

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE:**

**C&D COAL COMPANY, LLC,**

**Debtor.**

**Bankruptcy No. 16-24726-GLT**

**Chapter 11**

**Document No.**

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**DERRY COAL COMPANY, LLC,**

**Debtor.**

**Bankruptcy No. 16-24727-GLT**

**Chapter 11**

**Document No.**

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**C&D COAL COMPANY, LLC and  
DERRY COAL COMPANY, LLC,**

**Movants,**

**Hearing Date and Time:  
December 21, 2017 at 10:30 a.m.**

**vs.**

**KINGSTON COAL COMPANY,  
KINGSTON GAS COMPANY,  
JOHNSON INDUSTRIES,  
EVEREST BUSINESS FUNDING,  
RTB HOLDINGS, LLC,  
INTEGRITY COAL SALES, INC.,  
WESTMORELAND COUNTY TAX  
CLAIM BUREAU, PENNSYLVANIA  
DEPARTMENT OF REVENUE,  
PENNSYLVANIA DEPARTMENT OF  
LABOR AND INDUSTRY,**

**Respondents.**

**JOINT MOTION FOR PUBLIC SALE OF DEBTORS' ASSETS IN BULK  
FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**

And now, come C&D Coal Company, LLC and Derry Coal Company, LLC, the Debtors in the above Chapter 11 Cases, by and through their Counsel, Robert O Lampl, John P. Lacher, David L. Fuchs and Ryan J. Cooney, and file the following **JOINT MOTION FOR PUBLIC SALE OF DEBTORS' ASSETS IN BULK FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**, as follows:

1. The Movants are C&D Coal Company, LLC and Derry Coal Company, LLC, the Debtors in the above Chapter 11 Cases.

2. The Movants commenced their Chapter 11 Cases on December 22, 2016.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. Section 1334, 28 U.S.C. Section 157 and 11 U.S.C. Section 363.

4. The Movants are the owners of certain Real and Personal Property set forth in **EXHIBIT A** hereto which is incorporated herein and made a part hereof. As to the Real Property interests to be sold, the descriptions of said interests are set forth in **EXHIBIT B** (*re: Derry Coal 104 acres*), **EXHIBIT C** (*C&D Coal 19,000 acres coal and gas rights*), **EXHIBIT D** (*C&D Coal 84 surface acres in Latrobe, PA*) and **EXHIBIT E** (*C&D Coal 114 acres of coal and gas rights in Derry, PA*). All such exhibits are attached hereto and incorporated herein.

5. The Movants propose that its assets be sold in bulk pursuant to a Public Sale to take place in this Honorable Court and to be conducted on **December 21, 2017 at 10:30 a.m. in Courtroom A, 54<sup>th</sup> Floor, U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA 15219.**

6. Simultaneously with the filing of the within Motion, the Debtors will file a Motion to Approve Bidding Procedures. Said Bidding Procedures will be included in the Notice of Sale which will be advertised in accordance with W.PA.LBR 6004.1.

7. Per the Motion to Approve Bidding Procedures, a reserve price in the amount of Ten Million Dollars (\$10,000,000.00) will be established as the bulk minimum purchase price. If the Court determines that each Debtor's assets are to be sold separately, the Ten Million Dollars (\$10,000,000.00) reserve price shall be attributed as Nine Million Dollars (\$9,000,000.00) for C&D's assets and One Million Dollars (\$1,000,000.00) for Derry's assets.

8. Following a lien search based upon the Real Property descriptions set forth in Exhibits B, C, D and E attached hereto and the UCC filings in regard to the equipment to be sold, it has been determined that the Respondents which may hold liens, claims and encumbrances against the Debtors' assets are as follows:

- a. Kingston Coal Company;
- b. Kingston Gas Company;
- c. Johnson Industries;
- d. Everest Business Funding;
- e. RTB Holdings, LLC
- f. Integrity Coal Sales, Inc.,
- g. Westmoreland County Tax Claim Bureau;
- h. Pennsylvania Department of Revenue; and
- i. Pennsylvania Department of Labor & Industry

9. The Debtors will additionally provide notice to various property owners which entered into agreements with Kingston Coal Company and Kingston Gas Company which agreements involve the mining of coal and gas on the properties owned by said property owners. The mining rights provided for in said agreements were ultimately assigned by the Kingston entities to Debtor C&D Coal Company, LLC. The property owners have no liens, claims or encumbrances against Debtor C&D's interests and the contemplated sale is not intended to, and will not, terminate or divest the mining rights which are the subject of the assignment to C&D. As such, the property owners are not being named as Respondents to this Sale Motion but will be notified and provided with an opportunity to be heard nonetheless.

10. The Debtors believe that the proposed Public Sale is in the best interest of the Chapter 11 Estates.

WHEREFORE, the Debtors respectfully request that this Honorable Court enter an Order approving the Public Sale of Debtors' Assets in Bulk, Free and Clear of all Liens, Claims and Encumbrances.

Respectfully Submitted,

Date: November 2, 2017

/s/ Robert O Lampl  
ROBERT O LAMPL  
PA I.D. #19809  
JOHN P. LACHER  
PA I.D. #62297  
DAVID L. FUCHS  
PA I.D. #205694  
RYAN J. COONEY  
PA I.D. #319213  
Counsel for the Debtors  
223 Fourth Avenue, 4<sup>th</sup> Fl.  
Pittsburgh, PA 15222  
(412) 392-0330 (phone)  
(412) 392-0335 (facsimile)  
Email: [rlampl@lampllaw.com](mailto:rlampl@lampllaw.com)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE:**

**C&D COAL COMPANY, LLC,  
Debtor.**

**Bankruptcy No. 16-24726-GLT  
Chapter 11  
Document No.**

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**DERRY COAL COMPANY, LLC,  
Debtor.**

**Bankruptcy No. 16-24727-GLT  
Chapter 11  
Document No.**

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**C&D COAL COMPANY, LLC and  
DERRY COAL COMPANY, LLC,**

**Hearing Date and Time:  
December 21, 2017 at 10:30 a.m.**

**Movants,**

**vs.**

**KINGSTON COAL COMPANY,  
KINGSTON GAS COMPANY,  
JOHNSON INDUSTRIES,  
EVEREST BUSINESS FUNDING,  
RTB HOLDINGS, LLC,  
INTEGRITY COAL SALES, INC.,  
WESTMORELAND COUNTY TAX  
CLAIM BUREAU, PENNSYLVANIA  
DEPARTMENT OF REVENUE,  
PENNSYLVANIA DEPARTMENT OF  
LABOR AND INDUSTRY,**

**Respondents.**

**CERTIFICATE OF SERVICE**

Robert O Lampl, John P. Lacher, David L. Fuchs and Ryan J. Cooney, hereby certify that on the 2<sup>nd</sup> day of November, 2017, a true and correct copy of the foregoing **JOINT MOTION FOR PUBLIC SALE OF DEBTORS' ASSETS IN BULK FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES** was served upon the following (*via Electronic service and/or First-Class U.S. Mail as noted below*):

Office of the U.S. Trustee  
1001 Liberty Avenue  
970 Liberty Avenue  
Pittsburgh, PA 15222  
(*via Electronic Service*)

**RESPONDENTS (via First-Class U.S. Mail):**

Michael J. Roesenthaler  
Whiteford, Taylor & Preston, LLP  
200 First Avenue, 3<sup>rd</sup> Fl.  
Pittsburgh, PA 15222  
(*Counsel for the Official Committee of Unsecured Creditors*)

Everest Business Funding  
2001 NW 107<sup>th</sup> Avenue, 3<sup>rd</sup> Fl.  
Miami, FL 33172

Integrity Coal Sales, Inc.  
905 Marconi Avenue  
Ronkonkoma, NY 11779

Johnson Industries  
101 Pine Fork  
Pikeville, KY 41501

Kingston Coal Co./Kingston Gas Co.  
200 Guckert Lane  
Wexford, PA 15090

William E. Kelleher, Jr.  
Cohen & Grigsby PC  
625 Liberty Avenue  
Pittsburgh, PA 15222  
*(Counsel for Kingston Coal Co./Kingston Gas Co.)*

PA Department of Labor and Industry  
651 Boas Street, Room 702  
Harrisburg, PA 17121

PA Department of Revenue  
Bankruptcy Division  
P.O. Box 280946  
Harrisburg, PA 17128-0946

Robert C. Edmundson  
Office of Attorney General  
564 Forbes Avenue  
5<sup>th</sup> Floor, Manor Complex  
Pittsburgh, PA 15219-2992

RTB Holdings LLC  
42 Liberty View Court  
Acworth, GA 30101

Mark A. Lindsay  
Babst, Calland, Clements & Zomnir  
Two Gateway Center, 8<sup>th</sup> Fl.  
Pittsburgh, PA 15222  
*(Counsel for RTB Holdings, LLC)*

Westmoreland County Tax Claim Bureau  
40 N. Pennsylvania Avenue, Ste. 109  
Greensburg, PA 15601

**INTERESTED PARTIES (via First-Class U.S. Mail):**

Jan and George Ondra  
1640 N. Main Street  
Washington, PA 15301

Raymond and Katherine Kerber  
110 Lee Valley Road  
Derry, PA 15627



Dana A. Yealy  
200 Guckert Lane  
Wexford, PA 15090

Danny D. and Mary G. Kuhns  
Box 126  
Hostetter, PA 15638

Dorothy Rosenfelder  
5155 Meadowridge Lane  
Gibsonia, PA 15044  
c/o Lynn Rahl, Esquire

Kenneth Frederick Burd  
909 Orinoco Avenue  
Venice, FL 33595

Thomas E. and Lauren J. Davis  
214 Fairview Lane  
Derry, PA 15627

Walter J. and Mary M. Brewer  
234 Fairview Lane  
Derry, PA 15627

Frank S. and Margaret A. Guzik  
815 Rosewind Farm Lane  
Derry, PA 15627

Shelly R. Gerhard  
Carol A. Gerhard  
Michelle M. Schultz  
189 Fairview Lane  
Derry, PA 15627

