a) use the Property solely for the uses contemplated by the Loan Documents or otherwise permitted in writing by the Lender; (b) maintain all Project Permits and all material certificates, licenses, authorizations, registrations, permits and other approvals of Governmental Authorities necessary for the use of the Property and the conduct of any business or activity on the Real Property, including all required zoning, building, land use, environmental, occupancy, fire and utility approvals; (c) comply with all Governmental Requirements now or hereafter affecting the Property or any business or activity conducted on the Real Property; and (d) not permit any act to be done on the Property in violation of any Governmental Requirements or that constitutes a public or private nuisance, or that makes void or cancelable, or increases the premium of, any insurance then in force with respect thereto.

SECTION 4.10 Zoning; Title Matters. The Mortgagor shall not: (a) initiate or support any zoning reclassification of the Property or seek any variance under existing zoning laws or use or permit the use of the Property in a manner that would result in such use becoming a non-conforming use under, or otherwise violate, applicable zoning laws; (b) modify, amend or supplement any Permitted Encumbrances in any manner that would materially increase the obligations or decrease the rights of the Mortgagor or adversely affect the rights of the Lender under the Loan Documents; (c) subject the Property to any restrictive covenants or encumbrances (other than the Permitted Encumbrances), execute or file any subdivision plat affecting the Property or consent to the annexation of the Property to any municipality; or (d) permit the Property to be used by the public or any person in any manner that might make possible a claim of adverse possession or of any implied dedication easement or easement by prescription.

SECTION 4.11 Hazardous Substance Compliance. The Mortgagor shall: (a) not permit any Hazardous Substances to be installed, used, generated, manufactured, treated, handled, refined, produced, processed, transported, stored or disposed of, or otherwise present in, on or under the Property that would cause a violation of, or that would support a claim under any Environmental Law; (b) not permit any activity to be undertaken with respect to the Property that would cause a violation of, or support a claim under any Environmental Law; (c) not permit any Hazardous Substance to be present in, on or under the Property, and nor any activity to be undertaken with respect to the Property, that would cause (1) the Property to become a hazardous waste treatment, storage or disposal facility within the meaning of any Environmental Law, (2) a release or threatened release of Hazardous Substance from the Property within the meaning of any Environmental Law, (3) the discharge of Hazardous Substance into any watercourse, body or surface or subsurface water or wetland, or into the atmosphere, that would be prohibited by or require a permit under any Environmental Law, or (4) the Property otherwise to be subject to special remediation, regulation, restriction or treatment under any Environmental Law; (d) not permit any underground storage tanks or underground deposits of Hazardous Substances to be located on the Property; (e) not permit the Property to be used in any manner that would cause a violation of, or that would support a claim under any Environmental Law; (f) permit the Lender from time to time to inspect the Property and observe the operations thereon and to perform tests (including soil and ground water tests) for Hazardous Substances on the Property; (g) undertake all preventive, investigatory and remedial action (including emergency response, removal, clean up, containment and other remedial action) that is (1) required by any applicable Environmental Law or (2) necessary to prevent or minimize any property damage (including damage to any of

the Property), personal injury or harm to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the Property or the operations on the Property; and (h) deliver to the Lender, at the Lender's request, copies of any and all documents in the Mortgagor's possession or to which the Mortgagor has access relating to Hazardous Substances or Environmental Laws and the Property, and the operations on the Property, including laboratory analyses, site assessments or studies, environmental audit reports and other environmental studies and reports. If the Lender at any time reasonably believes that the Mortgagor is not complying with all applicable Environmental Laws applicable to the Property or the requirements of this Agreement regarding the same, or that a material spill, release or disposal of Hazardous Substances has occurred on or under the Property, or if any other Event of Default exists, the Lender may require the Mortgagor to furnish to the Lender an environmental audit or site assessment reasonably satisfactory to the Lender with respect to the matters of concern to the Lender. Such audit or assessment shall be performed at the Mortgagor's expense by a qualified consultant approved by the Lender.

SECTION 4.12 Required Hazardous Substance Notices. The Mortgagor shall immediately advise the Lender in writing of any of the following of which the Mortgagor shall become aware: (a) any violation of any Environmental Law with respect to the Property or the operations at the Property; (b) any spill, release, discharge, disposal of any Hazardous Substances, or imminent threat thereof, at the Property, in connection with the operations at the Property, or at any property adjoining or in the vicinity of the Property, that could result in the violation of any Environmental Law with respect to the Property or such operations; (c) any action instituted or threatened by any Governmental Authority under any Environmental Law affecting the Property or the operations thereon, including any notice of inspection, abatement or noncompliance; (d) all claims made or threatened by any person against the Mortgagor, the Lender or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from the presence of any Hazardous Substance in, on, under or from the Property or any violation of any Environmental Law with respect to the Property or the operations at the Property; (e) the Mortgagor's discovery of any occurrence or condition on the Property or on any real property adjoining or in the vicinity of the Property that could (1) result in the violation of any Environmental Law, (2) support any claim under any Environmental Law, or (3) subject the Mortgagor, the Lender or the Property to any restrictions on ownership, occupancy, transferability or use of the Property under any Environmental Law. The Mortgagor shall immediately deliver to the Lender any documentation or records that the Lender may reasonably request in connection with any such notices, inquiries, and communications and shall advise the Lender of any subsequent developments.

SECTION 4.13 Maintenance of Lien Priority. The Mortgagor shall take all steps necessary to preserve and protect the perfection, validity and priority of the Liens on the Property purported to be created by this Agreement. The Mortgagor shall execute, acknowledge, deliver, file and record such additional instruments as the Lender may deem necessary in order to perfect, preserve, protect, continue, extend or maintain the Liens created hereby as first priority Liens on the Property, subject to Permitted Encumbrances, or to subject after-acquired property or proceeds to such Liens. If the Liens, validity or priority of this Agreement, or if title to any of the rights of the Mortgagor or the Lender in or to the Property shall be endangered or questioned, or shall be attacked directly or indirectly, or if any action or proceeding is instituted against the Mortgagor or the Lender with respect thereto, the Mortgagor shall promptly notify the Lender

thereof and shall diligently endeavor to cure any defect that may be claimed, and shall take all necessary and proper steps for the defense of such action or proceeding, including the employment of counsel, the prosecution or defense of the litigation, and subject to the Lender's approval, the compromise, release or discharge of any and all adverse claims other than Permitted Encumbrances. The Lender (whether or not named as a party to such actions or proceedings) is authorized and empowered (but shall not be obligated) to take such additional steps as it may reasonably deem necessary or proper for the defense of any such action or proceeding or the protection of the Liens, validity or priority of this Agreement, including the employment of counsel, the prosecution or defense of litigation, the compromise, release or discharge of adverse claims, and the removal of prior Liens. The Mortgagor shall, on demand, reimburse the Lender for all expenses (including attorneys' fees and disbursements) reasonably incurred by the Lender in connection with any of the foregoing matters.

SECTION 4.14 Permitted Encumbrances. The Mortgagor shall not permit any default or violation to occur with respect to any agreement, covenant or restriction included in Permitted Encumbrances.

ARTICLE 5

DEFEASANCE, DEFAULT AND REMEDIES

SECTION 5.1 Defeasance. This Agreement is made upon the condition that if (a) all of the Obligations, including all future advances and other future indebtednesses, obligations and liabilities included therein, if any, are paid in full, and (b) the Mortgagor reimburses the Lender for any amounts the Lender has paid in respect of Liens, Impositions, prior mortgages, insurance premiums, repairing or maintaining the Property, performing the Mortgagor's obligations under any Mining Lease or other lease related to the Real Property, performing the Mortgagor's obligations under Section 4.11 with respect to environmental matters, and any other advancements hereunder, and interest thereon, and (c) the Mortgagor fulfills all of the Mortgagor's other obligations under this Agreement, and (d) the Lender has no obligation to extend any further Loan to or for the account of the Mortgagor and there is in existence no contingent liability of the Mortgagor that is secured by this Agreement, this conveyance shall be null and void upon the filing by the Lender of the written instrument of termination described in Section 6.19.

SECTION 5.2 Events of Default. The occurrence of any of the following events shall constitute an event of default (an "Event of Default") under this Agreement (whatever the reason for such event and whether or not it shall be voluntary or involuntary or be effected by operation of law or pursuant to any Governmental Requirement):

(a) any representation or warranty made in this Agreement or in any of the other Loan Documents shall prove to be false or misleading in any material respect as of the time made; or


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(b) any report, certificate, financial statement or other instrument furnished in connection with the Loan, this Agreement or any of the other Loan Documents, shall prove to be false or misleading in any material respect as of the time furnished; or

(c) default shall be made in the payment when due of any of the Obligations; or

(d) default shall be made in the due observance or performance of any covenant, condition or agreement on the part of the Borrower to be observed or performed pursuant to the terms of this Agreement (other than any covenant, condition or agreement, default in the observance or performance of which is elsewhere in this Section 5.2 specifically dealt with) and such default shall continue unremedied for a period of fifteen (15) days after written notice by the Lender to the Borrower; or

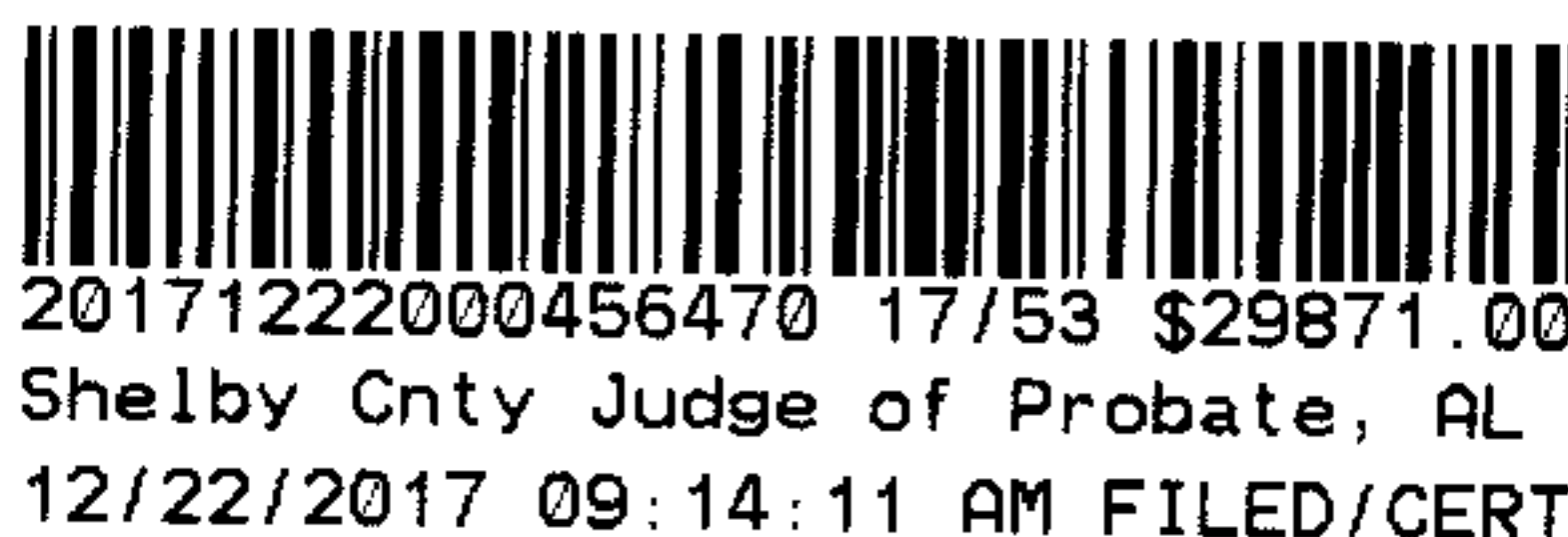
(e) any default or event of default, as therein defined, shall occur under any of the other Loan Documents (after giving effect to any applicable notice, grace or cure period specified therein); or

(f) (1) default shall be made with respect to any Indebtedness (as defined in the Note Purchase Agreement) (other than the Obligations) of any Obligor, if the effect of such default is to accelerate the maturity of such Indebtedness or to permit the holder thereof to cause such Indebtedness to become due prior to its stated maturity, or (2) any such Indebtedness shall not be paid when due (after giving effect to any applicable notice, grace or cure periods); or

(g) any Obligor shall (1) apply for or consent to the appointment of a receiver, trustee, liquidator or other custodian of such Obligor or any of such Obligor's properties or assets (including the Property), (2) fail or admit in writing such Obligor's inability to pay such Obligor's debts generally as they become due, (3) make a general assignment for the benefit of creditors, (4) suffer or permit an order for relief to be entered against such Obligor in any proceeding under the federal Bankruptcy Code, or (5) file a voluntary petition in bankruptcy, or a petition or an answer seeking an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against such Obligor in any proceeding under any such law or statute, or if corporate or partnership action shall be taken by any Obligor for the purpose of effecting any of the foregoing; or

(h) a petition shall be filed, without the application, approval or consent of any Obligor in any court of competent jurisdiction, seeking bankruptcy, reorganization, rearrangement, dissolution or liquidation of such Obligor or of all or a substantial part of the properties or assets of such Obligor, or seeking any other relief under any law or statute of the type referred to in Section 5.2(g)(5) against such Obligor, or the appointment of a receiver, trustee, liquidator or other custodian of such Obligor or of all or a substantial part of the properties or assets of such Obligor, and such petition shall not have been stayed or dismissed within 30 days after the filing thereof; or

(i) any Obligor shall be dissolved or liquidated, if an entity, or become insolvent or suspend business; or



(j) any writ of execution, attachment or garnishment shall be issued against the assets of any Obligor and such writ of execution, attachment or garnishment shall not be dismissed, discharged or quashed within thirty (30) days of issuance; or

(k) any final judgment for the payment of money shall be rendered against any Obligor and the same shall remain undischarged for a period of thirty (30) days during which execution shall not be effectively stayed; or

(l) any guarantor of any of the Obligations shall default in the due observance or performance of any covenant, condition or agreement on such guarantor's part to be observed or performed under such guarantor's guaranty agreement (after giving effect to any applicable notice, grace or cure period specified therein) or shall terminate or attempt to terminate such guarantor's guaranty agreement; or

(m) the Lender shall in good faith deem itself insecure for any reason whatsoever.

