

COAL LEASE

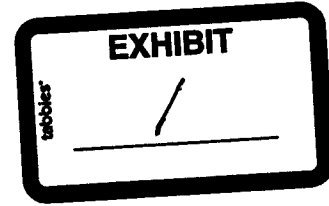
THIS AGREEMENT, Made this 23rd day of MAY, 1974, between Carl H. Reimers and Margaret A. Reimers, husband and wife, of Washburn, North Dakota 58577

herein called Lessor, and Consolidation Coal Company, a Delaware Corporation, 3300 One Oliver Plaza, Pittsburgh, Pa. 15222, herein called Lessee.

1. DEMISE. Lessor in consideration of FOUR HUNDRED and No/100 DOLLARS (\$400.00), in hand paid, receipt of which is hereby acknowledged, and of the royalties herein provided and of the agreements of the Lessee herein contained, hereby grants, leases and lets exclusively unto Lessee for the purpose of investigating, exploring, prospecting, drilling, mining and operating for and producing coal (which for all purposes of this Lease shall be deemed to include lignite and all other constituent products of coal and lignite), the following described land situated in MC LEAN County, NORTH DAKOTA

to-wit:

Township 145 North, Range 83 West of the 5th. P.M. Section 22: NW 1/4; Section 27: NW 1/4.



containing 320.00 acres, more or less, hereinafter called "leased premises" together with all coal and all seams or beds of coal situated and lying or being in, under or upon the leased premises, with full right to work, deep mine, strip mine, auger drill, excavate, raise, carry away and sell said coal from the mines, beds, veins and seams, and dispose of and pile up the overburden removed in sinking shafts and in stripping such coal beds, veins and seams in and upon the leased premises, or the whole or any part thereof, by any mining method or machinery now or hereafter employed without being required to leave or provide subjacent or lateral support for the overlying strata or surface or anything thereon, therein or thereunder and to erect and maintain on the leased premises such buildings, shafts, engines, machinery, appliances, devices, wells, roadways, railroad tracks, shops, ditches, power lines and all other necessary structures and improvements in, on, over and under or across the leased premises and each and every part thereof, and from time to time to relocate all or any part thereof as Lessee may desire or deem necessary in its mining operations of the leased premises or on any adjacent or nearby lands, with the exclusive right on the part of the Lessee to use said leased premises for roadways and all other purposes which may be necessary, useful, or incidental to conducting mining operations on said leased premises or any other land; hereby waiving and releasing all surface damages and damages of any sort howsoever caused, arising from the removal of and all operations in said coal and said other coal by Lessee, its successors or assigns, or arising from any and all physical conditions now present or which may hereafter develop in, about and/or above said coal seams or the horizons thereof, provided, however, the rights granted by Lessor to Lessee for the use of the surface shall be only to the extent that Lessor has the right to grant such rights.

2. COMPLIANCE WITH LAWS. Lessee shall fully obey and comply with all applicable laws of the United States of America and of the state in which the leased premises are located and with all rules, regulations, orders and ordinances of any political subdivision, bureau or department thereof relating to the use and occupancy of said leased premises or the conditions thereof and the mining operations in said coal and any and all conditions, activities or operations related thereto, including all such laws, ordinances, rules, orders and regulations now in effect or made, enacted or issued during the term hereof.

3. INDEMNIFICATIONS. Lessee hereby agrees to indemnify and save harmless Lessor from and against any and all claims, demands, suits or causes of action in law or equity for damages and injuries (including death) of every kind and nature to persons and property occurring on or about the leased premises and arising solely and directly out of the Lessee's negligence.

4. TERM. Subject to the other provisions herein contained, this Lease shall remain in force for a term of twenty (20) years from the date hereof and so long thereafter as mining operations are being conducted by Lessee on the leased premises or on other lands located within fifteen (15) miles of any part of the leased premises. If this Lease would otherwise terminate at the end of said twenty (20) years under the provisions of the preceding sentence Lessee may at its option pay to Lessor the sum provided for in paragraph 7 and this Lease shall continue in full force and effect on the same terms and conditions contained herein for an additional term of twenty (20) years and so long thereafter as mining operations are being conducted by Lessee on the leased premises or on lands located within 15 miles of any part of the leased premises.