Dr. James E. Gibson  
4305 Claycrest Drive, NW  
Huntsville, AL 35816

Dr. James E. Gibson  
1917 W. Crescent Dr.  
Crawfordsville, IN 47933

Erma L. Nicol  
116 Countryside Lane  
Derry, PA 15627

David W. and Michele L. Nicol  
192 Countryside Lane  
Derry, PA 15627

William W. Nicol, IV and Brenda J. Nicol  
292 Nicol Lane  
Derry, PA 15627

William J. Newcomer  
5210 Forrest View Drive  
McDonald, PA 15057

Stephen and Melanie Peterman  
250 Nicol Lane  
Derry, PA 15627

Harold Lucas Jr. and Patricia L. Lucas  
184 Fairview Lane  
Derry, PA 15627

Fred C. and Carrie L. Hixson  
8763 Pisa Drive #525  
Orlando, FL 32810

David J. and Kristina M. Swank  
284 Fairview Lane  
Derry, PA 15627

Cecilia L. Nicol  
115 McBride Street  
New Alexander, PA 15670

Jerome and Alice Susa  
120 Virginia Street  
Latrobe, PA 15650

Donald S. and Jennifer C. Kepple  
268 Fairview Lane  
Derry, PA 15627

James H. and Helen G. Daugherty  
128 Whites Road  
Derry, PA 15627

The Daniel G. Slavek, Jr. Trust  
1005 Sleepy Hollow Road  
Jeannette, PA 15644

Harvey Eger, Trustee  
Route 217  
Latrobe, PA 15650  
*(Counsel for The Daniel G. Slavek, Jr. Trust)*

Earl and Albina Killen  
269 Lockport Road  
Bolivar, PA 15923

Date: November 2, 2017

/s/ Robert O Lampl  
ROBERT O LAMPL  
PA I.D. #19809  
JOHN P. LACHER  
PA I.D. #62297  
DAVID L. FUCHS  
PA I.D. #205694  
RYAN J. COONEY  
PA I.D. #319213  
Counsel for the Debtors  
223 Fourth Avenue, 4<sup>th</sup> Fl.  
Pittsburgh, PA 15222  
(412) 392-0330 (phone)  
(412) 392-0335 (facsimile)  
Email: [rlampl@lampllaw.com](mailto:rlampl@lampllaw.com)

## **REAL PROPERTY AND PERSONALTY TO BE SOLD**

### **Derry Coal Company, LLC**

- 104 acres with metal building and rail facility (See Old Republic Title Insurance Commitment – Exhibit B)

### **C&D Coal Company, LLC**

- 19,000 acres of coal and gas rights per assignment from Kingston Coal Company and Kingston Gas Company (See Review Letter from Edward J. Krug re: C&D Company, LLC Leashold Coal Interests – Exhibit C)
- 84 Acres of surface real property in Latrobe, PA (See December 13, 2010 Deed From Kennametal, Inc. to C&D Coal Company, LLC – Exhibit D)
- 114 Acres of coal and gas rights in Derry, PA (See August 27, 2013 Coal Deed from Kennametal, Inc. to C&D Coal Company, LLC – Exhibit E)

## **EQUIPMENT TO BE SOLD**

### **C&D Coal Company, LLC**

MCI Power Center (Model 36441-4542-0812)

Joy Miner (Model 14 CM10-11AAK)

Fletcher Bolter (Model RR11-13-B-C-F)

Joy 21 Shuttle Cars (2) (Model 27SC – 56AKKE – 1)

Stancor Sump Pump (Model 940CEHH)

Stancor Pumps (2) (Model P20 CE)

Flyte Pump (Model 2075-080-502)

Switch House (Model SSH 7200-4364)

Stamplere Feeder (Model BF-17-12)

DBT Scoop (Model 488DBT)

Caterpillar Scoop

Caterpillar Scoop Charger

Benchee 4 Wheeler

Mine Fan (Model 72-D9-200)

Green Fork Lift (Model MLULL-10K)

Luigong Loader (Model CLG85611)

Caterpillar Loader (Model 980 G)

MCI Substation (Model 36442-45476-0812)

MCC Room (with 480 Volt Fan Starter; 240/120 Load Center;  
Pit Light Timer and Lights; 480 Volt AC-240/120 VAC Transformer  
GE 37.5 KVA; 120/240 Breaker Panel; 480 Volt Main Disconnect for Fan; 480 Volt  
3 Phase Disconnect for Transformer)

Grindex Fresh Water Pump (Model Major-H)

Stancor Pit Pump (Model SX2000HH)



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

COMMITMENT SCHEDULE A

File Number: 16-308 OR

1. Effective Date: 10/21/16 : .m.

2. Policy or Policies to be issued:  
(a) ALTA 2006 Owner's Policy  
Proposed Insured

Policy Amount: \$

(b) ALTA 2006 Loan Policy  
Proposed Insured

Policy Amount: [REDACTED]

[REDACTED], its successors and/or assigns, as their respective interests may appear.

3. The estate or interest in the land described or referred to in this commitment and covered herein is fee simple and title thereto is at the effective date hereof vested in:

Derry Coal L.L.C., a corporation existing under the laws of the Commonwealth of Pennsylvania, by a deed dated November 5, 2014 and recorded December 31, 2014 in the Recorder's Office of Westmoreland County, Pennsylvania in Instrument No. 201412310042507.

4. The Land referred to in this commitment is described in Schedule "C" hereof.

For informational purposes only:

Lots#45-41-04-0-036-00-000&45-41-04-0-041-00-000

Derry, Pennsylvania 15627

Township of Derry

County of Westmoreland

Countersigned

West Hills Closing  
Services, LLC  
300 Corporate Center Dr.  
Suite 130  
Moon Township  
(412) 264-6467

EXHIBIT B

PA 15108

**COMMITMENT  
SCHEDULE B - SECTION 1**

File Number: 16-308 OR

The following are the requirements to be complied with:

1. Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest insured.
2. Payment of all taxes, charges, dues, fees and assessments levied and/or assessed against the subject premises, which are due and payable.
3. Proof that there are no agreement(s) of sale other than the one under which the present conveyance is being made.
4. Proof of identity, legal age, competency of Grantors/Mortgagors and marital status (including deaths, divorces or separation) affecting any individual Grantor/Mortgagor herein.
5. Execution of Company's affidavit of title and two forms of identification (one of which must be photo-identification) to be provided by parties to the transaction.
6. Proof of payment of real estate taxes and municipal charges (including water, sewer, trash or other services provided by the municipality) for the three years preceding the current year and the current year, if due.
7. Proof that no Municipal or Authority improvements have been made or ordered to be made abutting or fronting on premises covered by this commitment.
8. Proper instruments creating the estate or interest to be insured must be validly executed and duly recorded:
  - a. Properly drafted and executed Mortgage from Derry Coal L.L.C. to [REDACTED] in the amount of [REDACTED].

Please be advised that a continuation search must, and will, be made by the closing agent at the time of closing to update the effective date of the commitment and that the earlier effective date shown at the beginning of this commitment will not affect the date of coverage of the policy. The date of the policy will be the date of recording of the insured instrument and will cover the gap between the last date covered by the official record at the time of closing and the date of recording.

See Continuation Sheet

**NOTICE AND DISCLOSURE**

The Commonwealth of Pennsylvania Department of Insurance requires that we sent the following notice to you, our applicant, prior to closing. They further require that you, the applicant, forward this notice to the consumer in advance of the day of closing: your title insurance fee covers the cost of closing on the insured real estate property if it takes place during regular office hours and at the office of the title insurance agent or underwriter. If your closing takes place at a location or time of your choosing, or that of your lender or realtor, the title insurance agent or underwriter may impose an additional charge for this special service. You may determine the amount of this additional charge, if any, by contacting the party listed on the bottom of Schedule A.

The Enhanced Coverage Homeowner's Policy of Title Insurance and/or the Expanded Coverage Residential Loan Policy is available for most 1-4 family, owner-occupied residencies at an additional cost. Please contact the agent that issued this Commitment for additional information regarding these policies.

NOTE: If a policy other than the 2006 ALTA Owner's Policy of Title Insurance, 2006 ALTA Loan Policy of Title Insurance or 2015 Short Form Residential Loan Policy is ultimately issued, Section 5 of the Conditions on ORT Form 4308, ALTA Commitment of Title Insurance 6/06, hereof is not applicable.

**COMMITMENT  
SCHEDULE B - SECTION I (Continued)**

9. Payoff, release or subordination of all liens shown under Schedule B, Section II of this commitment to insure.
10. If grantor, grantee or mortgagor is a corporation, limited liability company, limited liability company, limited partnership or limited liability partnership, the Company's receipt of the following:
  - a) a current Certificate of legal existence or of Good Standing from the Secretary of State of the entity's incorporation/organization/formation;
  - b) a copy of the Certificate of Incorporation/Articles of Organization/Certificate of Limited Partnership/Certificate of Limited Liability Partnership certified by the Secretary of State of the entity's incorporation/organization/formation;
  - c) resolutions of the directors/members/general partners/limited liability partners authorizing the conveyance or mortgage and the party of parties to execute the documents, or other evidence of such authority acceptable to the Company.
  - d) a copy of the Operating Agreement/Limited Partnership Agreement/Limited Liability Partnership Agreement and the amendments thereto; and
  - e) such other documents and proofs as the Company may require.



**COMMITMENT  
SCHEDULE B - SECTION 2**

File Number: 16-308 OR

The policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company.

1. Rights or claims of parties in possession not shown by the public records.
2. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose.
3. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
4. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date on which the proposed insured acquires of record for value the estate or interest, or mortgage thereon, covered by this commitment.
5. Possible additional tax assessment for new construction and/or major improvements.
6. Covenants, conditions, restrictions, easements, rights of way or servitudes, if any, appearing in the public record, but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.
7. Coal and coal bed methane gas and mining rights and all rights incident to the extraction or development of coal or coal bed methane gas heretofore conveyed, excepted and reserved by instruments of record; the right of surface, lateral or subjacent support; or any surface subsidence.