SECTION 5.3 Rights and Remedies of Lender Upon Default.

(a) **Acceleration of Obligations.** If an Event of Default exists under Section 5.2(g) or Section 5.2(h), all of the Obligations shall automatically become immediately due and payable. If any other Event of Default exists, the Lender shall have the right without further notice to the Borrower (except any such notice as may be specifically required under the other Loan Documents) to declare all of the Obligations immediately due and payable.

(b) **Possession and Operation of Property.** If an Event of Default exists, in addition to all other rights herein conferred on the Lender, the Lender (or any person designated by the Lender) may, but will not be obligated to, (1) enter upon the Real Property and take possession of any or all of the Property without being guilty of trespass or conversion, exclude the Borrower therefrom, and hold, use, administer, manage and operate the same to the extent that the Borrower could do so, without any liability to the Borrower resulting therefrom; (2) collect, receive and receipt for all proceeds accruing from the operation and management of the Property; (3) make repairs and purchase needed additional property; (4) insure or reinsure the Property; (5) maintain and restore the Property; (6) prepare the Property for resale, lease or other disposition; (7) have furnished to the Property utilities and other materials and services used on or in connection with the Property; and (8) exercise every power, right and privilege of the Borrower with respect to the Property.

(c) **Judicial Proceedings; Right to Receiver.** If an Event of Default exists, the Lender, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its Lien on the Property, to sue the Borrower for damages on account of said default, for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Lender shall be entitled, as a matter of right (upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Agreement, to the extent required by law), to the appointment by any competent court or tribunal, without notice to the Borrower or any other party, of a receiver of the rents, issues, profits and revenues of the Property, with power to lease and control the Property and with such other powers as may be deemed necessary.

(d) **Power of Sale.** If an Event of Default exists, this Agreement shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages, and the Lender shall be authorized, at its option, whether or not possession of the Property is taken, to sell the Property (or such part or parts thereof as the Lender may from time to time elect to sell) under the power of sale which is hereby given to the Lender, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Land to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Property to be sold, by publication in some newspaper published in the county or counties in which the Land to be sold is located. If there is Land to be sold in more than one county, publication shall be made in all counties where the Land to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. The Lender may bid at any sale held under this Agreement and may purchase the Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. At any sale all or any part of the Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, and the proceeds of any such sale en masse shall be accounted for in one account without distinction between the items included therein and without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case the Lender, in the exercise of the power of sale herein given, elects to sell the Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Property not previously sold shall have been sold or all the Obligations shall have been paid in full and this Agreement shall have been terminated as provided herein.

(e) **Personal Property and Fixtures.** If an Event of Default exists, the Lender shall have with respect to the UCC Property all rights and remedies of a secured party under the Alabama Uniform Commercial Code, including the right to sell it at public or private sale or otherwise dispose of, lease or use it, without regard to preservation of the UCC Property or its value and without the necessity of a court order. At the Lender's request, the Mortgagor shall assemble the UCC Property and make it available to the Lender at any place designated by the Lender. To the extent permitted by law, the Mortgagor expressly waives notice and any other formalities prescribed by law with respect to any sale or other disposition of the UCC Property or exercise of any other right or remedy upon default. The Mortgagor agrees that the Lender may sell or dispose of both the Real Property and the UCC Property in accordance with the rights and remedies granted under this Agreement with respect to Real Property.

(f) **Rents and Leases.** If an Event of Default exists, the Lender, at its option, shall have the right, power and authority to terminate the license granted to the Mortgagor in Section 2.1(e) to collect the rents, profits, issues and revenues of the Real Property, whether paid or accruing before or after the filing of any petition by or against the Mortgagor under the federal Bankruptcy Code, and, without taking possession, in the Lender's own name to demand, collect, receive, sue for, attach and levy all of such rents, profits, issues and revenues, to give proper receipts, releases and acquittances therefor, and to apply the proceeds thereof as set forth in Section 5.3(h).

(g) **Foreclosure Deeds.** To the extent permitted by applicable law, the Mortgagor hereby authorizes and empowers the Lender or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

(h) **Order of Application of Proceeds.** All payments received by the Lender as proceeds of any of the Property, as well as any and all amounts realized by the Lender in connection with the enforcement of any right or remedy under this Agreement, shall be applied by the Lender as follows: (1) to the payment of all expenses incident to the exercise of any remedies under this Agreement, including attorneys' fees and disbursements as provided in the Loan Documents, appraisal fees, environmental site assessment fees, title search fees and foreclosure notice costs, (2) to the payment in full of any of the Obligations that are then due and payable (including principal, accrued interest and all other sums secured hereby) in such order as the Lender may elect in its sole discretion, (3) to a cash collateral reserve fund to be held by the Lender in an amount equal to, and as security for, any of the Obligations that are not then due and payable, and (4) the remainder, if any, shall be paid to the Borrower or such other persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(i) **Multiple Sales.** If an Event of Default exists, the Lender shall have the option to proceed with foreclosure, either through the courts or by power of sale as provided for in this Agreement, but without declaring the whole Obligations due. Any such sale may be made subject to the unmatured part of the Obligations, and such sale, if so made, shall not affect the unmatured part of the Obligations, but as to such unmatured part of the Obligations this Agreement shall remain in full force and effect as though no sale had been made under this Section 5.3(i). Several sales may be made hereunder without exhausting the right of sale for any remaining part of the Obligations, whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Obligations without exhausting the power of foreclosure and the power to sell the Property for any other part of the Obligations, whether matured at the time or subsequently maturing.

(j) **Waiver of Certain Laws.** The Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (1) any appraisement before sale of any portion of the Property (commonly known as appraisement laws), or (2) any extension of time for the enforcement of the collection of the Obligations or any creation or extension of a period of redemption from any sale made in collecting the Obligations (commonly known as stay laws and redemption laws). The Mortgagor also waives any and all rights the Mortgagor may have to a hearing before any Governmental Authority prior to the exercise by the Lender of any of its rights or remedies under the Loan Documents and applicable law.

(k) **Prerequisites of Sales.** In case of any sale of the Property as authorized by this Section 5.3, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Obligations or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as rebuttably presumptive evidence that the facts so stated or recited are true.

(l) **Specific Performance; Special Remedies.** The Mortgagor acknowledges and agrees that any failure of the Mortgagor to comply with this Agreement will cause irreparable harm and injury and that the remedy at law for any breach or threatened breach of any such provision will be inadequate and, accordingly, the Lender shall, in addition to all other rights and remedies that the Lender may have, be entitled, with or without notice to the Mortgagor, to seek an injunction or temporary restraining order to prevent such breach or threatened breach and to enforce specifically the terms and provisions of this Agreement, without requirement to post a bond or other security. Injunctive relief, temporary restraining orders and specific performance may be imposed and enforced judicially or by arbitrators. Such remedies are cumulative and not exclusive and are in addition to all other remedies available to the Lender under this Agreement, the other Loan Documents or otherwise.

SECTION 5.4 Default Rate. If an Event of Default exists, the Obligations shall bear interest at the Default Rate, until the earlier of (a) such time as all of the Obligations are paid in full or (b) no such Event of Default exists.

SECTION 5.5 Remedies Cumulative. The rights, powers and remedies of the Lender under this Agreement are cumulative and not exclusive of any other rights, powers or remedies now or hereafter existing at law or in equity.

ARTICLE 6

MISCELLANEOUS

SECTION 6.1 Notices.

(a) **Methods.** Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by this Agreement to be made upon, given or furnished to, or filed with, the Mortgagor or the Lender must (except as otherwise expressly provided in this Agreement) be in writing and be delivered by one of the following methods: (1) by personal delivery at the hand delivery address specified below, (2) by first-class, registered or certified mail, postage prepaid, addressed as specified below, or (3) if facsimile transmission facilities for such party are identified below or pursuant to a separate written notice from such party, sent by facsimile transmission to the number specified below or in such notice.

(b) **Addresses.** The hand delivery address, mailing address and (if applicable) facsimile transmission number for receipt of notice or other documents by such parties are as follows:

(1) if to the Mortgagor:	Jesse Creek Mining, LLC 1615 Kent Dairy Road Alabaster, Alabama 35007 Attention: B. Scott Spears Phone: 1-205-358-8826 Facsimile: 1-205-358-8829 E-Mail: sspears@jessecreekmining.com
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(2) if to the Lender:

Resource Capital Fund VI L.P.
RCF V Annex Fund L.P.
1400 Sixteenth Street, Suite 200
Denver, Colorado 80202
Attention: Cassie Boggs
Facsimile: (720) 946-1450
E-Mail: cboggs@rcflp.com

Any of such parties may change the address or number for receiving any such notice or other document by giving notice of the change to the other parties named in this Section 6.1.

(c) Any such notice or other document shall be deemed delivered when actually received by the party to whom directed (or, if such party is not an individual, to an officer, director, partner or other legal representative of the party) at the address or number specified pursuant to Section 6.1(b), or, if sent by mail, three Business Days after such notice or document is deposited in the United States mail, addressed as provided above.

(d) Five (5) Business Days' written notice to the Mortgagor as provided above shall constitute reasonable notification to the Mortgagor when notification is required by law; provided, however, that nothing contained in the foregoing shall be construed as requiring five Business Days' notice if, under applicable law and the circumstances then existing, a shorter period of time would constitute reasonable notice.

SECTION 6.2 Expenses. The Mortgagor shall promptly on demand pay all costs and expenses, including the fees and disbursements of counsel to the Lender, incurred by the Lender in connection with (a) the negotiation, preparation and review of this Agreement (whether or not the transactions contemplated by this Agreement shall be consummated), (b) the enforcement of this Agreement, (c) the custody and preservation of the Property, (d) the protection or perfection of the Lender's rights and interests under this Agreement in the Property, (e) the exercise by or on behalf of the Lender of any of its rights, powers or remedies under this Agreement, and (f) the prosecution or defense of any action or proceeding by or against the Lender, the Borrower, any other Obligor, or any one or more of them, concerning any matter related to this Agreement, any of the Property, or any of the Obligations. All such amounts shall bear interest from the date demand is made at the Default Rate and shall be included in the Obligations secured hereby. The Mortgagor's obligations under this Section 6.2 shall survive the payment in full of the Obligations and the termination of this Agreement.

SECTION 6.3 Heirs, Successors and Assigns. Whenever in this Agreement any party hereto is referred to, such reference shall be deemed to include the heirs, successors and assigns of such party, except that the Mortgagor may not assign or transfer this Agreement without the prior written consent of the Lender; and all covenants and agreements of the Mortgagor contained in this Agreement shall bind the Mortgagor heirs, successors and assigns and shall inure to the benefit of the successors and assigns of the Lender.

SECTION 6.4 Joint and Several Liability. If the Borrower is comprised of more than one person, all of the Borrower's representations, warranties, covenants and agreements under this Agreement shall be joint and several and shall be binding on and enforceable against either, any or all of such persons comprising the Borrower. If any one or more of the persons

comprising the Borrower is in default, the Lender may exercise its remedies on default against any or all of the persons comprising the Borrower.

SECTION 6.5 Independent Obligations. The Mortgagor agrees that each of the obligations of the Mortgagor to the Lender under this Agreement may be enforced against the Mortgagor without the necessity of joining any other Obligor, any other holders of Liens in any Property or any other person, as a party.

SECTION 6.6 Governing Law. This Agreement shall be construed in accordance with and governed by the internal laws of the State of Alabama (without regard to conflict of law principles) except as required by mandatory provisions of law and except to the extent that the validity and perfection of the Liens on the Property are governed by the laws of any jurisdiction other than the State of Alabama.

SECTION 6.7 Date of Agreement. The date of this Agreement is intended as a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was executed and delivered on that date.

SECTION 6.8 Separability Clause. If any provision of the Loan Documents shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 6.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same agreement.

SECTION 6.10 No Oral Agreements. This Agreement is the final expression of the agreement between the parties hereto, and this Agreement may not be contradicted by evidence of any prior oral agreement between such parties. All previous oral agreements between the parties hereto have been incorporated into this Agreement and the other Loan Documents, and there is no unwritten oral agreement between the parties hereto in existence.