5. RESERVED RIGHTS OF LESSOR.

a. Lessor reserves and excepts for himself, his heirs, successors, and assigns, all oil, gas and any other minerals except those named above; provided, however, said right to mine, drill for and produce oil, gas and other minerals shall not unreasonably interfere with Lessee's right to mine and remove coal pursuant hereto.

b. It is agreed and stipulated that the use of water by Lessee on or under leased premises shall not include water from wells and tanks now belonging to the Lessor except for exploratory purposes unless Lessor shall consent, in writing to allow Lessee the use of water from such sources.

c. Lessor reserves the right to use or rent the surface of the leased premises for timber and agricultural purposes so long as such use or renting shall not in any manner affect the conditions or terms of this Lease and the rights of the Lessee hereunder, however, Lessor shall not permit or grant the use or occupancy of the leased premises other than for timber and agricultural purposes or the rights of ingress or egress over and across the leased premises to any third party, including governmental agencies, without the prior written consent of Lessee. Lessee shall give written notice to Lessor before conducting mining operations upon the leased premises, which notice shall be delivered to Lessor at least 6 months prior to commencement of such mining operations. Unless the Lessor during said six months period cuts and removes all the merchantable timber and removes the houses, barns, and other buildings from the leased premises, Lessee shall have the right after said six month period to proceed with mining operations in such area and may remove any timber, houses, barns, and other buildings without liability to Lessor on account of removal or disposition thereof.

6. EXPLORATION DAMAGE. Notwithstanding anything in paragraph 1 to the contrary, if Lessee enters upon the leased premises for the purpose of conducting geological, geophysical, core-drilling test and/or other examinations, except mining operations, for the presence of coal deposits, hereafter called "exploratory operations", Lessee shall pay the owner for damages to growing crops occasioned by such exploratory operations, restore substantially to their former condition any fences or other improvements moved or altered in the course of such operations and restore as nearly as practicable the surface of the ground to its former condition.

7. ROYALTY. Once mining operations have commenced on the leased premises, Lessee shall pay as follows, on or before the 25th day of April, July, October, and January in each year during the continuance of this lease for all merchantable coal mined and sold from the leased premises during the three (3) months preceding the first day of the month in which payment is made:

- a. A "Mineral Royalty" of \$12.00 per ton of 2000 lbs. on coal from any tract where Lessor is the owner of the coal, and
b. A "Surface Royalty" of \$0.30 per ton of 2000 lbs. on coal from any tract where Lessor is owner of the surface.

Upon execution of this Lease, Lessee shall pay as "Advance Mineral Royalty" the sum of \$15.00 per acre on any tract where Lessor is the owner of the coal and Lessee shall pay as "Advance Surface Royalty" the sum of \$15.00 per acre on any tract where Lessor is the owner of the surface. Commencing one year from the date hereof and continuing until mining operations are commenced by Lessee on the leased premises, Lessee shall pay as Advance Mineral Royalty the sum of \$1.00 per acre on any tract then subject hereto where Lessor is the owner of the coal and Lessee shall pay as Advance Surface Royalty the sum of \$1.00 per acre on any tract then subject hereto where Lessor is owner of the surface. If Lessee elects to extend the term of this Lease under paragraph 4, Lessee shall pay as Advance Mineral Royalty on or before twenty (20) years from the date hereof the sum of \$15.00 per acre on any tract where Lessor is the owner of the coal and Lessee shall pay as Advance Surface Royalty the sum of \$15.00 per acre on any tract where Lessor is the owner of the surface and commencing twenty-one (21) years from the date hereof and continuing until mining operations are commenced on the leased premises Lessee shall pay as Advance Mineral Royalty annually in advance the sum of \$1.00 per acre on any tract then subject hereunder where Lessor is the owner of the coal and Lessee shall pay as Advance Surface Royalty the sum of \$1.00 per acre on any tract then subject hereto where Lessor is the owner of the surface. All Advance Mineral Royalty and Advance Surface Royalty payments hereunder, including payments made on lands thereafter surrendered, may be deducted by Lessee from all amounts payable by Lessee to Lessor for coal actually mined hereunder.

For the purpose of calculating Advance Mineral Royalty and Advance Surface Royalty, leased premises shall be deemed to comprise the number of acres set out in Paragraph 1 above, whether it actually comprises more or less.

Handwritten signatures and initials: CHAR, MAR, C.H., MAR, C.H., MAR.

All payments or tenders to Lessee under may be made to the Lessor at the address hereinbefore set out, or to Lessor's last known address as revealed by Lessee's files, or by deposit to the Lessor's credit in the Farmer's Security Bank of Washburn, North Dakota 58577 which bank or any successor thereof shall be deemed agent for the Lessor and Lessor's successors, heirs and assigns. If such bank shall fail or for any reason refuse to accept payments, Lessee shall not be held in default until 90 days after Lessor shall deliver to Lessee a recordable instrument naming another bank as agent to receive such payments or tenders.