**NOTICE: "THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND." [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]**

8. Oil and gas and minerals and all rights incident to the extraction or development of oil and gas or minerals heretofore conveyed, leased, excepted or reserved by instruments of record.
9. Subject to Coal and coal bed methane gas and mining rights and all rights incident to the extraction or development of coal or coal bed methane gas heretofore conveyed, excepted and reserved by instruments of record; the right of surface, lateral or subjacent support; or any surface subsidence, including, but not limited to:

a) Contractual Consent of Landowner to Surface Mining Activities, executed by Derry Properties, Inc., dated March 13, 1998 and recorded in Deed Book Volume 3566, page 407.

b) Contractual Consent of Landowner to Surface Mining Activities, executed by Derry Properties, Inc., dated April 11, 1989 and recorded in Deed Book Volume 2882, page 105.

**NOTICE: "THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE**  
See Continuation Sheet

COMMITMENT  
SCHEDULE B - SECTION 2 (Continued)

ALL OF SUCH COAL AND, IN THE CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND." (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.)

10. Subject to Oil and gas and minerals and all rights incident to the extraction or development of oil and gas or minerals heretofore conveyed, leased, excepted or reserved by instruments of record, including but not limited to:
  - a) Memorandum of Oil and Gas Lease from Derry Properties, Inc. to Williams Production Appalachia LLC, dated April 14, 2010 and recorded at Instrument No. 201006290022262.
11. Subject to Easements for cuts and slopes along the property or right of way formerly of The Pennsylvania Railroad.
12. Subject to Creek or stream crossing the land and riparian rights of others therein.
13. Subject to the following rights of way:
  - a) From Derry Properties Inc. to West Penn Power Company, doing business as Allegheny Power by instrument dated February 3, 2009 and recorded at Instrument No. 200903250009613.
14. Subject to notice of Supplemental Final Order and Judgment regarding easement for fiber optics as set forth in instrument recorded at Instrument No. 201001260002836.
15. Policy does not insure the acreage content of the land.
16. All roads, public or private, in any way affecting the land.
17. Subject to all matters set forth in deed from Consolidated Rail Corporation to Derry Properties, Inc. dated January 24, 1991 and recorded in Deed Book Volume 3015, page 592, including:
  - a) Reservation of easement for fiber optic cables, telecommunications, lines, etc., and covenants in connection therewith.
  - b) Covenants set forth in said deed.
18. Subject to all matters set forth in deed from Penn Central Properties, Inc. et al. to Derry Properties, Inc. dated May 12, 1987 and recorded in Deed Book Volume 2809, page 30, including:  
See Continuation Sheet

COMMITMENT  
SCHEDULE B - SECTION 2 (Continued)

- a) Reservation of easements in gross for all existing wire and pipe facilities, etc., freely alienable and assignable by grantor.
  - b) Reservation of all oil, gas, natural gas, etc. with right to remove same, etc.
  - c) Unrecorded agreement between Pennsylvania Railroad Company and Watcopa, Inc. for water pipelines.
  - d) Covenants set forth in said deed.
19. Subject to Easement Deed by Court Order in Settlement of Landowner Action dated June 17, 2013 in the United States District Court for the Western District of Pennsylvania at Suit of Lake Forest Partners, L.P. vs Sprint Communications Company, et al; a copy of which was recorded March 26, 2014 at Instrument 201403260008391.
  20. Open-End Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing from Derry Coal L.L.C., a Pennsylvania limited liability company, to Basecamp Holdings, Inc., a Georgia corporation, executed as of December 24, 2014, made effective as of December 30, 2014 and recorded December 31, 2014 at Instrument No. 201412310042508, in the amount of \$750,000.00.
  21. UCC Financing Statement showing Derry Coal L.L.C. as debtor and Basecamp Holdings, Inc. as secured party, filed in the Recorder's Office of Westmoreland County on December 31, 2014 at Instrument No. 201412310042509.
  22. UCC Financing Statement showing Chestnut Ridge Equipment LLC, debtor, and Caterpillar Financial Services Corporation, secured party, filed on February 28, 2014 at Instrument No. 201402280005555; appears to cover equipment located on the land.

COMMITMENT  
SCHEDULE C

File Number: 16-308 OR

PARCEL I:

ALL THAT PARCEL of land situate in the Township of Derry, County of Westmoreland and Commonwealth of Pennsylvania, bounded and described according to a plan of a survey made by Duane R. Schmiedel Engineers & Surveyors dated December 15, 1978, as follows:

BEGINNING at a stone monument at the corner common to lands, now or formerly, of George Peter Rellick and Jean R. Rellick, his wife, lands now or formerly, of Howard E. Hull and Nellie D. Hull, his wife, and lands formerly of The Pennsylvania Railroad Company; thence along line of lands, now or formerly, of H. E. Hull, line of lands now or formerly of Derry Medical Building, line of lands now or formerly of V. Elliot, line of lands now or formerly of E. V. Elliot, line of lands now or formerly of M. Slezak, and line of lands now or formerly of D. G. Slavek, South  $61^{\circ} 25'$  West, a distance of 1,454.368 feet to an iron rail at a corner of lands now or formerly of D. G. Slavek, and lands now or formerly of The American Slovak Society; thence along said line of lands now or formerly of The American Slovak Society, South  $83^{\circ} 47'$  West, a distance of 350.83 feet to an iron pin distant 32.00 feet at right angles in a southeasterly direction from the centerline of the near track of railroad formerly of The Pennsylvania Railroad Company; thence North  $43^{\circ} 16' 20''$  East, parallel with said centerline, a distance of 1,585.22 feet to an iron pin; thence by the arc of a circle curving to the right with a radius of 726.779 feet, an arc length of 344.407 feet to an iron pin; thence North  $70^{\circ} 25' 25''$  East, a distance of 534.41 feet to an iron pin; thence North  $60^{\circ} 48' 05''$  East, a distance of 206.99 feet to an iron pin; thence North  $70^{\circ} 35' 35''$  East, a distance of 418.67 feet to an iron pin distant 32.00 feet at right angles in a southeasterly direction from the near track of railroad formerly of The Pennsylvania Railroad Company; thence South  $22^{\circ} 03' 35''$  East, a distance of 509.43 feet to an iron pin; thence along lines of lands formerly of The Pennsylvania Railroad Company and lands, now or formerly of W. C. Barchesky, lands now or formerly of G. V. Garris, lands now or formerly of J. G. Mrozinsky, lands now or formerly of J. R. Bates, lands now or formerly of J. C. Alexander, and lands now or formerly of the aforementioned George Peter Rellick, South  $61^{\circ} 25'$  West, a distance of 1,157.92 feet to the stone monument at the place of beginning.

See Continuation Sheet

Parcel No: 45-41-04-0-036 & 45-41-04-0-041

West Hills Closing  
Services, LLC  
300 Corporate Center Dr.  
Suite 130  
Moon Township  
(412) 264-6467

PA 15108

COMMITMENT  
SCHEDULE C (Continued)

BEING Tax Map No. 45-41-04-0-036.

Uniform Parcel Identifier: 45-01528-00000.

PARCEL II:

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with the 9,000 lineal feet of track and other track material, being a portion of the line of railroad known as The Philadelphia-Pittsburgh Main Line and identified as Line Code 2202, situate in the Township of Derry, County of Westmoreland and Commonwealth of Pennsylvania, which is bounded and described in accordance with a Property Survey, identified as File No. GT-7428, DR-7-L-"U", dated September, 1990 and prepared by George Gera, Registered Professional Surveyor No. 471-E, of the Commonwealth of Pennsylvania; hereinafter referred to as "Premises" as follows:

BEGINNING at a point in or near the centerline of Depot Street Projected and the southerly right of way line of the main line of Consolidated Rail Corporation leading from Pittsburgh to Altoona, said point of Beginning being South 48° 56' East, 84.68 feet from the centerline of Township Route 982; thence leaving said Depot Street and through said Consolidated Rail Corporation South 68° 56' East, 225.32 feet to an iron pin; thence by a curve to the left, having a radius of 3,061.62 feet and (a chord course and distance South 81° 15' 58" East, 1,307.90 feet), an arc distance of 1,317.95 feet to a point; thence still being a curve to the left, having a radius of 2,803.92 feet and (a chord course and distance of North 76° 37' 00" East, 946.70 feet), an arc distance of 951.24 feet to a point; thence still by the southerly right of way of Consolidated Rail Corporation North 66° 54' East, 6,037.90 feet to a point in or near LR 64041 leading from LR 217 to LR 982; thence along LR 64041 South 21° 51' West, 112.46 feet to a point; thence by the same South 27° 01' West, 69.25 feet to a point; thence leaving LR 64041 along lands of Joseph E. Rellick South 55° 45' 30" West, 886.64 feet to an iron pin; thence by the same South 24° 39' 30" East, 208.00 feet to an iron pin; thence along said land of John P. Rellick South 72° 10' 30" West, 850.00 feet to a post; thence along lands of Rellick, Barchesky, Garris, Mrozinsky, Bates, Alexander, Rellick, Doughty, Deone Medical Building, Plato, Slezak, Slavek, South 57° 45' 30" West, 3,352.44 feet to an angle iron; thence along lands of the American Slovak Society, formerly Irene Caldwell South 80° 03' West, 977.70 feet to an iron pin; thence by curve to the right, having a radius of 1,447.44 feet and (a chord course and distance North 85° 10' 40" West, 738.13 feet), an arc distance of 746.38 feet to an iron pin; thence by the same and lands of Loshinsky and Derry Area School

See Continuation Sheet

**COMMITMENT  
SCHEDULE C (Continued)**

District, North 70° 24' 18" West, 1,043.42 feet to an iron pin at the corner of lands of the Derry Area School District; thence along the lands of the Derry Area School District South 19° 35' 42" West, 155.32 feet to an iron pin; thence by the same and lands now or formerly of Elizabeth Calabrese North 68° 55' 36" West, 1,000.00 feet to a point in or near the centerline of Depot Street Projected; thence through Depot Street Projected North 21° 04' East, 148.00 feet to a point, the place of beginning.

BEING Tax Map No. 45-41-04-0-041

Uniform Parcel Identifier: 45-01527-00000.