SECTION 6.11 Waiver and Election. The exercise by the Lender of any option given under this Agreement shall not constitute a waiver of the right to exercise any other option. The filing of a suit to foreclose the Liens granted by this Agreement, either on any matured portion of the Obligations or for the whole of the Obligations, shall not be considered an election so as to preclude foreclosure under power of sale; nor shall the publication of notices for foreclosure under power of sale preclude the prosecution of a later or simultaneous suit to collect the Obligations or foreclose by judicial foreclosure the Liens granted by this Agreement. No failure or delay on the part of the Lender in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further exercise thereof or the exercise of any other right, power or remedy. No modification, termination or waiver of any provisions of the Loan Documents, nor consent to any departure by the Borrower therefrom, shall be effective unless in writing and signed by an authorized officer of the Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or

demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

SECTION 6.12 No Obligations of Lender; Indemnification. The Lender does not by virtue of this Agreement or any of the transactions contemplated by the Loan Documents assume any duties, liabilities or obligations with respect to any of the Property unless expressly assumed by the Lender under a separate agreement in writing, and this Agreement shall not be deemed to confer on the Lender any duties or obligations that would make the Lender directly or derivatively liable for any person's negligent, reckless or willful conduct. The Mortgagor agrees to indemnify and hold the Lender harmless against and with respect to any damage, claim, action, loss, cost, expense, liability, penalty or interest (including attorney's fees) and all costs and expenses of all actions, suits, proceedings, demands, assessments, claims and judgments (collectively, "claims and losses") directly or indirectly resulting from, occurring in connection with, or arising out of: (a) any inaccurate representation made by the Mortgagor or any Obligor in this Agreement or any other Loan Document; (b) any breach of any of the warranties or obligations of the Mortgagor or any Obligor under this Agreement or any other Loan Document; and (c) the Property, or the Liens of the Lender thereon. Without limiting the generality of the foregoing, the Mortgagor agrees that the Mortgagor obligation to defend, indemnify and save harmless the Lender set forth in this Section 6.12 shall specifically include all claims and losses asserted against or suffered by the Lender that are related to or arise out of (1) any representations or warranties herein that prove to be false or untrue in any material respect, (2) any default in the performance or nonperformance of the Mortgagor's covenants in Section 4.11, and (3) any clean up or removal of, or other remedial action with respect to, any Hazardous Substances now or hereafter located on or included in the Property, that may be required by any Environmental Law or Governmental Authority. The provisions of this Section 6.12 shall survive the payment of the Obligations in full and the termination, satisfaction, release (in whole or in part) and foreclosure of this Agreement. The Mortgagor's obligations under this Section 6.12 shall be in addition to any obligations of the Mortgagor under any Environmental Indemnity Agreement or similar document executed in favor of the Lender.

SECTION 6.13 Advances by the Lender. If the Mortgagor shall fail to comply with any of the provisions of this Agreement, the Lender may (but shall not be required to) make advances to perform the same, and where necessary enter the Property for the purpose of performing the Mortgagor's obligations under any such provision. The Mortgagor agrees to repay all such sums advanced upon demand, with interest from the date such advances are made at the Default Rate, and all sums so advanced with interest shall be a part of the Obligations. The making of any such advances shall not be construed as a waiver by the Lender of any Event of Default resulting from the Borrower's failure to pay such amounts.

SECTION 6.14 Rights, Liens and Obligations Absolute. All rights of the Mortgagor hereunder, all Liens granted to the Lender hereunder, and all obligations of the Mortgagor hereunder, shall be absolute and unconditional and shall not be affected by (a) any lack of validity or enforceability as to any other person of any of the Loan Documents, (b) any change in the time, manner or place of payment of, or any other term of the Obligations, (c) any amendment or waiver of any of the provisions of the Loan Documents as to any other person, and (d) any exchange, release or non-perfection of any other collateral or any release, termination or waiver of any guaranty, for any of the Obligations.

SECTION 6.15 Construction of Mortgage. This Agreement is and may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, fixture filing, hypothecation or contract, or any one or more of them, in order fully to effectuate the Liens created hereby and the purposes and agreements herein set forth.

SECTION 6.16 Fixture Filing. This Agreement shall be effective as a financing statement filed as a fixture filing for purposes of Article 9 of the Uniform Commercial Code. The fixture filing covers all goods that are or are to become affixed to the Real Property. The goods are described by item or type in Section 2.1. The Mortgagor is the debtor, and the Lender is the secured party. The names of the debtor (Mortgagor) and the secured party (Lender) are given in the first paragraph of this Agreement. This Agreement is signed by the debtor (Mortgagor) as a fixture filing. The mailing address of the Lender set out in Section 6.1(b)(2) is an address of the secured party from which information concerning the security interest may be obtained. The mailing address of the Mortgagor set out in Section 6.1(b)(1) is a mailing address for the debtor. A statement indicating the types, or describing the items, of collateral is set forth in this Section 6.16 and in Section 2.1. The real estate to which the goods are or are to be affixed is described in Exhibit A. The Mortgagor is a record owner of the real estate.

SECTION 6.17 Landlord-Tenant Relationship. Any sale of the Property under this Agreement shall, without further notice, create the relationship of landlord and tenant at sufferance between the purchaser and the Mortgagor.

SECTION 6.18 Other Mortgages Encumbering the Real Property.

(a) **Authorization to Disclose.** The Mortgagor hereby authorizes the holder of any other mortgage encumbering any of the Real Property to disclose to the Lender at any time the following information: (1) the amount of debt secured by such mortgage; (2) the amount of such debt that is unpaid; (3) whether such debt is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the debt secured thereby; and (5) any other information regarding such mortgage or the debt secured thereby that the Lender may request from time to time.

(b) **No Amendments; Default, etc.** The Mortgagor agrees to comply with the terms of any other mortgage encumbering any of the Real Property and agrees not to consent to or permit any amendment or modification thereof without the prior written consent of the Lender. The Mortgagor further agrees not to permit any default to occur under any other mortgage encumbering any of the Real Property, but that if any default should be made in the payment of principal, interest or any other sum secured by any such mortgage, the Lender may (but shall not be required to) pay all or any part of such amount in default, without notice to the Mortgagor. Any such action by the Lender shall not cure any Event of Default created under this Agreement by virtue of the default in the other mortgage.

SECTION 6.19 Termination. This Agreement and the Lender's Liens under this Agreement in the Property will not be terminated until a written mortgage satisfaction instrument executed by one of the Lender's officers is filed for record in the county in which the Land is located. Except as otherwise expressly provided in this Agreement, no satisfaction of this

Agreement shall in any way affect or impair the representations, warranties, agreements or other obligations of the Mortgagor or the powers, rights and remedies of the Lender under this Agreement with respect to any transaction or event occurring prior to such satisfaction, all of which shall survive such satisfaction.

SECTION 6.20 Reinstatement. This Agreement, the obligations of the Mortgagor hereunder, and the Liens, rights, powers and remedies of the Lender hereunder, shall continue to be effective, or be automatically reinstated, as the case may be, if at any time any amount applied to the payment of any of the Obligations is rescinded or must otherwise be restored or returned to the Mortgagor, any Obligor, or any other person (or paid to the creditors of any of them, or to any custodian, receiver, trustee or other officer with similar powers with respect to any of them, or with respect to any part of their property) upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Mortgagor, any Obligor or any such person, or upon or as a result of the appointment of a custodian, receiver, trustee or other officer with respect to any of them, or with respect to any part of their property, or otherwise, all as though such payment had not been made.



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SECTION 6.21 Submission to Jurisdiction. The Mortgagor irrevocably (a) acknowledges that this Agreement will be accepted by the Lender and performed by the Mortgagor in the State of Alabama; (b) submits to the jurisdiction of each state or federal court sitting in Jefferson County, Alabama (collectively, the "Courts") over any suit, action or proceeding arising out of or relating to this Agreement or any of the other Loan Documents (individually, an "Agreement Action"); (c) waives, to the fullest extent permitted by law, any objection or defense that the Mortgagor may now or hereafter have based on improper venue, lack of personal jurisdiction, inconvenience of forum or any similar matter in any Agreement Action brought in any of the Courts; (d) agrees that final judgment in any Agreement Action brought in any of the Courts shall be conclusive and binding upon the Mortgagor and may be enforced in any other court to the jurisdiction of which the Mortgagor is subject, by a suit upon such judgment; (e) consents to the service of process on the Mortgagor in any Agreement Action by the mailing of a copy thereof by registered or certified mail, postage prepaid, to the Mortgagor at the Mortgagor's address designated in or pursuant to Section 6.1; (f) agrees that service in accordance with Section 6.21(e) shall in every respect be effective and binding on the Mortgagor to the same extent as though served on the Mortgagor in person by a person duly authorized to serve such process; and AGREES THAT THE PROVISIONS OF THIS SECTION, EVEN IF FOUND NOT TO BE STRICTLY ENFORCEABLE BY ANY COURT, SHALL CONSTITUTE "FAIR WARNING" TO THE MORTGAGOR THAT THE EXECUTION OF THIS AGREEMENT MAY SUBJECT THE MORTGAGOR TO THE JURISDICTION OF EACH STATE OR FEDERAL COURT SITTING IN JEFFERSON COUNTY, ALABAMA WITH RESPECT TO ANY AGREEMENT ACTIONS, AND THAT IT IS FORESEEABLE BY THE MORTGAGOR THAT THE M MAY BE SUBJECTED TO THE JURISDICTION OF SUCH COURTS AND MAY BE SUED IN THE STATE OF ALABAMA IN ANY AGREEMENT ACTIONS. Nothing in this Section 6.21 shall limit or restrict the Lender's right to serve process or bring Agreement Actions in manners and in courts otherwise than as herein provided.

SECTION 6.22 Arbitration. This Agreement incorporates by reference requirements for arbitration of disputes set forth in the Note Purchase Agreement.

[Signatures on following pages.]

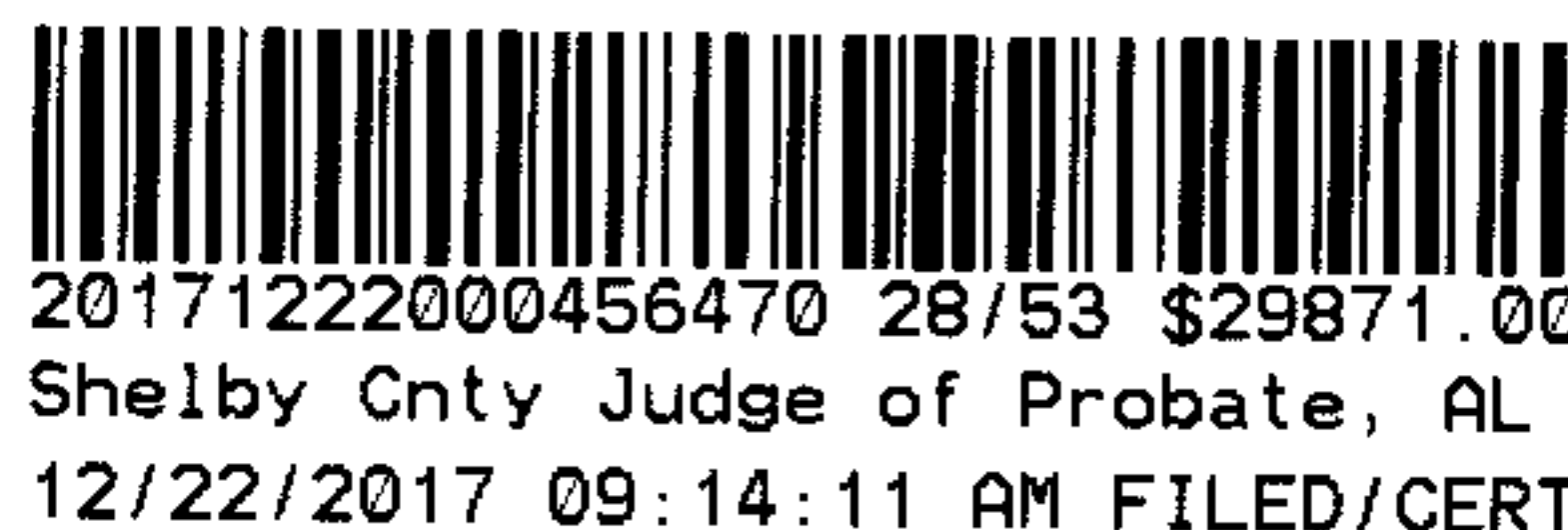

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IN WITNESS WHEREOF, the undersigned Mortgagor has caused this Agreement to be executed by its duly authorized officer on the date of the acknowledgment of the Mortgagor's signature below.

JESSE CREEK MINING, LLC

By: Piney Woods Resources, Inc.
Its: Sole Member

By: B. Scott Spears
Name: B. Scott Spears
Title: Chief Executive Officer



STATE OF Alabama)
COUNTY OF Shelby)

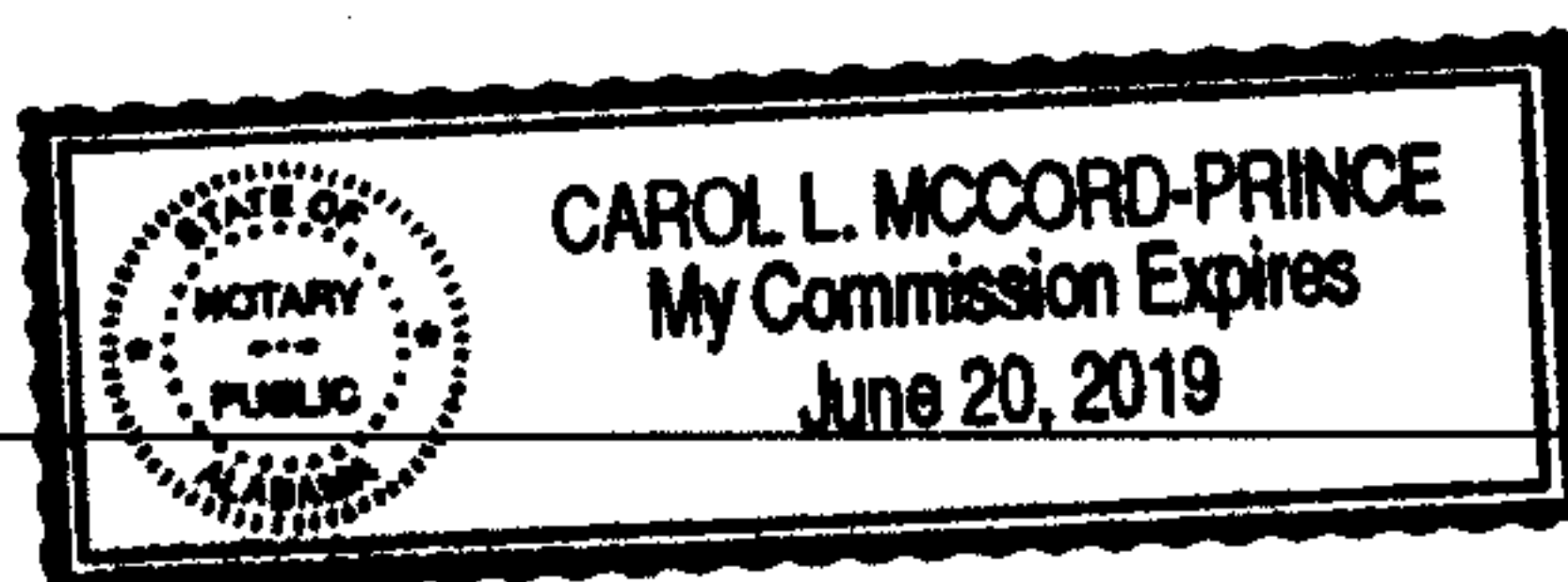
I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that B. Scott Spears, whose name as Chief Executive Officer of Piney Woods Resources, Inc., a Delaware corporation, as the sole member of Jesse Creek Mining, LLC, a Delaware limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer of such corporation as the sole member of such limited liability company and with full authority, executed the same voluntarily for and as the act of said corporation as the sole member of such limited liability company.