8. COAL WEIGHTS. Lessee further agrees to determine accurately the weight of all merchantable coal mined from the leased premises and to accurately enter the weight or weights thereof in due form in books to be kept and preserved by the Lessee for such purposes. At the time of the quarterly payments which may be due Lessor for the mining operations hereunder, Lessee will furnish Lessor a written statement showing the quantity of all merchantable coal mined and sold from the leased premises during the preceding three months, and this statement shall be deemed to have been given if attached to or made a part of the payment of tender to Lessor's depository herein.

9. LESSOR'S RESERVED RIGHT OF ENTRY. Lessor shall have the right at Lessor's sole risk to enter upon the leased premises at any time for the purpose of inspection and measuring the quantity of coal mined or removed provided Lessor does so in a manner which will not unnecessarily or unreasonably hinder or interrupt the operations of Lessee.

10. NOTICE OF DEFAULT. If Lessee fails to keep or perform any covenant, either expressed or implied, to be performed on its part, then the Lessor has the option, after written notice setting forth such nonperformance, to terminate this Lease at the end of 90 days from the date of such notice; provided, however, that Lessee may preserve this Lease and prevent such termination by the bona fide commencement of performance of operations to remedy the default within said 90-day period, and in the event of Lessee's failure to do so, this lease will then and in that event be deemed expired.

The date of the notice hereinabove provided shall be the date on which Lessee receives by Registered U. S. Mail postage prepaid, the written notice hereinabove required.

11. TAXES. Lessee agrees to pay any and all taxes levied or assessed against any improvements placed upon the leased premises by Lessee or upon any machinery or equipment brought upon the leased premises by Lessee and further, Lessee shall pay when due, any and all taxes assessed or levied on the mining, production, preparation or processing of said coal or on any waste product therefrom, or on any part, privilege or transaction related to the mining, production, preparation or processing thereof, including without limitation, the transportation, loading, unloading, dumping, storage or other handling thereof, or on persons engaged in the business of said mining, production or processing.

12. SURFACE RENTAL. If mining operations have not been commenced on the leased premises and Lessor is the owner of the surface estate, then Lessee shall pay to Lessor annually in advance as "Surface Rental" fair value per acre for each acre of the surface of the leased premises utilized by Lessee for Lessee's roads, buildings, railroads, shafts, engines, devices, appliances, wells, shops, ditches, power lines and any other necessary structures and improvements, until commencement of actual mining on the leased premises. Such rental shall be paid or tendered in the same manner as provided for the payment of royalties in paragraph 7. Lessee may cease to make use of the surface of the leased premises as provided in this paragraph and give Lessor written notice thereof. Within one hundred eighty (180) days after such notice of abandonment, Lessee may remove all of its machinery, buildings, equipment and other facilities from the leased premises. All surface rental payments hereunder may be deducted from the amount subsequently payable by Lessee for coal actually mined hereunder.

13. ASSIGNMENT. The rights of either party hereunder may be assigned in whole or in part and the provisions hereof shall extend to the heirs, executors, administrators, successors and assigns of the parties but no change or division in the ownership of the land or royalties, however accomplished, shall operate to enlarge the obligations or diminish the rights of Lessee. No such change or division in the ownership of the land or royalties shall be binding upon Lessee for any purpose until such person acquiring any interest has furnished Lessee with an instrument or instruments or certified copies thereof constituting such person's chain of title from the original Lessor.

14. ESCROW DEPOSIT. So long as any lands herein described are subject to mineral deed, lease or other instrument entitling other persons to mine leased premises for coal or to claim such right or in the event of dispute or litigation as to title or as to royalties or other sums payable hereunder or any part thereof, any such royalties or other payments may be deposited in escrow with the depository bank herein specified to be held until such lease, mineral deed or other instrument has been released or cancelled as to leased premises or until such dispute or litigation is finally terminated. Any sums so deposited in escrow by Lessee shall be deemed payment of royalties or other sums due hereunder.

15. SURRENDER. Lessee shall have the right to surrender and release this Lease at any time and from time to time as to all or any part of leased premises upon compliance with the obligations imposed hereunder with respect to leased premises and the payment to Lessor of any sums of money that may be due and payable under the terms hereof at the time of such surrender or release, and Lessee shall thereupon be released and discharged from all further payments, liabilities or obligations hereunder with respect to the leased premises surrendered, and the royalties or other payments herein provided to be paid to Lessor shall be proportionately reduced. Any such release shall be filed of record in the appropriate records of the county or counties in which the leased premises are situated.