The Law Offices of  
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www.krugfirm.com

\* Also licensed in Georgia

March 30, 2017

[REDACTED]

**Re: Review Letter – C&D Coal, LLC Leasehold Coal Interests**

**Location: Derry and Fairfield Townships, Westmoreland County, Pennsylvania**

Dear Sir:

**RECORDS EXAMINED AND EXTENT OF EXAMINATION:**

Pursuant to your request, be advised that we have made a careful examination of leasehold interests reflected within the Assignment Agreement between Kingston Coal Company and C&D Coal Company, LLC, dated April 11, 2008 and its Amendments, the Assignment Agreement between Kingston Coal Company and C&D Coal Company, LLC, dated October 1, 2011 and its Amendments, the re-assignment of the same interests identified within the said Assignment Agreements, dated December \_\_\_, 2016, and the report identified as "Title Review – Derry Township and Fairfield Township, Westmoreland County, PA, prepared for Kingston Coal Company" by Burlison, LLP, and find as follows:

**I. DESCRIPTION:**

The properties covered by this Review Letter are comprised of sixty-eight (68) parcels, by thirty-three (33) leases, comprising \_\_\_ subsurface acres of coal and \_\_\_ surface acres within Derry and Fairfield Townships of Westmoreland County, Pennsylvania.

**EXHIBIT C**

C&D Coal Company, LLC

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## **II. COAL LEASES:**

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Right to take coal from leased premises is vested in C&D Coal by the following instruments:

### **A. 2008 Assignment – Recorded Leases – Derry Township, Westmoreland County, PA**

1. The coal mining portion of the Lease Agreements dated June 1, 2005 (and to avoid any doubt not the CBM portion of the same Lease Agreements) between Jan Ondra and George Ondra, as lessors, and Kingston Coal Company, as lessee, concerning the Upper Freeport seam of coal located in Derry Township, Westmoreland County, Pennsylvania “containing approximately 2,800 acres, more or less” with Memoranda of Lease recorded at Instrument Numbers: 200506100029101 and 200506100029100. Tax Parcel ID Numbers: 45-35-00-046-90-100; 45-35-00-001-90-100; 45-28-00-0-030-90-100; 45-28-00-032-90-100; 45-29-00-017-90-100; 45-29-00-055-90-100; 45-30-00-028-90-100; 45-30-00-062-90-100; 45-35-00-005-90-100; 45-35-00-011-90-100. *Note:* parcel number 45-35-00-046-90-100 did not exist in the records of Westmoreland County when searched on December 19, 2016.

2. The Option Lease Agreement dated May 24, 2006 between Raymond Kerber and Katherine Kerber, as lessor, and the Kingston Coal Company, as lessee, concerning 13 or so acres of surface land (and 76 acres of coal) with a Memorandum of Lease recorded at Instrument Number: 200610310053571. Tax Parcel ID Number: 45-28-00-67. The option was executed by way of a letter sent by Dana Yealy, President of Kingston Coal Company to Raymond and Katherine Kerber, dated October 15, 2006. Upon execution of the option, the Term shall be “for so long as coal production hereunder is continued from the Premises or from adjacent property controlled now or in the future by Lessee.” The Option and Lease Agreement was mutually amended by the Lessors and the successors-in-interest to the Lessee by way of a “First Amendment Agreement”, dated March 3<sup>rd</sup>, 2009, and enlarges the surface area operations permitted and modifies the wheelage and royalty provisions. *Note:* the Lease Agreement provided was not acknowledged.



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3. The Option and Lease Agreement dated July 31, 2006 between Treg F. Wentling as lessor and the Kingston Coal Company as lessee, concerning 8 or so acres of surface land (and 40% of 32 acres of coal, less the two acres of coal underlying the residence) with a Memorandum of Lease recorded at Instrument Number: 201002220005569. Tax Parcel ID Number: 45-28-0-00-19. *Note:* the Lease Agreement provided indicates that it is an option lease which will require action by the Lessee in order to execute the option. Upon execution, the Term shall be 20 years. The option was executed via an Amendment Agreement dated January 25, 2007. *Also Note:* this parcel appears to be contemplated for use as the mine portal and provides for the surface rights necessary to carry out the contemplated activity.

4. The Lease Agreement dated October 1, 2005 between Dana A. Yealy, as lessor, and Kingston Coal Company as lessee concerning the Upper Freeport coal located in Derry Township, Westmoreland County, Pennsylvania, containing approximately 1,039 acres, more or less of coal with a Memorandum of Lease recorded at Instrument Number: 200803040008842. Tax Parcel ID Numbers: 45-41-00-0-23-90-100; 45-41-00-0-39-90-100; 45-41-00-0-73-90-120; 45-41-00-0-134-90-100; 45-45-00-0-53-90-130. *Note:* parcel number 45-41-00-0-134-90-100 did not exist in the records of Westmoreland County when searched on December 19, 2016. The writer believes that the parcel was intended to be identified as 45-45-00-0-134-90-100.

5. The Option and Lease Agreement dated January 26, 1996, between Danny D. and Mary G. Kuhns, as lessors, and Kingston Coal Company, as lessee, concerning land located in Derry Township, Westmoreland County, Pennsylvania, containing approximately 7.3 acres, more or less of surface with a Memorandum of Lease recorded at Instrument Number: 199711121278747. Tax Parcel ID Number: 45-45-00-0-134. *Note:* the Lease provided indicates that it is an option lease which will require action by the Lessee in order to execute the option. The reader should verify that this option was executed. Upon execution of the option, the Term shall be "for so long as coal production hereunder is continued from the Premises or from adjacent property controlled now or in the future by Lessee."

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6. The Lease Agreement dated July 21, 1997 between Dorothy Rosenfelder and Kenneth Fredrick Burd, as lessors, and Kingston Coal Company, as lessee, concerning the Upper Freeport coal located in Derry Township, Westmoreland County, Pennsylvania, containing approximately 35 acres, more or less of coal with a Memorandum of Lease recorded at Instrument Number: 201002220005568. Coal under surface tracts at Tax Parcel ID Numbers: 45-41-14-0-07; 45-41-14-0-08; 45-41-14-0-10; 45-41-14-0-11; 45-41-14-0-12; 45-41-15; 45-41-00-0-36. *Note:* parcel number 45-41-15 did not exist in the records of Westmoreland County when searched on December 19, 2016.

7. The coal mining portion of the Lease Agreements dated November 7, 2005 (and to avoid any doubt not the CBM portion of the same Lease Agreements) between Estate of Rose Connor, as lessor, and Kingston Coal Company, as lessee, concerning the Upper Freeport seam of coal located in Derry Township, Westmoreland County, Pennsylvania containing approximately 1,400 acres, more or less with a Memorandum of Lease recorded at Instrument Number: 200511280062176. Tax Parcel ID Numbers: 45-34-00-0-104-90-100; 45-35-00-0-9-90-100; 45-35-00-0-9-90-100; 45-35-00-0-33-90-100; 45-35-00-0-10-90-100; 45-35-00-0-24-90-100; 45-35-00-0-72-90-100. Term: As to the Coal Mining Lease, until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* parcel numbers 45-35-00-0-24-90-100 and 45-35-00-0-72-90-100 did not exist in the records of Westmoreland County when searched on December 19, 2016. *Also Note:* The Lease Agreement execution and First and Second Amendments appear to have been executed outside of the authority granted by Orphan's Court and the Bankruptcy Court of the Western District of Pennsylvania. Furthermore, the Second Amendment was executed by the Executors only. Affidavit of non-payment of royalties filed. The Estate of Rose Connor conveyed the assets to the Rose Connor Limited Partnership (RCLP) on 1/30/14, Westmoreland County Recorder of Deeds Instrument Number 201401300002651. The RCLP is cooperative and counsel has communicated RCLP's interest in joining a new transaction.

8. The Lease Agreement dated December 19, 2008 between Dr. James E. Gibson as lessor, and the Kingston Coal Company as lessee, concerning the Upper Freeport Coal

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located in Derry Township, Westmoreland Pennsylvania, containing approximately 24 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009952. Tax Parcel ID Numbers: 45-34-00-0-160; 45-34-00-0-158; 45-34-00-0-100. Term: until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* the Lease Agreement indicates that "the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement."

9. The Lease Agreement dated December 1, 2008 between Fred C. Hixson as lessor, and the Kingston Coal Company as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 3.28 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009948. Tax Parcel ID Number: 45-28-00-0-83. Term: until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* the Lease Agreement indicates that "the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement."

10. The Lease Agreement dated December 1, 2008 between Fred C. Hixson and Carrie L. Hixson as lessors, and the Kingston Coal Company as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 19.781 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009944. Tax Parcel ID Number: 45-28-00-117. Term: until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* the Lease Agreement indicates that "the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement." *Also Note:* Fred's signature was acknowledged prior to the effective date of the Lease Agreement.

11. The Lease Agreement dated December 1, 2008 between Fred C. Hixson as lessor, and the Kingston Coal Company as lessee, concerning the coal located in Derry Township,

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Westmoreland Pennsylvania, containing approximately 3.64 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009946. Tax Parcel ID Number: 45-28-00-0-133. Term: until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* the Lease Agreement indicates that "the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement."

12. The Lease Agreement dated December 1, 2008 between Fred C. Hixson and Carrie Hixson, as lessors, and the Kingston Coal Company as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 1 acre, more or less, of coal with the Lease recorded at Instrument Number: 200903260009942. Tax Parcel ID Number: 45-28-00-0-39. Term: until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* the Lease Agreement indicates that "the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement."

13. The Lease Agreement dated December 9, 2008 between William and Brenda Nicol, as lessors, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 20.346 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009951. Tax Parcel ID Number: 45-34-00-0-154. Term: until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* the Lease Agreement indicates that "the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement."

14. The Lease Agreement dated September 28, 2008 between David and Michele Nicol, as lessors, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 10.781 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009950.

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Tax Parcel ID Number: 45-34-00-0-127. Term: until “all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” *Note:* the Lease Agreement indicates that “the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement.”