Given under my hand and official seal this the 21st day of December 2017.

Carol McCord-Prince
Notary Public

[AFFIX SEAL]

My commission expires: _____



STATE OF ALABAMA)

COUNTIES OF SHELBY AND BIBB)

AFFIDAVIT

Before me, the undersigned Notary Public in and for said county and said state, personally appeared B. Scott Spears as Chief Executive Officer of Piney Woods Resources, Inc., a Delaware corporation, as the sole member of JESSE CREEK MINING, LLC, a Delaware limited liability company (the "Company"), who is known to me, and who being first duly sworn by me, deposes and says as follows:

1. The Company currently owns or leases all the real property located in Shelby County, Alabama and Bibb County, Alabama described in Exhibit A attached hereto (the "Property") and said Property is being mortgaged pursuant to that certain Mortgage dated December 21, 2017, from JESSE CREEK MINING, LLC, a Delaware limited liability company, as mortgagor, and RESOURCE CAPITAL FUND VI L.P., a Cayman Islands exempt limited partnership, and RCF V ANNEX FUND L.P., a Cayman Islands exempt limited partnership, as mortgagee, securing the maximum principal amount of \$30,575,834.00.

2. The Mortgage covers fee and leasehold property owned by the Company located in Shelby and Bibb Counties, Alabama, and is being recorded in the Probate Offices of Shelby and Bibb Counties, all being in the State of Alabama, as attached hereto.

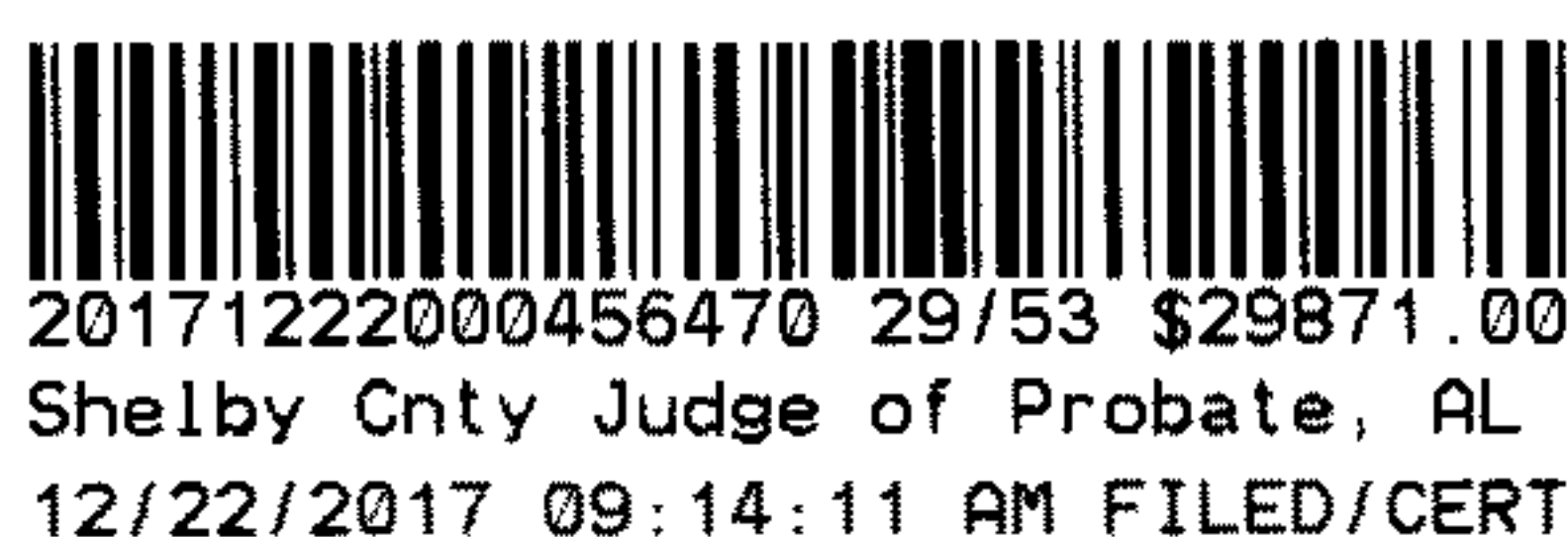
3. The Property being mortgaged herein has the values and percentages allocated to each County as follows:

<u>COUNTY</u>	<u>VALUE</u>	<u>PERCENTAGE</u>
Shelby County	\$69,921,266.60	99.00%
Bibb County	<u>\$ 706,275.42</u>	<u>1.00%</u>
Total	\$70,627,542.00	100.00%

3. All of the mortgage tax is being paid in Shelby County, Alabama to be further divided between the counties pursuant to the allocation stated above.

4. B. Scott Spears as Chief Executive Officer of Piney Woods Resources, Inc., a Delaware corporation, as the sole member of the Company is executing this Affidavit in such capacity for the purpose of assisting the Judges of Probate of Shelby County in establishing the amount of mortgage tax to be allocated to Shelby County and Bibb County upon the recording of the Mortgage.

[Signature on following page]



Affiant:

JESSE CREEK MINING, LLC

By: Piney Woods Resources, Inc.
Its: Sole Member

By: B. Scott Spears
Name: B. Scott Spears
Title: Chief Executive Officer

STATE OF ALABAMA)

COUNTY OF Shelby)

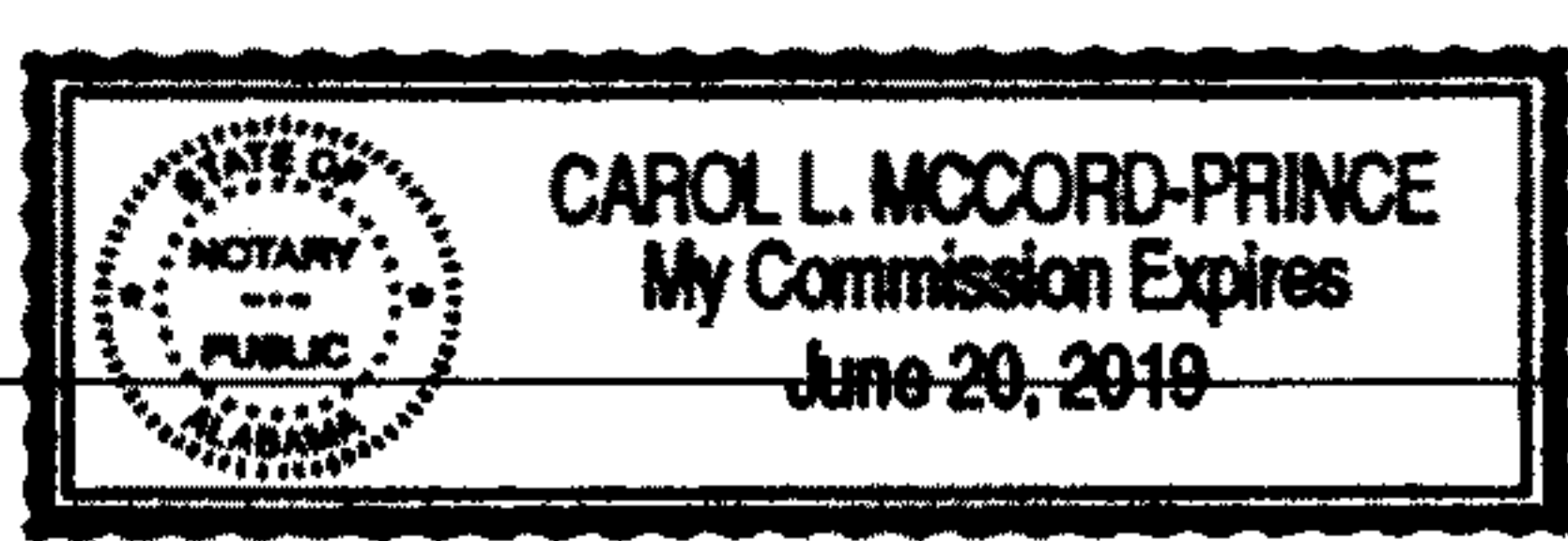
I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that B. Scott Spears, whose name as Chief Executive Officer of Piney Woods Resources, Inc., a Delaware corporation, as the sole member of Jesse Creek Mining, LLC, a Delaware limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer of such corporation as the sole member of such limited liability company and with full authority, executed the same voluntarily for and as the act of said corporation as the sole member of such limited liability company.

Given under my hand and official seal this the 21st day of December 2017.

Carol McCord-Prince
Notary Public

[AFFIX SEAL]

My commission expires: _____



This Instrument Prepared By:
M. Beth O'Neill
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North, Suite 2400
Birmingham, Alabama 35203
Telephone: (205) 254-1000


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EXHIBIT A

(Land Description)

Parcel 1

A tract of land, situated in the Northeast quarter and also in the East half of the Northwest quarter of Section 22, Township 21 South, Range 4 West, Shelby County, Alabama more particularly described as follows:

Commence at the Northeast corner of Section 22, Township 21 South, Range 4 West; thence run Westerly along a straight line which is the North line of said Section 22, 1457.97 feet; thence turn left 90 degrees 00 minutes 19 seconds and run Southerly along a straight line 730.86 feet to the point of beginning; thence turn left 55 degrees 21 minutes 55 seconds and run Southeasterly along a straight line 199.96 feet; thence turn right 9 degrees 05 minutes 07 seconds and run Southeasterly along a straight line 190.73 feet to the centerline of a road; thence turn right 81 degrees 40 minutes 50 seconds and run Southwesterly along a straight line and along the centerline of said road 336.14 feet to the beginning of the arc of a curve tangent to straight line, said arc turning to the left, having a radius of 269.77 feet and being subtended by central angle of 43 degrees 09 minutes 15 seconds; thence in a Southwesterly direction along said arc which is the centerline of said road 203.19 feet; thence in a Southerly direction along said centerline and along a straight line tangent to said arc 94.79 feet to the beginning of the arc of a curve tangent to said straight line, said arc turning to the right, having a radius of 552.51 feet and being subtended by a central angle of 58 degrees 56 minutes 00 seconds; thence in a Southwesterly direction along said arc which is the centerline of said road 56830 feet; thence in a Southwesterly direction along said road and along a straight line tangent to said arc 160.32 feet; thence turn right 78 degrees 15 minutes 52 seconds and run Northwesterly along a straight line 296.04 feet; thence turn left 62 degrees 53 minutes 50 seconds and run Southwesterly along a straight line 440.45 feet; thence turn right 22 degrees 46 minutes 07 seconds and run Westerly along a straight line 261.82 feet; thence turn right 46 degrees 40 minutes 01 seconds and run Northwesterly along a straight line 184.45 feet; thence turn right 28 degrees 41 minutes 00 seconds and run Northwesterly along a straight line 355.92 feet; thence turn right 0 degrees 49 minutes 02 seconds and run Northwesterly along a straight line 333.68 feet; thence turn right 40 degrees 15 minutes 31 seconds and run Northeasterly along a straight line 279.31 feet; thence turn right 14 degrees 59 minutes 29 seconds and run Northeasterly along a straight line 134.55 feet; thence turn right 25 degrees 52 minutes 33 seconds and run Northeasterly along a straight line 119.99 feet; thence turn right 12 degrees 47 minutes 52 seconds and run Northeasterly along a straight line 225.96 feet; thence turn left 5 degrees 57 minutes 24 seconds and run Northeasterly along a straight line 266.84 feet; thence turn right 60 degrees 56 minutes 19 seconds and run Southeasterly along a straight line 201.82 feet; thence turn left 20 degrees 50 minutes 53 seconds and run Southeasterly along a straight line 212.82 feet; thence turn left 67 degrees 55 minutes 36 seconds and run Northeasterly along a straight line 442.38 feet to the point of beginning.