16. FORCE MAJEURE. Mining shall not be deemed to have "terminated" or "ceased" and it shall be deemed that coal is being mined if mining or mining operations are suspended or are prevented or prohibited by law, ordinance or other governmental regulation, restraint or court order, by inability to obtain permits or licenses, by scarcity or inability to obtain equipment, material, power or fuel, by strike, lockout or industrial disturbance, by failure of carriers to transport or furnish facilities for transportation, by operation of force majeure (including, without limitation, lightning, earthquake, fire, storm, flood, washout), by breakage or accident to machinery or facilities, or by any cause beyond Lessee's control, provided that Lessee shall exercise reasonable diligence to resume mining operations. Lessee shall have the right to determine and settle any strikes, lockouts or industrial disputes in its sole discretion, and the aforesaid requirement of exercising reasonable diligence to resume mining shall not require Lessee to accede to any demand or position of any other party involved in such strike, lockout or industrial dispute.

17. WARRANTY OF TITLE. Lessor hereby warrants and agrees to defend the title to the leased premises and Lessee's quiet enjoyment of the same and agrees that Lessee, at its option, may discharge any tax, mortgage or other lien upon the leased premises, and in the event Lessee does so it shall be subrogated to such lien with the right to enforce same and apply royalties or payments accruing to Lessor hereunder towards satisfying same. Without any impairment to Lessee's rights, if Lessor owns an interest in the coal in and underlying any tract of the leased premises less than the entire estate therein, then the Mineral Royalty and Advance Mineral Royalty shall be paid to Lessor in proportion that Lessor's interest in any tract bears to the entire estate in the coal in such tract. Likewise if Lessor owns an interest in the surface estate in any tract of the leased premises less than the entire estate therein, then the Advance Surface Royalty, the Surface Royalty and Surface Rental payable to Lessor shall be paid to Lessor only in proportion that Lessor's interest in any tract bears to the entire estate in the surface of such tract. Royalties and Rentals shall be reduced and any prior payments shall be adjusted under this paragraph whenever Lessor owns less than the entire undivided fee estate whether a lesser estate is described herein or not.

18. SUCCESSORS. This Lease and all provisions hereof shall be applicable to and binding upon the parties and their respective heirs, successors and assigns. Reference herein to "Lessor" and "Lessee" shall include reference to their respective heirs, successors and assigns. Should any one or more of the parties named above as Lessors not execute this Lease, it shall nevertheless be binding upon the party or parties executing the same. If the leased premises are now owned or shall hereafter be owned in severally or in separate tracts, the leased premises shall be developed nevertheless as one lease and all royalties and rentals accruing hereunder shall be treated as an entirety and shall be payable to such separate owners in the proportions that the acreage owned by each separate owner bears to the entire leased premises.

19. CONDEMNATIONS. If any of the leased premises are subject to a condemnation proceeding or under threat of condemnation, Lessee shall be entitled to negotiate and receive all awards or settlements pursuant thereto and Lessee shall be entitled to receive all payments made by third parties including governmental agencies for damages to the leased premises arising from any cause.

SOCIAL SECURITY NUMBERS:

S.S.#502-10-2181

LESSORS:

Carl H. Reimers  
Carl H. Reimers

Margaret A. Reimers  
Margaret A. Reimers

STATE OF NORTH DAKOTA, } ss.

COUNTY OF McLEAN

On this 23rd day of MAY, 1974, before me

Donald D. Davis, a Notary Public

in and for said County and State, personally appeared Carl H. Reimers and Margaret A. Reimers

known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same.

My Commission expires: April 27, 1978

Donald D. Davis Notary Public

County of Williams

State of North Dakota 58801

DOCUMENT

4-79 - No. 264259

GRANTOR   
GRANTEE   
COPIED  LS  
COMPISED   
INDEXED

OFFICE OF REGISTER OF DEEDS

County of McLean, N. D.

I hereby certify that the within instrument was filed in this office for

record on the 31st day of

October A. D. 19 74, at -9-

o'clock A.M., and was duly recorded

herein in Book G-79

at page 574

W. Robinson  
Register of Deeds.

Return to  
Consolidation Coal Co.  
Box 1492  
Bismarck, N. Dak. 58501