15. The Lease Agreement dated October 26, 2008 between Erma Nicol, as lessor, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 4.7 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009949. Tax Parcel ID Numbers: 45-34-00-0-119 and 45-28-00-0-119. Term: until “all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” *Note:* the Lease Agreement indicates that “the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement.”

16. The Lease Agreement dated October, 26, 2008 between Harold and Patricia Lucas, as lessors, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 8.71 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009954. Tax Parcel ID Number: 45-29-00-0-130. Term: until “all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” *Note:* the Lease Agreement indicates that “the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement.” *Also Note:* This Lease Agreement was acknowledged prior to its effective date.

17. The Lease Agreement dated November 28, 2008 between William J. Newcomer, as lessor, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 3 acres, more or less, of coal with the Lease recorded at Instrument Number: 201002220005571. Tax Parcel ID Number: 45-28-00-0-84. Term: until “all the coal contained in the coal mining premises

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has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” *Note:* the Lease Agreement indicates that “the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement.”

18. The Lease Agreement dated November 28, 2008 between Steve and Melanie Peterman., as lessors, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 23 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009955 Tax Parcel ID Number: 45-34-00-0-179. Term: until “all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” *Note:* the Lease Agreement indicates that “the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement.”

19. The Lease Agreement dated (acknowledged) January 6, 2008 between Shelly & Carol Gehard and Michelle Schultz, as lessors, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 55.25 acres, more or less, of coal with the Lease recorded at Instrument Number: 200903260009953. Tax Parcel ID Number: 45-28-00-0-51. Term: until “all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” *Note:* the Lease Agreement indicates that “the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement.”

20. The Lease Agreement dated March 16, 2008 between the Pennsylvania Game Commission, as lessor, and the Kingston Coal Company, as lessee, concerning the coal located in Derry Township, Westmoreland Pennsylvania, containing approximately 1,570 acres, more or less, of coal with the Lease recorded at Instrument Number:

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201201270004008. Tax Parcel ID Number: 45-35-00-0-013-90-100. Term: The lease may be terminated at the election of the Lessor if no mining has begun by March 16, 2017.

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*Note:* the leases that follow were not included within the documentation provided by C&D for this review. Their memoranda were discovered during a review of the records of Westmoreland County and were determined to be included acreage upon review of the Assignment Agreement between Kingston Coal Company and C&D Coal Company, LLC dated December \_\_\_\_, 2016.

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21. The Lease between Saint Vincent College as lessor, and Kingston Coal Company, as lessee, dated July 30, 2012. Tax Parcel ID Numbers: 45-29-00-0-029-90-100; 45-35-00-0-004-90-100; 45-30-00-0-104-90-100; 45-24-00-0-042-90-100, recorded on or about October 26, 2016 at Instrument Number: 201610260034978.
22. The Lease between Cecilia L. Nicol, as lessor and Kingston Coal Company, as lessee, dated September 13, 2013. Tax Parcel ID Number: 45-34-00-0-111, recorded on or about October 26, 2016 at Instrument Number: 201610260034971.
23. The Lease between Daniel G. Slavek, Jr. Trust, as lessor and Kingston Coal Company as lessee, dated November 20, 2013. Tax Parcel ID Number: 45-29-00-00-0136, recorded on or about October 26, 2016 at Instrument Number: 201610260034974.
24. The Lease between David and Kristina Swank as lessors and Kingston Coal Company as lessee, dated September 19, 2013. Tax Parcel ID Number: 45-29-00-0-152, recorded on or about October 26, 2016 at Instrument Number: 201610260034976
25. The Lease between Frank S. and Margaret A. Guzik as lessors and Kingston Coal Company as lessee, dated August 31, 2011. Tax Parcel ID Numbers: 45-29-00-0-039; 45-29-00-0-042; 45-29-00-0-117, recorded on or about October 26, 2016 at Instrument Number: 201610260034975.

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26. The Lease between Thomas E. and Lauren J. Davis as lessor and Kingston Coal Company as lessee, September 6, 2011. Tax Parcel ID Number: 45-29-00-0-131, recorded on or about October 26, 2016 at Instrument Number: 201610260034973, containing approximately 4 acres of coal, more or less.

27. The Lease between Jerome and Alice Susa, as lessors and Kingston Coal Company as lessee, March 25, 2012. Tax Parcel ID Number 45-29-00-0132, recorded on or about October 26, 2016 at Instrument Number: 201610260034970.

28. The Coal Mining Lease Agreement between James H. and Helen G. Daugherty, as lessor and Kingston Coal Company as lessee, dated December 5, 2013 recorded on or about October 26, 2016 at Instrument Number: 201610260034977. Parcel described as the five (5) acre reservation of coal under the White Farm in the deed from C.P Lineaweaver to the Pennsylvania Company for Insurance on Lives and Granting annuities recorded at DBV 923 Page 258. Term: until "all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee." *Note:* the Lease Agreement indicates that "the Lessee shall file for a permit to mine coal associated with the project that includes the leased premises within five years from the date of this agreement."

29. The Lease between Donald and Jennifer Kepple, as lessor, and Kingston Coal Company, as lessee, dated July 25, 2012. Tax Parcel ID Number: 45-29-00-151, recorded on or about October 26, 2016 at Instrument Number: 201610260034972.

30. The Lease Agreement between Walter and Mary Brewer, as lessor, and Kingston Coal Company, as lessee, dated September 22, 2011. Tax Parcel ID Number 45-29-00-147, recorded on or about October 26, 2016 at Instrument Number 201610260034969. *Note:* the lease provided for this leasehold was actually represented by the first four pages of the Davis lease.

**B. 2011 Assignment – Recorded Leases – Fairfield Township, Westmoreland County, PA**



C&D Coal Company, LLC

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1. The Option and Lease Agreement between Jan Ondra, as lessor, and Kingston Coal Company, as lessee, dated July 6, 2009 for which a memorandum of lease is recorded at Instrument Number: 201012300049161. Tax Parcel ID Numbers: 48-08-00-0-027-90-100 and 48-05-00-0-037-90-160. Term: upon execution of the option, until “all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” The option was executed by way of a letter sent by Dana Yealy, President of Kingston Coal Company to Jan Ondra, dated June 12, 2010. *Note:* the Tax Parcel ID Numbers are identified as 45-08-00-0-27-90-100 and 45-05-00-0-037-90-160 in the Assignment Agreement. ~~However, 45-08-00-0-27-90-100 and 45-05-00-0-037-90-160 did not exist in a search of the records of Westmoreland County on December 19, 2016. 48-08-00-0-027-90-100 and 48-05-00-0-037-90-160 do exist.~~ *Also note:* the copy of this lease provided to the writer was not attested, witnessed, or notarized.
2. The Option and Lease Agreement between Earl and Albina Killen, as lessors, and Kingston Coal Company, as lessee, dated August 28, 1009 and which a memorandum of lease is recorded as Instrument Number: 201007020022996. Tax Parcel ID Numbers: 48-06-00-0-003. Term: upon execution of the option, until “all the coal contained in the coal mining premises has been mined from the coal mining premises or from adjacent property controlled now or in the future by the Lessee.” The option was executed by way of a letter sent by Dana Yealy, President of Kingston Coal Company to Earl E. and Albina C. Killen, dated May 2, 2010.
3. The First Amendment between North Wheatfield, LP, as lessor, and the Kingston Coal Company as lessee, dated December 16, 2011, which amends and restates the Option and Lease Agreement dated October 19, 2009 between the same parties, and which is recorded at Instrument Number: 201202020004768. Tax Parcel ID Numbers: 48-06-0017; 48-05-91; 48-05-125; 48-05-90, containing approximately 228.91 acres of surface and coal. Term: Initial term of 10 years with two 5-year renewal terms and “so long thereafter as the Lessee is conducting mining operations on the Leased Premises or adjacent tracts...”

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**C. Previously Unrecorded Coal Lease – Derry Township - Yealy Trust Lease**

1. The Lease between the Dana A. Yealy Irrevocable Grantor Trust, as lessor, and the Kingston Coal Company, as lessee, dated November 1, 2016, and which is recorded as Instrument Number \_\_\_\_\_ . Tax Parcels 45-41-00-0-023-90-100; 45-41-00-0-039-90-100; 45-45-00-0-053-90-130; 45-45-00-0-134-90-100; 45-41-00-0-073-90-120. *Note: this lease identifies the same parcels identified in the lease herein described at II(A)(4).*

**III. COMMENTARY:**

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1.

**IV. IDENTIFIED REQUIREMENTS/CURATIVES:**

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1. Reader should verify that a mining permit was acquired within the five-year limit established individually by the Gerhard, Gibson, Nichol (Erma), Nichol (David and Michelle), Nichol (William and Brenda), Newcomer, Peterman, Lucas, Hixson (Fred), and Hixson (Fred and Carrie) leases.
2. Reader should verify that options were executed for the Wentling, Kuhns, , and , leases.
3. Reader should secure fully-executed signature and notarial acknowledgement pages for the leases, assignments, and amendments indicated.
4. Reader should secure a cancellation and release of the Yealy lease described at II(A)(4) as the same parcels were leased later in time by a Lessor of a different name.
5. Reader should confirm that the attorney-in-fact identified in the Rosenfelder/Burd Agreement of lease did in fact hold a valid and recorded Power of Attorney for the granting Lessor. *Note: the acreage leased in the Rosenfelder/Burd Agreement of Lease is conveyed from Mellon Bank, Successor to Latrobe Trust Company, to Dana Yealy on October 25, 2000. Confirm validity of leasehold.*
- ~~6. Re-execute the Rose Connor Estate lease.~~
7. Secure a copy of the true Brewer Lease Agreement.