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Parcel 2

A tract of land, mineral and mining rights excepted, situated in the Southwest quarter of the Southeast quarter and in the Northwest quarter of the Southeast quarter of Section 21, Township 21 South, Range 4 West located in Shelby County, Alabama, more particularly described as follows:

Commence at the Southeast corner of Section 21, Township 21 South, Range 4 West; thence run Westerly along the South line of said Section 21, 1875.40 feet; thence turn right an angle of 90 degrees and run Northerly and at right angles to said South line 978.69 feet to the point of beginning; thence turn left an angle of 86 degrees 42 minutes 02 seconds and run Westerly 333.28 feet; thence turn right an angle of 76 degrees 00 minutes 24 seconds and run Northwesterly 444.58 feet; thence turn right an angle of 76 degrees 53 minutes 05 seconds and run Northeasterly 230.20 feet; thence turn left an angle of 26 degrees 45 minutes 26 seconds and run Northeasterly 400.06 feet; thence right an angle of 31 degrees 49 minutes and run Northeasterly 266.25 feet; thence turn right an angle of 52 degrees 51 minutes 13 seconds and run Southeasterly 128.05 feet; thence turn right an angle of 64 degrees 49 minutes 30 seconds and run Southwesterly 675.16 feet; thence turn left an angle of 21 degrees 27 minutes 52 seconds and run Southeasterly 360.58 feet; thence turn right an angle 123 degrees 39 minutes 23 seconds and run Northwesterly 408.55 feet to the point of beginning.

Parcel 3:

Part of the SE 1/4 of the SE 1/4 of Section 14, Township 21 South, Range 4 West, Shelby County, Alabama, described as follows: Begin at a 3" capped pipe at the SE corner of said 1/4, - 1/4 section and run S 89°17'44" W, along the South 1/4- 1/4 line, 1330.73 feet to a 2" capped pipe purported to be the SW corner of said 1/4 - 1/4 section; thence N 0°36'55" W, along the West 1/4 - 1/4 line, 175.63 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS; thence continue N 0°36'55" W, 22.40 feet to the center of Shelby County Road 260; thence run along the center line of said road, more or less, these bearings, distances and curved lines; thence N 82.18'04" E, 46.72 feet; thence run 161.31 feet, along the arc of a curve to the right, which has a radius of 800.00 feet, a chord bearing of N 88°04'38" E, and a chord distance of 161.03 feet; thence S 86'08'49" E, 82.43 feet; thence run 322.32 feet, along the arc of a curve to the left, which has a radius of 600.00 feet, a chord bearing of N 78.27'52" E, and a chord distance of 318.46 feet; thence N 63°04'32" E, 211.05 feet; thence run 179.90 feet, along the arc of a curve to the right, which has a radius of 600.00 feet, a chord bearing of N 71°39'53" E, and a chord distance of 179.23 feet; thence N 80°15'13" E, 158.34 feet; thence run 221.75 feet, along the arc of a curve to the left, which has a radius of 800.00 feet, a chord bearing of N 72°18'47" E, and a chord distance of 221.04 feet to the East line of said 1/4 - 1/4 section; thence leaving said road center line and run S 0°43'33" E, along the East 1/4 - 1/4 line, 28.67 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS; thence continue S 0°43'33" E, along the East 1/4 - 1/4 line, 468.75 feet to the Point of Beginning. Said described property contains 9.51

acres to the center of Shelby County Road 260, less and except that part which lies within the county prescriptive right-of-way of said road.

Parcel 4:

Part of the NW 1/4 of the SW 1/4 of Section 13, Township 21 South, Range 4 West, Shelby County, Alabama, described as follows: Commence at a 3" capped pipe at the SE corner of the SE 1/4 of the SW 1/4 and run N 46°31'52" W, along the diagonal line from the SE corner to the NW corner of the SE 1/4 of the SW 1/4, 1842.10 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS, which is also the SE corner of the NW 1/4 of the SW 1/4 and the Point of Beginning of the herein described property; thence run N 46°32'42" W, along the diagonal line from the SE corner to the NW corner of the NW 1/4 of the SW 1/4, 689.23 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS; thence N 87°41'36" E, 495.04 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS on the East line of the NW 1/4 of the SW 1/4; thence S 0°39'35" E, along the East 1/4 - 1/4 line, 494.00 feet to the Point of Beginning. Said described property contains 2.81 acres.

Parcel 5:

Part of the SE 1/4 of the NW 1/4 of Section 13, Township 21 South, Range 4 West, Shelby County, Alabama, described as follows: Commence at a 3" capped pipe at the SE corner of the SW 1/4 and run N 0°35'36" W, along the East 1/4 section line, 2640.54 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS, at the SE corner of the SE 1/4 of the NW 1/4 being the Point of Beginning of the herein described property; thence run S 87°45'46" W, along the South 1/4-1/4 line, 487.00 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS; thence N 43°35'05" E, 698.53 feet to a number 5 capped rebar stamped MCGEHEE ENG CA0440LS on the East line of the SE 1/4 of the NW 1/4; thence S 0°35'36" E, along the East 1/4- 1/4 line, 487.00 feet to the Point of Beginning. Said described property contains 2.72 acres.

Parcel 6:

The West 1/2 of Section 14 Township 21 South Range 04 West lying south of Norfolk Southern Railroad, situated in Shelby County, Alabama.

Parcel 7:

Part of the SW 1/4 of the SW 1/4 of Section 32, Township 21 South, Range 4 West, Bibb County, Alabama, described as follows: Commence at a 3" capped pipe at the NE corner of said 1/4-1/4 section and run N 89°56'09" W, along the North 1/4-1/4 line, 277.36 feet to the Point of Beginning of the herein described property; thence S 0°13'51"W, 190.00 feet; thence N 89°56'09" W, parallel with the North 1/4-1/4 line, 438.63 feet; thence N 0°03'51" E, 190.00 feet to the North line of said 1/4-1/4 section; thence S 89°56'09" E, 438.63 feet to the Point of Beginning. Said described property contains 1.91 acres.

Parcel 8:

A parcel of land being situated in the SE 1/4 and the SW 1/4 of Section 16, Township 21 South, Range 4 West, Shelby County, Alabama., being more particularly described as follows:

COMMENCE at a 3" capped pipe at the NE corner of the NE 1/4 of the SE 1/4 of Section 16, Township 21 South, Range 4 West, and run in a Southwesterly direction along the diagonal of said 1/4-1/4 section for a distance of 169.88 feet to the POINT OF BEGINNING, said point being an iron pin set at the intersection of said 1/4-1/4 section and the Northern Bank of Piney Woods Creek thence continue in a Southwesterly direction along the diagonal of said 1/4-1/4 section for a distance of 1685.25 feet to a point, said point being a McGehee Engineering iron pin at the SW corner of the NE 1/4 of the SE 1/4 of said Section 16; thence turn an angle left of 45°58'40" and run in a Southerly direction along the East line of the SW 1/4 of the SE 1/4 of said Section 16 for a distance of 1321.56 feet to a point, said point being the SE corner of the SW 1/4 of the SE 1/4 of said Section 16; thence turn an angle right of 90°55'49" and run in a Westerly direction along the South line of said Section 16 for a distance of 1911.10 feet to a point, said point being an iron pin set at the intersection of the Southeasterly right-of-way line of the Norfolk Southern Railroad and the South line of the SE 1/4 of the SW 1/4 of said Section 16; thence leaving the previously described 1/4-1/4 section line, turn an angle to the right of 123°08'21" and run in a Northeasterly direction along said right-of-way line of Norfolk Southern Railroad for a distance of 1634.86 feet to a point, said point being an iron pin set at the point of beginning of a curve to the right having a radius of 1382.69 feet and a central angle of 11°07'47" thence run in a Northeasterly direction along the arc of said curve and along said right-of-way for a distance of 268.59 feet; thence continue tangent from said curve and run in a Northeasterly direction along said right-of-way line for a distance of 429.32 feet to a point, said point being an iron pin set at the point of beginning of a curve to the left having a radius of 1578.16 feet and a central angle of 6°44'58" thence run in a Northeasterly direction along the arc of said curve and along said right-of-way for a distance of 185.89 feet to a point, said point being an iron pin set; thence continue tangent from said curve and run in a Northeasterly direction along said right-of-way line for a distance of 303.71 feet to a point, said point being an iron pin set at the beginning of a curve to the right having a radius of 587.27 feet and a central angle of 41°24'33" thence run in a Northeasterly direction along the arc of said curve and said right-of-way for a distance of 423.92 feet to a point, said point being an iron pin set; thence continue tangent from said curve and run in a Northeasterly direction along said right-of-way One for a distance of 133.44 feet to a point, said point being an iron pin set at the intersection of the previously described right-of-way line and the Northern Bank of Piney Woods Creek; thence leaving said right-of-way line, run in a Southwesterly direction, thence a Southeasterly direction, thence an Easterly direction, thence a Northeasterly direction, thence a Southeasterly direction, thence a Northeasterly direction, thence an Easterly direction along said Northern Bank of Piney Woods Creek for a distance of 1142 feet more or less, to the POINT OF BEGINNING.

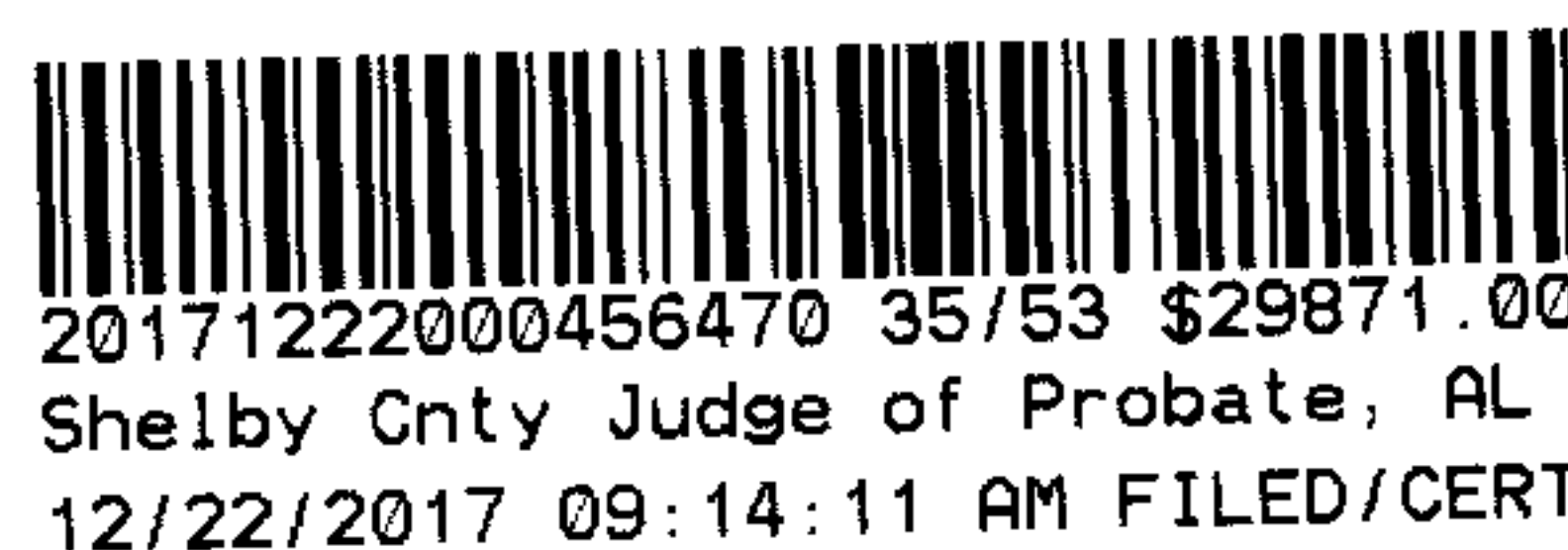
Parcel 9:

20171222000456470 34/53 \$29871.00
Shelby Cnty Judge of Probate, AL
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A parcel of land being situated in the SE 1/4 and the SW 1/4 of Section 16, Township 21 South, Range 4 West, Shelby County, Alabama, being more particularly described as follows:

COMMENCE at a 3" capped pipe at the NE corner of the NE 1/4 of the SE 1/4 of Section 16, Township 21 South, Range 4 West, and run in a Westerly direction along the North line of said 1/4-1/4 section for a distance of 970.58 feet to the POINT OF BEGINNING, said point being an iron pin set at the intersection of the North line of said 1/4-1/4 section and the Northern Bank of Piney Woods Creek thence continue in a Westerly direction along said 1/4-1/4 section line for a distance of 367.34 feet to a point, said point being a 3" capped pipe at the NE corner of the NW 1/4 of the SE 1/4 of said Section 16; thence turn an angle to the left of $1^{\circ}08'14''$ and continue in a Westerly direction along the North line of the NW 1/4 of the SE 1/4 for a distance of 1313.81 feet to a point, said point being an iron pin set at the NW corner of the NW 1/4 of the SE 1/4 of said Section 16; thence turn an angle left of $90^{\circ}47'32''$ and run in a Southerly direction along the West line of the previously described 1/4-1/4 section for a distance of 1316.76 feet to a point, said point being an iron pin set at the NE corner of the SE 1/4 of the SW 1/4 of said Section 16; thence turn an angle right of $45^{\circ}33'50''$ and run in a Southwesterly direction along the diagonal of the previously described 1/4-1/4 section for a distance of 1855.48 feet to a point, said point being a 3" capped pipe at the SW corner of said 1/4-1/4 section; thence leaving said diagonal of said 1/4-1/4 section turn an angle left of $134^{\circ}47'53''$ and run in an Easterly direction along the South line of said 1/4-1/4 section for a distance of 619.46 feet to a point, said point being an iron pin set at the intersection of said South line of said 1/4-1/4 section and the Northwesternly right-of-way line of the Norfolk Southern Railroad; thence leaving said South line of said 1/4-1/4 section, turn an angle to the left of $56^{\circ}51'39''$ and run in a Northeasterly direction along said right-of-way line for a distance of 1700.14 feet to a point, said point being an iron pin set at the beginning of a curve to the right having a radius of 1482.69 feet and a central angle of $11^{\circ}07'47''$ thence run in a Northeasterly direction along the arc of said curve and along said right-of-way line for a distance of 288.02 feet to a point, said point being an iron pin set; thence continue tangent from said curve and run in a Northeasterly direction along said right-of-way line for a distance of 429.32 feet to a point, said point being an iron pin set at the beginning of a curve to the left having a radius of 1478.16 feet and a central angle of $6^{\circ}44'56''$ thence run in a Northeasterly direction along the arc of said curve and along said right-of-way for a distance of 174.11 feet to a point, said point being an iron pin set; thence continue tangent from said curve and run in a Northeasterly direction along said right-of-way line for a distance of 303.71 feet to a point, said point being an iron pin set at the beginning of a curve to the right having a radius of 687.27 feet and a central angle of $41^{\circ}21'33''$ thence continue along the arc of said curve and along said right-of-way for a distance of 496.11 feet to a point, said point being an iron pin set; thence continue tangent from said curve and run in a Northeasterly direction for a distance of 222.66 feet to a point, said point being an iron pin set at the intersection of said right-of-way line and the Northern Bank of Piney Woods Creek; thence leaving said right-of-way line, run in a Northeasterly direction along said Northern Bank of Piney Woods Creek for a distance of 20 feet, more or less, to the POINT OF BEGINNING.