**V. LIMITATIONS:**

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C&D Coal Company, LLC

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1. Any errors, inaccuracies or omissions in the indices and records contained in the Records Examined;
2. Any statement of facts which might be disclosed by an accurate survey of the subject real estate or by an actual inspection thereof;
3. Any rights of persons or firms for labor, service or material contracted for, supplied or used in connection with the construction or repairs of the subject real estate within the statutory period for filing liens therefore;
4. Any violations of zoning and other governmental regulations or any special taxes and assessment not shown of record;
5. The rights or claims of any persons in possession and holding adversely any part of the subject real estate;
6. Any violation of any city, county, state or federal environmental regulation or law;
7. The opinions expressed herein are for the sole use and benefit of C&D Coal Company, LLC and cover the periods of time specified herein. Such are not to be provided, quoted, used by or otherwise relied upon by any other party except with our prior written consent; and
8. Any portion of this Review which you have requested not to be searched.
9. Any agreements executed in time between those provided and the present day.

**VI. CLOSING STATEMENT:**

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No search or examination has been made for and no opinion is expressed as to any zoning, land-use, wetland, environmental hazard, law or regulation which may affect or limit all or a portion of any rights under any lease. Subject to any errors or omissions in the indexes thereto, and to any matters that might, be observed or discovered by an inspection of the land and the above qualifications, determinations, requirements, comments, heirs determination and various lease and lease assignments, and pursuant to the curative recommendations, if any, herein, it is our opinion that coal leasehold interests held by C&D Coal Company, LLC identified herein are valid, effective, and \_\_\_\_\_.

Yours very truly,

**EDWARD J. KRUG & ASSOCIATES**

C&D Coal Company, LLC

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Edward J. Krug, Esq.

**DEED**



I hereby CERTIFY that this document is recorded in the RECORDER'S OFFICE of Westmoreland County Pennsylvania

Tom Murphy  
Tom Murphy - Recorder of Deeds

MADE the 13<sup>th</sup> day of December, 2010, between **KENNAMETAL INC.**, a Pennsylvania corporation (hereinafter referred to as "Grantor")

201012160047129  
12/16/2010 2:46:47PM T20100093728  
PA TRF TAX \$2000.00  
DERRY AREA \$1000.00  
DERRY TWP \$1000.00  
TOTAL TAX \$4000.00

A

N

UPI 45-09364-00000



Instr: 201012160047129 12/16/2010  
P: 1 of 4 F: \$72.00 2:46PM  
Tom Murphy T20100093728  
Westmoreland County RecorderC

D

UPI 45-03206-00000

MAP 48 41 00 88

**C & D COAL COMPANY, LLC**, a Pennsylvania limited liability company (hereinafter referred to as "Grantee")

WITNESSETH, that Grantor, in consideration of the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00), paid to Grantor by Grantee, and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, does grant, bargain, sell and convey to Grantee, its successors and assigns:

ALL that certain lot or tract of land situate in Derry Township, Westmoreland County, Pennsylvania, being known as Lot 1 in the Kennametal Subdivision Lot No. 1 Plan, recorded in the Recorder of Deeds Office of Westmoreland County, Pennsylvania (the "Recorder's Office") on November 16, 2010 at Instrument No. 201011130042205 (hereinafter referred to as the "Plan").

BEING all or a portion of the property granted and conveyed to Grantor by the following deeds:

- a. Deed of George Gera, et ux, dated July 11, 1956 and recorded in the Recorder's Office in Deed Book Volume 1596, Page 496;
- b. Deed of Norma Jean Stott, et vir dated November 1, 1985 and recorded in the Recorder's Office in Deed Book Volume 2636, Page 331; and
- c. Deed of R. Emerson Hunter, et ux dated September 17, 1956 and recorded in Deed Book Volume 1620, Page 431.

BEING part of Tax Map Parcel 45-41-00-0-088.

BEING also part of Uniform Parcel Identifier 45-03206-00000.

UNDER AND SUBJECT TO:

- (a) Real estate taxes that are not yet due and payable;

CHICAGO TITLE INSURANCE COMPANY  
TWO GATEWAY CENTER  
803 STANWIX STREET, SUITE 1900  
PITTSBURGH, PA 15222

(b) All matters shown on the Plan.

EXCEPTING AND RESERVING to Grantor an easement for an existing 4" PVC gas line, as shown on the Plan, said easement to be ten (10) feet in width and centered on the current location of said 4" PVC gas line, together with the right and privilege to enter onto the property described above to maintain, repair and replace, in its current location, or remove at Grantor's discretion, said 4" PVC gas line.


EXCEPTING AND RESERVING to Grantor the right and privilege to discharge surface water run-off onto the property hereby conveyed from those two (2) storm water outfalls shown on the Plan. So long as such storm water outfalls are maintained in their current condition and Grantee makes no changes to its property that would increase the rate or volume of surface water discharged through said outfalls, then by the acceptance and recording of this Deed Grantee forever releases Grantor from any claims, actions, causes of action, liability, damage or expense resulting from said surface water run-off.

Together with the appurtenances.

Property Sold "As-Is Where Is". GRANTEE WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH GRANTOR THAT GRANTEE IS PURCHASING THE PROPERTY IN ITS "AS-IS, WHERE IS" CONDITION "WITH ALL FAULTS" AND DEFECTS AS OF THE CLOSING DATE, AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS, GUARANTEES, EITHER EXPRESS OR IMPLIED, AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER PROVIDED FOR UNDER STATUTORY OR COMMON LAW OR THE UNIFORM COMMERCIAL CODE FROM OR ON BEHALF OF GRANTOR. GRANTOR HAS MADE NO AGREEMENT TO ALTER, REPAIR OR IMPROVE ANY OF THE PROPERTY.

TO HAVE AND TO HOLD the same to and for the use of Grantee, its successors and assigns forever, and Grantor for its successors and assigns hereby covenants and agrees that it will WARRANT SPECIALLY, except as aforesaid, the property hereby conveyed.

NOTICE -- THIS DOCUMENT MAY NOT/DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE/HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

  
Instr: 201012160047129 12/16/2010  
P: 2 of 4 F: \$72.00 2:46PM  
Tom Murphy T20100093728  
Westmoreland County RecorderC

Witness the hand and seal of Grantor.

**GRANTOR:**

KENNAMETAL INC., a  
 Pennsylvania corporation

**ATTEST:**

By: Kevin G. Nowe

**Acknowledgment**

COMMONWEALTH OF PENNSYLVANIA )  
                                   Westmoreland )       SS:  
 COUNTY OF ~~ALLEGHENY~~ )

On this 13<sup>th</sup> day of December, 2010, before me, a Notary Public, the undersigned officer, personally appeared Kevin G. Nowe, who acknowledged himself to be the Vice President, Secretary and General Counsel of KENNAMETAL INC., a Pennsylvania corporation, and that being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jacqueline L. Zitt  
 Notary Public

MY COMMISSION EXPIRES:

COMMONWEALTH OF PENNSYLVANIA  
 Notarial Seal  
 Jacqueline L. Zitt, Notary Public  
 Unity Twp., Westmoreland County  
 My Commission Expires Jan. 8, 2012  
 Member, Pennsylvania Association of Notaries



Instr: 201012160047129      12/16/2010  
 P: 3 of 4                      F: \$72.00                      2:48PM  
 Tom Murphy                      T20100093728  
 Westmoreland County RecorderC

**NOTICE** THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966, AS AMENDED 1980, OCT. 10, P.L. 874, NO. 156 § 1.

WITNESS:

~~.....~~ ~~.....~~

CERTIFICATE OF RESIDENCE

I, MARY E. CALLIPARC hereby certify that the precise residence of Grantee is 145 Ivy Lane, Tazwell, Virginia 24641.

Mary E. Calliparc  
For Grantee

Instr: 201012160047129 12/16/2010  
P: 4 of 4 F: \$72.00 2:46PM  
Tom Murphy T20100093728  
Westmoreland County RecorderC





# Chicago Title Insurance Company

## OWNER'S POLICY OF TITLE INSURANCE

Issued by  
Chicago Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

### COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;
  - (b) the character, dimensions, or location of any improvement erected on the Land;
  - (c) the subdivision of land; or
  - (d) environmental protectionif a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective

## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

## CONDITIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
  - (i) The term "Insured" also includes
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
    - (C) successors to an Insured by its conversion to another kind of Entity;
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      - (2) if the grantee wholly owns the named Insured,
      - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.
  - (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

### 5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes

- (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, the Company has caused this endorsement to be issued and become valid when signed by an authorized officer or licensed agent of the Company.

Issued by:  
CHICAGO TITLE INSURANCE COMPANY  
603 STANWIX STREET, SUITE 1900  
PITTSBURGH, PA 15222

Chicago Title Insurance Company

By:  President



ATTEST:

 Secretary

## **CHICAGO TITLE INSURANCE COMPANY**

Attn: Claims Department, P.O. Box 45023  
Jacksonville, FL 32232-5023

### **OWNER'S POLICY SCHEDULE A**

File No.: 10-0332

Date of Policy: December 16, 2010

Policy No.: 10-0332A

Amount of Insurance: \$200,000.00

1. Name of Insured:

C & D Coal Company, LLC, a Pennsylvania limited liability company

2. The estate or interest in the land described herein and which is covered by this policy is:

Fee Simple

3. The estate or interest referred to herein is at Date of Policy vested in the insured.

4. The land herein described is encumbered by the following mortgage or trust deed and assignments:

N/A

5. The land referred to in this policy is described as follows:

See "Exhibit A" attached hereto and made a part hereof.

## **CHICAGO TITLE INSURANCE COMPANY**

### **OWNER'S POLICY EXHIBIT A**

File No.: 10-0332

Policy No.: 10-0332A

All that certain lot or piece of ground situate in the Township of Derry, County of Westmoreland and Commonwealth of Pennsylvania, being all of Lot 1 in Kennametal Subdivision Lot 1 Plan of record in the Recorder's Office of Westmoreland County at Instrument No. 201011160042205.

Being part of Tax Map Parcel 45-41-00-0-088

Title is vested in C & C Coal Company, LLC, a Pennsylvania limited liability company, be deed of Kennametal, Inc. dated December 13, 2010 and recorded on December 16, 2010 at Instrument No. 201012160047129.