Parcel 10:



A parcel of property located in the E 1/2 of the SE 1/4 of Section 20, and the W 1/2 of the SW 1/4 of Section 21, all in Township 21 South, Range 4 West, Shelby County, Alabama, described as follows: Commence at the SE corner of said Section 20 and run N 63°30' 49" W, along the North line of the South diagonal of the S 1/2 of the SE 1/4 of the SE 1/4 of said Section 20, 393.30 feet to the Westerly right of way line for the Norfolk Southern railroad track, said point being the Point of Beginning of the herein described property; thence continue N 63°30'49" W, along the North line of said South diagonal and also the Kodiak Mining Company LLC boundary line, 301.94 feet; thence leaving said Kodiak boundary and run N 18°46'46" E, 1424.74 feet; thence S 71°12'06" E, 300.00 feet to a number 5 capped rebar stamped USX PLS 14979 at the Westerly right of way line for the Norfolk Southern railroad track; thence S 18°47'26" W, along the Westerly right of way for said Norfolk Southern railroad track, 708.25 feet to a number 5 capped rebar stamped USX PLS 14979; thence S 18°49'42" W, along said railroad right of way, 756.88 to the Point of Beginning.

Parcel 11:

A parcel of property located in the SE 1/4 of the SE 1/4 of Section 20, the SW 1/4 of the SW 1/4 of Section 21, the NW 1/4 of the NW 1/4 of Section 28, and the East 1/2 of the NE 1/4 of Section 29, all in Township 21 South, Range 4 West, Shelby County, Alabama, described as follows: Commence at the NW corner of said Section 28 and run S 89°58' 00" E, along the North section line, 539.29 feet to the Point of Beginning of the herein described property; thence S 18°47'54" W, 705.80 feet; thence S 84°07'01" W, 388.13 feet; thence S 24°18'26" W, 1186.13 feet; thence S 61°01'54" W, 858.52 feet to the West line of the East 1/2 of the NE 1/4 of said Section 29; thence N 0°25'23" W, along the West line of said East 1/2, 186.85 feet; thence run 349.34 feet, along the arc of a curve to the left, that ties into the Norfolk Southern railroad Easterly right of way line at the end of their railroad track, said curve has a radius of 897.50 feet, a chord bearing of N 24°23'50" E, and a chord distance of 347.14 feet; thence continue along said railroad right of way N 13°14'47" E, 44.03 feet to the property line for Kodiak Mining Company, LLC; thence run along said Kodiak Mining Company boundary these bearings and distances, S 78°59'15" E, 157.89 feet; thence N 45°20'56" E, 303.15 feet to a number 5 capped rebar stamped USX PLS 14979; thence N 24°36'19" E, 801.80 feet to a number 5 capped rebar stamped USX PLS 14979; thence N 8°16'06" E, 322.74 feet to a number 5 capped rebar stamped USX PLS 14979; thence N 53°37'12" W, 117.05 feet to the Easterly right of way for said Norfolk Southern railroad track; thence leaving said Kodiak boundary and run 246.11 feet, along the arc of a curve to the left for said railroad right of way, which has a radius of 1447.50, a chord bearing of N 30°16'23" E, and a chord distance of 245.81 feet; thence continue along said railroad right of way these bearings and distances, N 25°24'08" E, 114.26 feet; thence N 22°52'09" E, 118.38 feet; thence N 19°52'19" E, 116.07 feet; thence N 18°49'42" E, 754.66 feet to the property line for Kodiak Mining Company LLC; thence run along said Kodiak Mining Company boundary these bearings and distances, S 88°45'47" E, 219.16 feet; thence N 53°46'03" E, 217.55 feet to a number 5 capped rebar stamped USX PLS 14979; thence S 80°15'58" E, 9635 feet to a number 5 capped rebar stamped USX PLS 14979; thence leaving said Kodiak boundary and run S 80°15'58" E, 375.92 feet; thence S 18°47'54" W, 986.46 feet to the Point of Beginning. Less and except that part of Shelby County Road 270 right of way, that runs through said described property.

Parcel 12:

A parcel of land situated In the NE 1/4 of the NW 1/4 of Section 21, Township 21, Range 4 West, Shelby County, Alabama being more particularly described as follows:

Commence at a 3" capped pipe that is locally accepted as the NW corner of the NE 1/4 of the NW 1/4 of Section 21, Township 21, Range 4 West and run in an easterly direction along the north line of said 1/4 - 1/4 section for a distance of 373.61'; thence leaving said 1/4 - 1/4 section line, turn a deflection angle of 90°00'00" to the right and run south for a distance of 623.75 feet to a 3" capped pipe that is the POINT OF BEGINNING (N 1,164,583.70, E 2, 132, 548.00); thence turn a deflection angle of 68°31'41" to the left and run in a southeasterly direction for a distance of 200.00 feet to a 3" capped pipe; thence turn a deflection angle of 90°00'00" to the right and run in a southwesterly direction for a distance of 400.00 feet to a 3" capped pipe (N 1,164,138.23, E 2, 132, 587.39); thence turn a deflection angle of 90°00'00" to the right and run in a northwesterly direction for a distance of 200.00 feet to an capped rebar stamped "ALA ENG CA-708-LS" thence turn a deflection angle of 90°00'00" to the right and run in a northeasterly direction for a distance of 400.00 feet to the POINT OF BEGINNING.

Parcel 13:

Part of the W 1/2 of the NW 1/4 and of the W 1/2 of the NW 1/4 of the SW 1/4 of Section 25 and part of the E 1/2 of the NE 1/4 of Section 26, all in Township 21 South, Range 4 West, Shelby County, Alabama, described as follows: Commence at the NE corner of said Section 26 being an old 2.5 inch pipe, that has the top capped piece rusted off, and run S 0°17'52" E, along the East line of Section 26, 906.56 feet to the Point of Beginning of the herein described property; thence run S 33°36'32" E, 253.88 feet; thence run S 28°43'04" E, 532.85 feet; thence run S 13°57'03" E, 1128.89 feet to the East line of the W 1/2 of the NW 1/4 of the SW 1/4 of said Section 25; thence run S 68°14'54" W, 333.95 feet; thence run N 22°04'22" W, 407.90 feet; thence run N 19°36'57" W, 1408.06 feet; thence run N 54°04'42" E, 330.24 feet to the Point of Beginning. Said described property contains 17.173 acres.

Parcel 14:

Part of the NE 1/4 of Section 26, Township 21 South, Range 4 West, Shelby County, Alabama, described as follows: Commence at the NE corner of said Section 26, being an old 2.5 inch pipe, that has the top capped piece rusted off, and run S 0°17'52" E, along the East section line, 1318.54 feet to a calculated position for the NE corner of the SE 1/4 of the NE 1/4; thence run S 89°36'28" W, along the North line of the SE 1/4 of the NE 1/4, 613.93 feet to the Point of Beginning of the herein described property; thence run S 29°12'10" W, 634.07 feet; thence run S 48°32'57" W, 721.13 feet; thence run N 58°13'48" W, 320.00 feet; thence run N 36°15'59" E, 307.41 feet; thence run N 39°52'25" E, 1084.29 feet; thence run S 61°15'51" E, 320.00 feet; thence run S 29°12'10" W, 73.08 feet to the Point of Beginning. Said described property contains 12.338 acres.

PPB 335 694

EXHIBIT B
(Mining Leases)

1. Coal Mining Lease Agreement

Lessor: Alabama Property Company and Southern Electric Generating Company

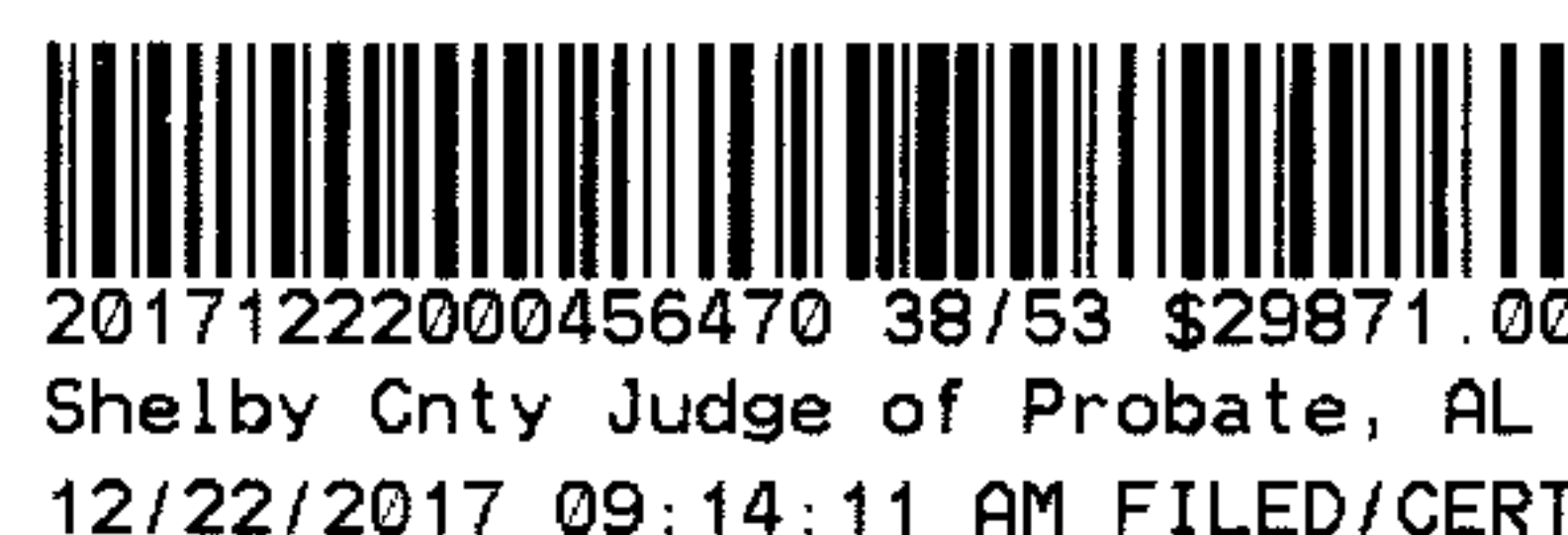
Lessee: Jesse Creek Mining, LLC

Date: April 20, 2017

Legal Description:

Township 21 South, Range 3 West, Shelby County

<u>Section</u>	<u>Description</u>
Section 17	The Southwest quarter The Southwest quarter of the Northeast quarter The Northeast quarter of the Southeast quarter, less one acre near the northwest corner now being used as a cemetery for the colored, 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 The Southwest quarter of the Southeast quarter, less .50 acre as described by deed recorded in such office in Deed Book 26 at page 394 The South half of the Northwest quarter The Northwest quarter of the Southeast quarter The Southeast quarter of the Southeast quarter The North half of the North half of the Northwest quarter of the Northeast quarter The North half of the Northwest quarter
Section 18	The entire section, except the North half of the Northwest quarter Northwest quarter of the Northwest quarter The Northeast quarter of the Northwest quarter
Section 19	The South half of the Northeast quarter The Southeast quarter The East half of the Southwest quarter The North half of the North half The South half of the Northwest quarter The West half of the Southwest quarter
Section 20	The Northeast quarter of the Northeast quarter The Northeast quarter of the Southeast quarter The West half The West half of the Northeast quarter The Southeast quarter of the Northeast quarter The West half of the Southeast quarter



The Southeast quarter of the Southeast quarter

Section 21

That part of the Northwest quarter of the Northwest quarter lying west of the Montevallo-Bessemer Road, less lots described as follows:

1. William Monroe Booth Lot as described by deed recorded in such office in Deed Book 148 at page 178
2. Elige Boothe Lot as described by deed recorded in such office in Deed Book 163 at page 553
3. P. L Isbell Lot as described by deed recorded in such office in Deed Book 173 at page 463
4. Church Lot described as follows: Begin at the intersection of the north line of Section 21, Township 21 South, Range 3 West, and the west boundary of the right of way of the Montevallo-Bessemer public road and run west 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 100 feet to the point of beginning

That part of the Southwest quarter of the 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 L S. Gillespie, and attached hereto as Exhibit A

The Northwest quarter of the Southwest quarter, 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

The Northeast quarter of the Southeast Quarter
The Northwest quarter of the Southwest Quarter
The Northeast quarter of the Southwest Quarter
The Southwest quarter of the Southwest Quarter
The North half of the North half
The Southeast quarter of the Northeast quarter
The South half of the Northwest quarter
The Southwest quarter of the Northeast quarter
The Northwest quarter of the Southeast quarter

Section 30

The North half of the Northeast quarter
The Southeast quarter
The East half of the Southwest quarter
The Southwest quarter of the Southwest quarter
The South half of the North half

The North half of the Northwest quarter
The Northwest quarter of the Southwest quarter

Section 31 The Northwest quarter
 The Northeast quarter
 The Southwest quarter
 The Northwest quarter of the Southeast quarter

Section 32 The Northwest quarter of the Northwest quarter
 The Northeast quarter of the Northwest quarter
 The Northwest quarter of the Northwest quarter

Township 22 South, Range 3 West, Shelby County

<u>Section</u>	<u>Description</u>
Section 6	The Southwest quarter The Northwest quarter of the Northwest quarter The Southwest quarter of the Northwest quarter The Southwest quarter of the Northeast quarter The Northwest quarter of the Southeast quarter The Southwest quarter of the Southeast quarter The West half of the Northeast quarter of the Southeast quarter The West half of the Southeast quarter of the Southeast quarter

Section 7 The Northwest quarter
 The Southwest quarter
 The Northwest quarter of the Northeast quarter
 The Southwest quarter of the Southeast quarter

Section 18 The West half of the Northwest quarter

Township 21 South, Range 4 West, Shelby County

<u>Section</u>	<u>Description</u>
Section 13	The Southeast quarter The Southwest quarter of the Northwest quarter The Southeast quarter of the Northwest quarter The Northeast quarter of the Southwest quarter The Northeast diagonal half of the Northwest quarter of the Southwest quarter The Northeast diagonal half of the Southeast quarter of the Southwest quarter The Northeast quarter of the Northeast quarter The East half of the East half of the Northwest quarter of the Northeast quarter The South half of the Northeast quarter The West half of the Northwest quarter of the Northeast quarter The West half of the East half of the Northwest quarter of the Northeast quarter

- Section 24 The East half of the Southeast quarter
- Section 25 The Northeast quarter
 The Southeast quarter
 The Southeast quarter of the Northwest quarter
 The Northeast quarter of the Southwest quarter
 The Southeast quarter of the Southwest quarter
 The East half of the Northwest quarter of the Southwest quarter
 The East half of the Southwest quarter of the Southwest quarter
 The Southeast diagonal half of the Northeast quarter of the Northwest quarter
 The Northwest diagonal half of the East half of the Southwest quarter of the Northwest quarter
 The Southeast diagonal half of the East half of the Southwest quarter of the Northwest quarter
- Section 31 The Southeast quarter of the Northwest quarter
 The Northeast quarter of the Southwest quarter
- Section 35 The Southeast quarter
 The Southeast quarter of the Southwest quarter
 The Southeast diagonal of the Northeast quarter of the Southwest quarter
 The Southeast diagonal of the Southwest quarter of the Southwest quarter
 The Southeast diagonal half of the South half of the Northeast quarter
- Section 36 The Northeast quarter
 The Northwest quarter of the Northwest quarter
 The South half of the Northwest quarter
 The South half, except 4 acres in the Northeast corner of the Southeast quarter of the Southeast quarter
 The Northeast quarter of the Northwest quarter

Township 22 South, Range 4 West, Shelby County

<u>Section</u>	<u>Description</u>
Section 1	The Northeast quarter The North half of the Northwest quarter, except 4.8 acres in the Southeast corner of the Northeast quarter of the Northwest quarter The Southeast quarter The South half of the Southwest quarter The South half of the Northwest quarter The North half of the Southwest quarter

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- Section 2 The Northeast quarter of the Northeast quarter
 The South half of the Southeast quarter
 The Northwest quarter of the Southeast quarter
 The South half of the Southwest quarter
 The Northeast quarter of the Southwest quarter
 The Northwest quarter of the Northeast quarter
 The South half of the Northeast quarter
 That part of the Southeast quarter of the Northwest quarter lying
 South of Montevallo and Tuscaloosa dirt road
 The North half of the Northwest quarter
 The Southwest quarter of the Northwest quarter
 The Northeast quarter of the Southeast quarter
 The Northwest quarter of the Southwest quarter
- Section 3 The Northwest quarter of the Northwest quarter
 The Northeast quarter of the Northwest quarter
 The Northwest quarter of the Northeast quarter
 The Northeast quarter of the Northeast quarter
 The Southeast quarter of the Northeast quarter
 The Northeast quarter of the Southeast quarter
 The Southeast quarter of the Southeast quarter
 The Southwest quarter of the Southeast quarter
- Section 10 The East half of the Northeast quarter
 The West half of the Northeast quarter
 The Southeast quarter of the Northwest quarter
 The East half of the Southeast quarter
- Section 11 The South half of the Northeast quarter
 The Northwest quarter of the Northeast quarter
 East half of the Northwest quarter
 The Northwest quarter of the Northwest quarter
 The East half of the Southwest quarter
 The North half of the Southeast quarter
 The Southeast quarter of the Southeast quarter
 The North half of the Southwest quarter of the Southeast quarter
 The Northeast quarter of the Northeast quarter
 The West half of the Southwest quarter
 The South half of the Southwest quarter of the Southeast quarter
- Section 12 The Northwest quarter of the Northwest quarter
 The East half
 The East half of the West half
 The Northeast quarter of the Southwest quarter of the Northwest quarter
 The Southeast quarter of the Northwest quarter of the Southwest quarter

Section 13 The Northeast quarter
 The East half of the Northwest quarter
 The East half of the Northwest quarter of the Northwest quarter
 The Southeast quarter of the Southwest quarter of the Northwest quarter

Section 14 The West half of the Northwest quarter
 The East half of the Northwest quarter
 The West half of the Northeast quarter

Section 15 The East half of the Northeast quarter

Township 21 South, Range 4 West, Bibb County

<u>Section</u>	<u>Description</u>
Section 31	The Southwest quarter of the Southwest quarter

Township 22 South, Range 4 West, Bibb County

Section	Description
Section 6	The entire section
Section 7	The North half The Southwest quarter

Township 22 South, Range 5 West, Bibb County

<u>Section</u>	<u>Description</u>
Section 1	The Northeast quarter The Southeast quarter
Section 12	The Northeast quarter of the Northeast quarter The Northwest quarter of the Northeast quarter

2. Coal Mining Lease

Lessor: RGGS Land & Minerals Ltd., L.P.

Lessee: Tacoa Minerals, LLC (assigned to Jesse Creek Mining, LLC on January 22, 2013)

Date: December 20, 2007

1st Amendment: September 13, 2010

Extension Letter: December 18, 2015

2nd Amendment: April 26, 2017

Legal Description:

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Township 21 South, Range 4 West, Shelby County, Alabama

<u>Section</u>	<u>Description</u>	<u>Acres</u>
Section 22	West half of the northeast quarter	80
	Northwest quarter of the southeast quarter	40
	North half of the southwest quarter.	80
	The northwest quarter	160

Township 21 South, Range 3 West, Shelby County, Alabama

<u>Section</u>	<u>Description</u>	<u>Acres</u>
Section 5	The West half of the Southwest quarter	80.0 acres
	The Northwest quarter	160.0 acres
Section 6	The entire section.	640.0 acres
Section 7	The entire section	640.0 acres
Section 8	The West half of the West half	160.0 acres

Township 21 South, Range 4 West, Shelby County, Alabama

<u>Section</u>	<u>Description</u>	<u>Acres</u>
Section 1	The Northeast quarter	160.0 acres
	The South half	320.0 acres
	The Southeast quarter of the Northwest quarter	40.0 acres
Section 2	The South half of the Southeast quarter	80.0 acres
Section 10	The Southeast quarter of the Northeast quarter	40.0 acres
	The Southeast quarter	160.0 acres
	The Southeast quarter of the Southwest quarter	40.0 acres
Section 11	The entire section	640.0 acres
Section 12	The entire section	640.0 acres
Section 13	The Southwest diagonal half of the Southwest quarter	80.0 acres
	The North half of the Northwest quarter	80.0 acres
Section 14	The Northeast quarter	160.0 acres
	The West half of the Southeast quarter	80.0 acres
Section 15	The South half of the Northeast quarter	80.0 acres
	The Northwest quarter of the Northeast quarter	40.0 acres
	The Southeast quarter	160.0 acres
	The Northeast quarter of the Southwest quarter	40.0 acres

	The Northwest quarter	160.0 acres
Section 21	The entire section	640.0 acres
Section 22	The East half of the East half.	160.0 acres
	The Southwest quarter of the Southeast quarter	40.0 acres
	The South half of the Southwest quarter	80.0 acres
Section 23	The entire section	640.0 acres
Section 24	The West half	320.0 acres
Section 25	The Northwest diagonal half of the Northeast quarter of the Northwest quarter.	20.0 acres
	The Northwest quarter of the Northwest quarter	40.0 acres
	The West half of the Southwest quarter of the Northwest quarter	20.0 acres
	The West half of the West half of the Southwest quarter	40.0 acres
Section 26	The entire section	640.0 acres
Section 27	The entire section	640.0 acres
Section 28	The entire section	640.0 acres
Section 35	The North half of the Northeast quarter.	80.0 acres
	The Northwest diagonal half of the South half of the Northeast quarter	40.0 acres
	The Northwest diagonal half of the Southwest quarter	80.0 acres
	The Northwest quarter	160.0 acres

3. Coal Mining Lease

Lessor: SWF Birmingham, LLC

Lessee: Jesse Creek Mining, LLC

Date: August 19, 2016

Legal Description:

<u>Township 21 South, Range 4 West, Shelby County, AL</u>		<u>Acres +/-</u>
Section 13:	SW diagonal 1/2 SE of SW 1/4	20
	SW 1/4 of SW 1/4	40
Section 14:	SW 1/4 of SE 1/4	40
Section 15:	E 1/2 of SE 1/4	80
Section 22:	N 1/2 of NE 1/4 of NE 1/4	20
	NE diagonal 1/2 of S 1/2 of NE 1/4 of NE 1/4	10
Section 23:	N 1/2, less and except W 1/2 of W 1/2 of SW 1/4 of NW 1/4	310

Section 24: N 1/2 of NW 1/4 80

4. Coal Mining Lease

Lessor: RGGS Land & Minerals Ltd., L.P.

Lessee: Jesse Creek Mining, LLC

Date: August 16, 2016

1st Amendment: October 16, 2017

Legal Description:

Township 21 South, Range 4 West, Shelby County, AL Acres +/-

Section 13: The South West diagonal half of the South East quarter of the South West quarter 20

The South West quarter of the South West quarter 40

Section 14: The South West quarter of the South East quarter 40

Section 15: The East half of the South East quarter 80

Section 22: The East half of the North East quarter 80

Section 23: The North half of the section 320

Section 24: The North half of the North West Quarter 80

5. Mineral Lease Agreement

Lessor: Southern Electric Generating Company

Lessee: Jesse Creek Mining, LLC

Date: December 31, 2015

Legal Description:

SE diagonal half of the SE 1/4 of SE 1/4, NW 1/4 of SE 1/4, and NW diagonal half of the NE 1/2 of SE 1/4 of Section 16, Township 21, Range 4 West, located in Shelby County, Alabama.

6. Coal Mining Lease

Lessor: RGGS Land & Minerals Ltd., L.P.

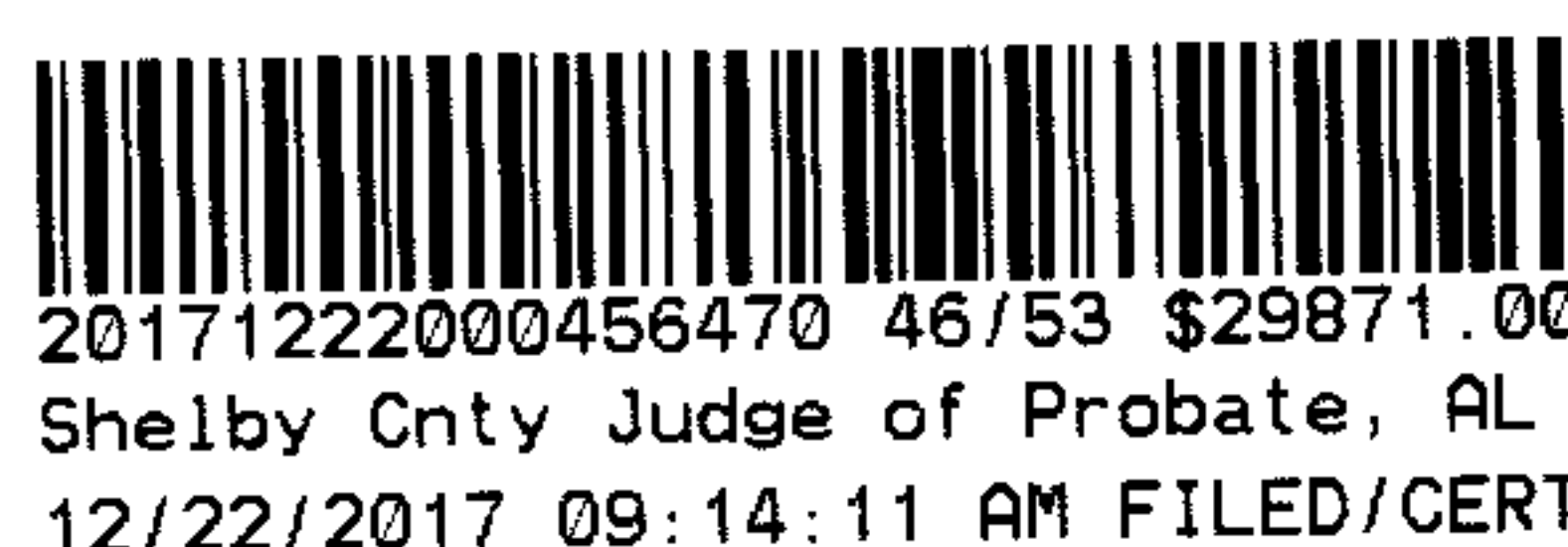
Lessee: Tacoa Minerals, LLC (assigned to Jesse Creek Mining, LLC on January 22, 2013)