## CHICAGO TITLE INSURANCE COMPANY

### OWNER'S POLICY

File No.: 10-0332

Policy No.: 10-0332A

### SCHEDULE B

**This policy does not insure against loss or damage by reason of the following:**

1. Encroachments, overlaps, boundary line disputes, shortage in area and any other matters which would be disclosed by an accurate survey and inspection of the premises.
2. Easements or claims of easements not shown by the public records.
3. Intentionally omitted.
4. Real estate taxes for the current and prior tax years which may be hereafter assessed, not yet due and payable.
5. Coal and coal bed methane gas and mining rights and all rights incident to the extraction or development of coal or coal bed methane gas heretofore conveyed, excepted and reserved by instruments of record; the right of surface, lateral or subjacent support; or any surface subsidence.  
  
NOTICE: "THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND." [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]
6. Oil and gas and minerals and all rights incident to the extraction or development of oil and gas or minerals heretofore conveyed, leased, excepted or reserved by instruments of record.
7. Rights of the public and others entitled to the use thereof in and to Chestnut Ridge Road and Old Haul Road crossing the land.
8. Intentionally omitted.
9. Intentionally omitted.
10. Intentionally omitted.
11. Consent of Landowner to open pit mining operation executed by Kennametal, Inc. in favor of Darmac Coal, Inc. dated September 21, 1977 and recorded in Deed Book Volume 2393, page 335.
12. Intentionally omitted.
13. Terms and conditions of Authorization to Discharge under the National Pollutant Discharge Elimination System, issued by Commonwealth of Pennsylvania and recorded in Deed Book Volume 3168, page 5.
14. Intentionally omitted.

**SCHEDULE B**  
(Continued)

File No.: 10-0332

Policy No.: 10-0332A

15. Terms and conditions of Sewerage Permit issued by Commonwealth of Pennsylvania recorded in Deed Book Volume 1905, page 600.
16. The following rights of way:
  - a. From Harry E. Pierce, et ux to the Peoples Natural Gas Company dated November 15, 1951 and recorded in Deed Book Volume 1440, page 459.
  - b. From Kennametal, Inc. to Peoples Natural Gas Company dated October 12, 1960 and recorded in Deed Book Volume 1801, page 693.
  - c. From Kennametal, Inc. to Peoples Natural Gas Company dated October 12, 1960 and recorded in Deed Book Volume 1801, page 699, as shown on the Kennametal Subdivision Lot No. 1, recorded at Instrument No. 201011160042205 (The Subdivision).
  - d. From Kennametal, Inc. to West Penn Power Company dated March 15, 1976 and recorded in Deed Book Volume 2208, page 1120, as shown on The Subdivision.
  - e. From Kennametal, Inc. to West Penn Power Company dated March 15, 1976 and recorded in Deed Book Volume 2208, page 1124, as shown on The Subdivision.
  - f. From Kennametal, Inc. to the Bell Telephone Company of Pennsylvania dated February 5, 1990 and recorded in Deed Book Volume 2934, page 501.
  - g. From Kennametal, Inc. to the Derry Township Municipal Authority dated July 23, 1997 and recorded in Deed Book Volume 3513, page 532, as shown on The Subdivision.
17. All matters shown on Kennemetal Subdivision Lot No. 1 of record at Instrument No. 201011160042205.
18. Intentionally omitted.
19. Easements and rights reserved in deed from Kennametal Inc. to C&D Coal Company, LLC, dated December 13, 2010 and recorded on December 16, 2010 at Instrument No. 201012160047129.

CHICAGO TITLE INSURANCE COMPANY

By:

  
\_\_\_\_\_  
Authorized Signatory

**14. ARBITRATION**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.
- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

**16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

**17. CHOICE OF LAW; FORUM**

- (a) **Choice of Law:** The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefore in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.
- (b) **Choice of Forum:** Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

**18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at

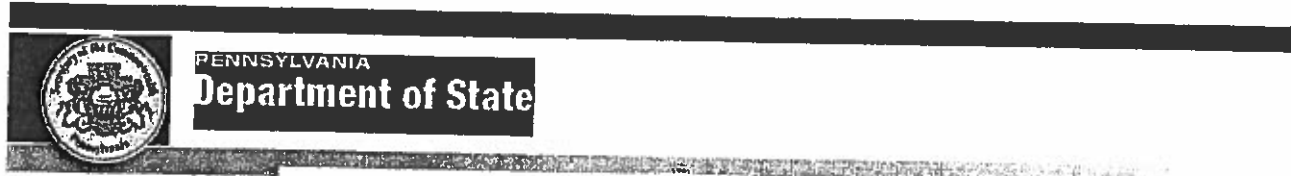
Chicago Title Insurance Company  
 Attn: Claims Department  
 P.O. Box 45023  
 Jacksonville, Florida 32232-5023





CHICAGO  
TITLE INSURANCE  
COMPANY

P.O. Box 45023  
Jacksonville, Florida 32232-5023



### Corporations

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### Business Entity Filing History

Date: 2/15/2011 (Select the link above to view the Business Entity's Filing History)

#### Business Name History

Name	Name Type
C & D Coal Company, LLC	Current Name

#### Limited Liability Company - Domestic - Information

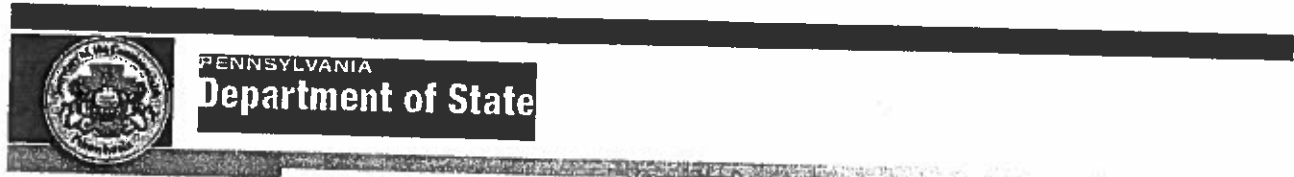
**Entity Number:** 3801414  
**Status:** Active  
**Entity Creation Date:** 4/4/2008  
**State of Business.:** PA  
**Registered Office Address:** % Ct Corporation System  
 PA  
 Dauphin  
**Mailing Address:** No Address

#### Officers

**Name:** JIMMY COOPER  
**Title:** President  
**Address:** 145 IVY LN  
 TAZEWELL VA 24651



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### Business Entity Filing History

Date: 2/15/2011 (Select the link above to view the Business Entity's Filing History)

#### Business Name History

Name	Name Type
DERRY COAL L.L.C.	Current Name

#### Limited Liability Company - Domestic - Information

Entity Number: 3952201  
 Status: Active  
 Entity Creation Date: 4/19/2010  
 State of Business.: PA  
 Registered Office Address: 242 Wood Street  
 California PA 15419  
 Washington  
 Mailing Address: No Address



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Christie M. Salimbene, Paralegal  
Meyer, Unkovic & Scott LLP  
535 Smithfield Street, Ste. 1300  
Pittsburgh, PA 15222

**COAL DEED**



I hereby CERTIFY  
that this document is  
recorded in the  
RECORDERS OFFICE  
of Westmoreland County  
Pennsylvania  
*Frank Schiefer*  
Frank Schiefer - Recorder of Deeds

THIS COAL DEED is made the 27<sup>th</sup> day of August, 2012, between **KENNAMETAL  
INC.**, a Pennsylvania corporation (hereinafter referred to as "Grantor")

A

N

D

Instr: 201209050036746 09/05/2012  
P: 1 of 6 F: \$68.00 12:21PM  
Frank Schiefer T20120052794  
Westmoreland County RecorderC

**C & D COAL COMPANY, LLC**, a Pennsylvania limited liability company (hereinafter referred to as "Grantee")

WITNESSETH, that Grantor, in consideration of the sum of Three Hundred Fifty and 00/100 Thousand and 00/100 Dollars (\$350,000.00), paid to Grantor by Grantee, and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, does grant, bargain, sell and convey to Grantee, its successors and assigns:

All of Grantor's rights, title, interests, claims and estates in and to the following:

All that certain tract of coal underlying and beneath the surface of the following tract of land situate in the Township of Derry, County of Westmoreland, and Commonwealth of Pennsylvania, bounded and described as follows:


Beginning at an iron found in Township Road (Chestnut Ridge Road, T-715), a common corner of lands now or formerly Kenneth R. Caves, et ux, lands now or formerly Alice Wetmore, and lands now or formerly Highwood Properties Westmoreland County. Thence by lands now or formerly Kenneth R. Caves, et. ux., North 55 degrees 02 minutes 01 seconds West 304.39 feet to a 5/8" rebar found at common corner of Kenneth R. Caves, et. ux. and lands now or formerly Linda S. & Robert J. Staschak;

Thence by lands of Linda S. & Robert J. Staschak and continuing along lands now or formerly Sterling Trust Company, passing through 5/8" rebars set on line at 100.00 feet distant, at 631.69 feet distant, and at 1150.88 feet distant, North 56 degrees 19 minutes 05 seconds West 1436.99 feet to a 3" iron pipe found at corner of lands now or formerly James R. & Eva C. Moore;

201209050036746  
09/05/2012 12:21:51PM T20120052794  
PA TRF TAX \$3500.00  
DERRY AREA \$1750.00  
DERRY TWP \$1750.00  
TOTAL TAX \$7000.00

UPI 45-09384-00000  
MAP 46-41-00-0-120

*CS*

  
Instr: 201209050036748 09/05/2012  
P: 2 of 6 F: \$66.00 12:21PM  
Frank Schiefer T20120052794  
Westmoreland County RecorderC

Thence by lands of James R. & Eva C. Moore and continuing along lands now or formerly Pamela J. Marts, North 45 degrees 40 minutes 39 seconds East 530.99 feet to a 5/8" capped rebar set this survey;

Thence continuing along lands of Pamela J. Marts, crossing Township Road T-715 and crossing a tributary to Miller Run, North 56 degrees 57 minutes 50 seconds West 450.36 feet to a 2" iron pipe found on the west bank of Miller Run on line of lands now or formerly Robert J. Petro;

Thence by lands of Robert J. Petro and continuing along lands now or formerly Trent D. & Pamela J. Bocan, North 47 degrees 56 minutes 23 seconds East 407.43 feet to a 5/8" capped rebar set this survey on the west side of Township Road T-715 at corner of lands of Trent D. & Pamela J. Bocan and lands now or formerly Martha J. Gerard;

Thence along lands of Martha J. Gerard, North 48 degrees 01 minutes 36 seconds East 294.10 feet to a 5/8" rebar found at common corner of lands of Martha J. Gerard and lands now or formerly Neil C. & Jamie L. Kelly;


Thence along lands of Neil C. & Jamie L. Kelly, North 59 degrees 19 minutes 43 seconds East 199.98 feet to a capped 5/8" rebar set this survey on the west side of Township Road T-715;

Thence continuing along lands of Neil C. & Jamie L. Kelly, North 66 degrees 12 minutes 45 seconds East 104.76 feet to a 5/8" rebar corner found on the west side of Township Road T-715;

Thence continuing along lands of Neil C. & Jamie L. Kelly, crossing the tributary to Miller Run, North 43 degrees 53 minutes 52 seconds West 110.39 feet to a point;

Thence by the same, North 41 degrees 29 minutes 18 seconds West 101.45 feet to a capped 5/8" rebar set this survey on line of lands now or formerly Trent D. & Pamela J. Bocan;

Thence along lands of Trent D. & Pamela L. Bocan, North 45 degrees 31 minutes 31 seconds East 167.47 feet to a 5/8" rebar found at line of lands now or formerly Vincent E. & Edward Gaston;

  
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Frank Schiefer T20120052794  
Westmoreland County RecorderC

Thence by Vincent E. & Edward Gaston, South 59 degrees 22 minutes 32 seconds East 104.89 feet to a 5/8" rebar found this survey;

Thence continuing along lands of Vincent E. & Edward Gaston, North 45 degrees 53 minutes 51 seconds East 793.39 feet to a capped rebar found at common corner of lands now or formerly Better Materials Corporation;

Thence by lands of Better Materials Corporation, South 44 degrees 59 minutes 14 seconds East 770.22 feet to a point;

Thence through lands previously conveyed by Kennametal Inc. to C&D Coal Company, LLC (See Deed of record in the Westmoreland County Recorder of Deeds Office at Instrument No. 2010212160047129), South 45 degrees 51 minutes 03 seconds West 791.14 feet to a point;

Thence continuing through lands previously conveyed by Kennametal Inc. to C&D Coal Company LLC aforesaid, South 44 degrees 08 minutes 57 seconds East 329.17 feet to a 5/8" capped rebar set this survey at the Residue of lands of Kennametal Inc.

Thence by the Residue of lands of Kennametal Inc. the following courses:

South 45 degrees 51 minutes 03 seconds West 620.09 feet to a capped rebar set this survey;

South 44 degrees 08 minutes 57 seconds East 241.32 feet to a capped rebar set this survey;

South 45 degrees 51 minutes 03 seconds West 290.94 feet to a capped rebar set this survey;

South 16 degrees 06 minutes 36 seconds East 279.17 feet to a capped rebar set this survey;

South 44 degrees 08 minutes 57 seconds East 560.41 feet to a capped rebar set this survey on line of lands of Highwood Properties Westmoreland County;

Thence by lands of Highwood Properties Westmoreland County, South 46 degrees 10 minutes 37 seconds West 235.91 feet to the place of beginning.

Containing 60.00 acres, more or less.

Being a part of the coal lands conveyed to Kennametal Inc. by Deed of Genevie B. Watson and Olga L. Watson dated December 27, 1988 and recorded in Deed Book Volume 2855 Page 85.



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P 4 of 6 F: \$66.00 12:21PM  
Frank Schiefer T20120052794  
Westmoreland County RecorderC

BEING the coal beneath a part of the land designated as Tax Map  
Number 45-41-00-0-120-00-000

UNDER AND SUBJECT TO:

- (a) Real estate taxes that are not yet due and payable;
- (b) All matters of record.

"As-Is Where Is". GRANTEE WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH GRANTOR THAT GRANTEE IS PURCHASING THE COAL IN ITS "AS-IS, WHERE IS" CONDITION "WITH ALL FAULTS" AND DEFECTS AS OF THE CLOSING DATE, AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS, GUARANTEES, EITHER EXPRESS OR IMPLIED, AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER PROVIDED FOR UNDER STATUTORY OR COMMON LAW OR THE UNIFORM COMMERCIAL CODE FROM OR ON BEHALF OF GRANTOR.

TO HAVE AND TO HOLD the same to and for the use of Grantee, its successors and assigns forever, and Grantor for its successors and assigns hereby covenants and agrees that it will WARRANT SPECIALLY, except as aforesaid, the property hereby conveyed.

[Signature page follows]

Witness the hand and seal of Grantor.

Instr: 201209050036746 09/05/2012  
 P. 5 of 6 F: \$66.00 12:21PM  
 Frank Schiefer T20120052794  
 Westmoreland County RecorderC

**GRANTOR:**

KENNAMETAL INC., a  
 Pennsylvania corporation

ATTEST:

*[Handwritten Signature]*

By: *[Handwritten Signature]*

**Acknowledgment**

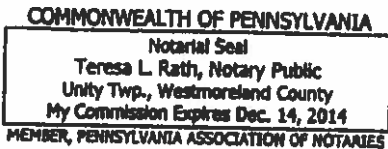
COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
 COUNTY OF ALLEGHENY )

On this 27<sup>th</sup> day of August, 2012, before me, a Notary Public, the undersigned officer, personally appeared Kevin G. Nowe, who acknowledged himself to be the Vice President, Secretary and General Counsel of **KENNAMETAL INC.**, a Pennsylvania corporation, and that being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*[Handwritten Signature]*  
 Notary Public

MY COMMISSION EXPIRES: 12/14/14





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P: 6 of 6 F: \$66.00 12:21PM  
Frank Schiefer T20120052794  
Westmoreland County RecorderC

CERTIFICATE OF RESIDENCE

I, Ken F. McKee, hereby certify that the precise residence of Grantee is 145 Ivy Lane, Tazwell, Virginia 24641.

Ken F. McKee  
For Grantee

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE:**

**C&D COAL COMPANY, LLC,**

**Debtor.**

**Bankruptcy No. 16-24726-GLT**

**Chapter 11**

**Document No.**

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**DERRY COAL COMPANY, LLC,**

**Debtor.**

**Bankruptcy No. 16-24727-GLT**

**Chapter 11**

**Document No.**

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**C&D COAL COMPANY, LLC and  
DERRY COAL COMPANY, LLC,**

**Movants,**

**Hearing Date and Time:  
December 21, 2017 at 10:30 a.m.**

**vs.**

**KINGSTON COAL COMPANY,  
KINGSTON GAS COMPANY,  
JOHNSON INDUSTRIES,  
EVEREST BUSINESS FUNDING,  
RTB HOLDINGS, LLC,  
INTEGRITY COAL SALES, INC.,  
WESTMORELAND COUNTY TAX  
CLAIM BUREAU, PENNSYLVANIA  
DEPARTMENT OF REVENUE,  
PENNSYLVANIA DEPARTMENT OF  
LABOR AND INDUSTRY,**

**Respondents.**

**ORDER OF COURT**

Upon consideration of the foregoing Joint Motion for Public Sale of Debtors' Assets In Bulk Free and Clear of All Liens, Claims and Encumbrances, the Court finds as follows:

1. Pursuant to 11 U.S.C. Section 363(b) and (f), the Debtors have effectuated service of the Joint Motion for Public Sale of Debtors' Assets In Bulk Free and Clear of All Liens, Claims and Encumbrances (the Sale Motion) and the related Notice of Sale setting the hearing and response deadline upon the Respondents, all creditors and all other parties in interest as required by the applicable Bankruptcy Rules.

2. The Debtors have given sufficient notice of the hearing date on the Public Sale Motion to the Respondents, all creditors and all other parties in interest as evidenced by the Certificate of Service, which has been filed.

3. The sale is in good faith and any qualified buyer at the sales purchase is in good faith in accordance with **In re: Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143 (3d Cir 1986).**

4. This Court has resolved all responses and/or objections that were filed in regard to the Public Sale Motion in favor of the Sale. Further the executed \_\_\_\_\_ Agreement dated \_\_\_\_\_, by and between C&D Coal Company, LLC and Derry Coal Company, LLC (the Sellers) and \_\_\_\_\_ (the Buyer) be, and hereby is,

**APPROVED.**

5. The matters considered by the Court at the hearing were "core" proceedings pursuant to 28 U.S.C. Section 157(b)(2) over which the Court has jurisdiction to enter a final Order.

6. The terms of the Sale are fair and reasonable and in the best interest of these Estates.

Accordingly, it is hereby **ORDERED, ADJUDGED** and **DECREED** that:

7. Pursuant to 11 U.S.C. Section 363(b) and (f), the Sale of Property Free and Clear of All Liens, Claims and Encumbrances in the amount of \$\_\_\_\_\_ (\_\_\_\_\_) be, and hereby is **APPROVED** under the terms and conditions set forth in the \_\_\_\_\_ dated \_\_\_\_\_. Said sale is free and clear of any and all liens, claims and encumbrances, specifically those liens, charges, claims and/or encumbrances, specifically those liens, charges, claims and/or encumbrances of the Respondents herein.

8. The liens, charges and encumbrances are hereby transferred to the proceeds of the sale, if and to the extent that they may be determined to be valid liens against the property sold in accordance with their validity and priority.

9. The transfer of the property under this Sale will be exempt from any and all transfer taxes that may otherwise be due under applicable non-bankruptcy law, pursuant to Section 1146(c) of the Bankruptcy Code.

10. This sale is "as is", "where is". Closing will occur when this Order becomes final and non-appealable.

11. Closing of the sale must occur on or before \_\_\_\_\_ and with the proceeds of said sale to be distributed in accordance with further Order of this Court.

12. The sale confirmation Order survives dismissal or conversion of the within case.

Date: \_\_\_\_\_

\_\_\_\_\_  
Gregory L. Taddonio  
United States Bankruptcy Court Judge