Date: April 3, 2012

Legal Description:

Township 21 South, Range 4 West, Shelby County, Alabama Acres

B-9



Section 22:	The Southeast diagonal half of the Southeast quarter	80
Section 23:	The South half of the section	320
Section 24:	The Southwest quarter	160
	The South half of the Northwest quarter	80
	The Southeast diagonal half of the Northeast quarter of the Northwest quarter	20
Section 25:	The Northwest diagonal half of the Northeast quarter of the Northwest quarter	20
	The Northwest quarter of the Northwest quarter	40
	The West half of the Southwest quarter of the Northwest quarter	20
	The West half of the West half of the Southwest quarter	40
Section 26:	The entire section	640
Section 27:	The East half of the section	320
	The East half of the Southwest quarter	80
	The Southeast quarter of the Northwest quarter	40
	The Northwest diagonal half of the Northeast quarter of the Northwest quarter	20
Section 34:	The East half of the section	320
	The East half of the Southwest quarter	80
	The Southeast quarter of the Northwest quarter	40
Section 35:	The North half of the Northeast quarter	80
	The Northwest diagonal half of the South half of the Northeast quarter	40
	The Northwest diagonal half of the Southwest quarter	80

The Northwest quarter

160

7. Coal Mining Lease**Lessor: RGGS Land & Minerals Ltd., L.P.****Lessee: Tacoa Minerals, LLC (assigned to Jesse Creek Mining, LLC on January 22, 2013)****Date: September 13, 2010****Amendment: December 30, 2015****Legal Description:**

<u>Township 22 South, Range 4 West, Bibb County, Alabama</u>	<u>Acres</u>
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Section 17	The South half of the Southwest quarter	80
	The Northwest quarter of the Southwest quarter	40
Section 18	The South half	320
	The West half of the Northwest quarter	80
Section 19	The North half	320

<u>Township 22 South, Range 5 West, Bibb County, Alabama</u>	<u>Acres</u>
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Section 13	The East half	320
	The Southwest quarter	160
	The Southeast quarter of the Northwest quarter	40
Section 14	Southeast quarter of the Southeast quarter	40
Section 23	The Northeast quarter	160
Section 24	The North half	320

8. Coal Mining Lease**Lessor: RGGS Land & Minerals Ltd., L.P.****Lessee: Tacoa Minerals, LLC (assigned to Jesse Creek Mining, LLC on January 22, 2013)****Date: August 25, 2009****Amendment: January 9, 2015****Legal Description:**

<u>Township 22 South, Range 5 West, Bibb County, Alabama</u>	<u>Acres</u>
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Section 13:	The entire section except the southeast diagonal half of the Southeast quarter	560
Section 14:	Southeast quarter of the section.	160
	Southeast quarter of the Northeast quarter	40
	Northwest quarter of the Northeast quarter	40
Section 22:	Southeast diagonal half of the Northwest quarter of Northeast quarter	20
	East half of the Northeast quarter	80
	Southwest quarter of the Northeast quarter	40
	Southeast quarter of the section	160
	East half of the Southwest quarter	80
Section 23:	The entire section except the southeast diagonal half of the Southeast quarter	560
Section 24:	The Northwest diagonal half of the Northwest quarter	80

9. Coal Mining Lease

Lessor: RGGS Land & Minerals Ltd., L.P.

Lessee: Tacoa Minerals, LLC (assigned to Jesse Creek Mining, LLC on January 22, 2013)

Date: February 20, 2007

1st Amendment: April 15, 2009

Letter Agreement: January 29, 2010

2nd Amendment: February 14, 2013

Legal Description:

<u>Township 21 South, Range 4 West, Shelby and Bibb Counties, Alabama</u>	<u>Acres</u>
Section 20: The East half of the Northeast quarter of the Northeast quarter	20
The Southeast quarter of the Northeast quarter	40
The Northeast quarter of the Southeast quarter	40
The West half of the Southeast quarter of the Southeast quarter	20

	The Southwest quarter of the Southeast quarter	40
	The East half of the Northwest quarter of the Southeast quarter	20
Section 21:	The Northwest quarter of the Northwest quarter	40
	The West half of the Southwest quarter of the Northwest quarter	20
Section 29:	The Northwest quarter of the Northeast quarter	40
	The East half of the Northeast quarter of the Northwest quarter	40
	The Southeast quarter of the Northwest quarter	40
	The West half of the Northeast quarter of the Southwest quarter	20
	The West half of the Southwest quarter	80
Section 30:	The East half of the Southeast quarter of the Southeast quarter	40
Section 31:	The East half of the Northeast quarter	80
	The East half of the Southwest quarter of the Northeast quarter	20
	The West half of the Northeast quarter of the Southeast quarter	20
	The West half of the Southeast quarter	80
	The East half of the Southeast quarter of the Southwest quarter	20
Section 32:	The West half of the Northwest quarter of the Northwest quarter	20


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EXHIBIT C**(Loan Documents)**

The "**Loan Documents**" referred to in this Agreement include this Agreement and the following, as the same are amended, modified, supplemented, extended, revised or restated from time to time in accordance with their respective terms:

(a) The Note Purchase Agreement dated May 27, 2016 executed by the Borrower and the Lender, as amended by Amendment No.1 to Note Purchase Agreement dated as of September 8, 2017, as further amended by Amendment No.2 to Note Purchase Agreement dated November 10, 2017, and as further amended by that certain Omnibus Waiver, Consent and Amendment dated December 14, 2017.

(b) The Amended and Restated Convertible Promissory Note dated September 8, 2017 in the principal amount of \$27,575,833.33 executed by the Borrower in favor of Resource Capital Fund VI L.P.

(c) The Amended and Restated Convertible Promissory Note dated September 8, 2017 in the principal amount of \$3,000,000.00 executed by the Borrower in favor of RCF V Annex Fund L.P.

(d) The Pledge and Security Agreement dated November 10, 2017 executed by the Borrower and the Lender, as modified by that certain Omnibus Waiver, Consent and Amendment dated December 14, 2017.

(e) The Intercreditor Agreement dated November 10, 2017 among Resource Capital Fund VI L.P, as lender under the Class B NPA and the Class C NPA, RCF V Annex Fund L.P., as lender under the Class B NPA, and Borrower, as borrower under the Class B NPA and Class C NPA (as such terms are defined therein).

(f) Each Omnibus Certificate (as such term is defined in the Note Purchase Agreement).

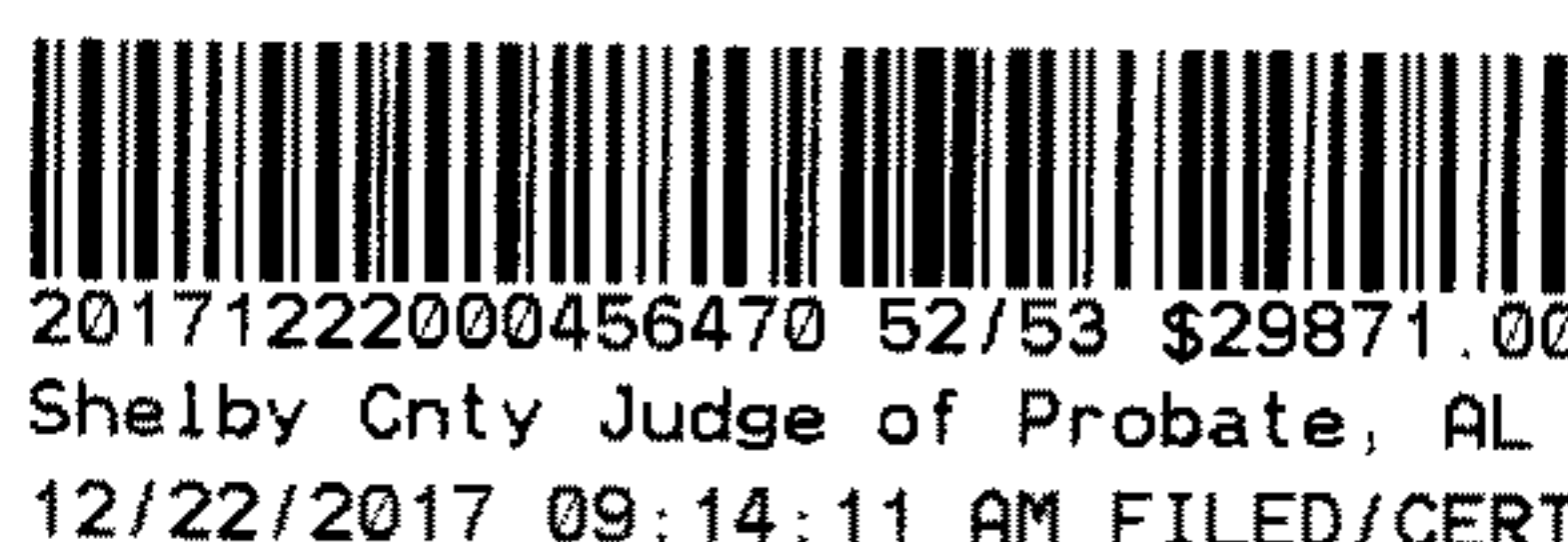

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EXHIBIT D

(Permitted Encumbrances)

The following are "Permitted Encumbrances" under this Agreement:

1. The Lien for ad valorem taxes on the Property so long as such taxes are not delinquent.
2. Liens granted to Lender to secure the Obligations.
3. Permitted Liens (as such term is defined in the Note Purchase Agreement).
4. The terms and conditions of the Mining Leases, now existing or hereafter executed by the Mortgagor.
5. The following solely with respect to Parcels 1 and 2 identified in Exhibit A:
 - a) Title to all minerals within and underlying the property, together with all mining rights and other rights, privileges, immunities and release of damages relating thereto, as recorded in Instrument No. 2004-14856; Instrument No. 2004-14857; Instrument No. 2004-67584 and Instrument No. 2005-3540, and any damages relating to the exercise of such rights or the extraction of such minerals, all in the Office of the Judge of Probate of Shelby County, Alabama (as to Parcel 1).
 - b) Agreement with respect to surface and subsurface uses between United States Steel Corporation and RGGS Land and Minerals, Ltd., L.P., as recorded in Instrument No. 2004-14860 and Instrument No. 2004-14861, in said Probate Office (as to Parcel 1).
 - c) Non-exclusive easements reserved by United States Steel Corporation and also conditions, restrictions, reservations and limitations as set out in Instrument No. 2004-67584 and Instrument No. 2005-3540, in said Probate Office (as to Parcel 1).
 - d) Hunting Agreement dated May 8th, 1996, between USX Corporation and State of Alabama Department of Conservation and Natural Resources (as to Parcel 1).
 - e) Memorandum of Lease as recorded in Instrument No. 2005-55795 together with assumption of Coal Mining Lease recorded in Instrument No. 2005-55796, in said Probate Office (as to Parcel 1).
 - f) Memorandum of Lease between Tacoa Minerals, LLC, an Alabama limited liability company, and RGGS Land & Minerals, LTD, LP, a Delaware limited liability company, as recorded in Instrument No. 20120418000132140, First Amendment to Coal Mining Lease as recorded in Instrument No. 20120418000132150, and Second Amendment to Coal Mining Lease as recorded in Instrument No. 20171016000376100, both in said Probate Office (as to Parcel I).



- g) Agreement for easement for overhead electrical transmission line and right of ingress and egress in Instrument No. 2005-64630 along with the terms and conditions as set out in that Quit Claim Bill of Sale between United States Steel Corporation and Geomet, Inc. as recorded in Instrument No. 20060208000064590, in said Probate Office (as to Parcel 1).
- h) Title to all minerals within and underlying the property, together with all mining rights and other rights, privileges, immunities and release of damages relating thereto, as recorded in Instrument No. 2004-14856; Instrument No. 2004-14857, in said Probate Office (as to Parcel 2).
- i) Agreement with respect to surface and subsurface uses between United States Steel Corporation and RGGS Land and Minerals, Ltd., L.P., as recorded in Instrument No. 2004-148600, in said Probate Office (as to Parcel 2).
- j) Non-exclusive easements reserved by United States Steel Corporation and also conditions, restrictions, reservations and limitations as set out in Instrument No. 2004-675840 and Instrument No. 2005-3540, in said Probate Office (as to Parcel 2).
- k) Hunting Agreement dated May 8th, 1996, between USX Corporation and State of Alabama Department of Conservation and Natural Resources (as to Parcel 2).
- l) Agreement for Overhead Electrical Transmission Line dated 9/06/2005 in favor of Tacoa Minerals, LLC, recorded in Instrument No. 2005-646300, in said Probate Office (as to Parcel 2).
- m) All rights, terms, conditions, limitations, exclusions, obligations and royalties as set forth in the deed to Tacoa Minerals LLC recorded in Instrument No. 20121207000469450, in said Probate Office (as to Parcel 2).



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