



Public Service Commission

State of North Dakota

COMMISSIONERS

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February 11, 2016

Mr. Denny R. Portra
P.O. Box 1068
Underwood, ND 58576-1068

Dear Mr. Portra:

This is in response to your February 1st letter regarding the Notice of Receipt of Renewal and Revision Applications that you received for Revision No. 35 and Renewal No. 6 for Surface Coal Mining Permit NAFK-8405 held by the Falkirk Mining Company, PSC Cases RC-15-709 and RC-15-710. You state that North American Coal Corporation, the parent company of Falkirk, does not have a valid lease for two tracts you own in the permit area. These tracts are Outlots A and B located in W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 16, T146N, R82W.

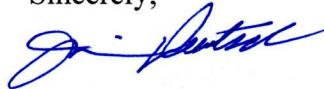
Mining companies are required to include copies of documents in mining permits showing that they have the right to mine. Enclosed is a copy of the Exploration Contract and Coal Lease, Lease No. 03129, and other documents that pertain to your tracts in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 16, T146N, R82W. These documents are included in Permit NAFK-8405 and are part of Section 1.5.1 titled "Permit Area Surface and Coal Interests". Please note that Falkirk refers to Outlots A and B as Tracts 56 and 57 in that part of the mining permit. While the coal lease covering the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 16 was executed by Lynn and Eva Stewart on August 6, 1971, Falkirk provided affidavits stating this lease is valid and continues in full force and effect. North Dakota Century Code Section 38-18-06(3) states that any previously executed mineral or surface lease in favor of the mineral developer runs with the land and is binding on subsequent mining or surface owners, as the case may be. If you have questions or concerns with the terms of coal lease covering your property, we recommend that you discuss those with your attorney since we cannot resolve these contractual matters.

Also enclosed is a portion of the Pit Layout and Facilities Map, Section 3.1.5 of Permit NAFK-8405, and this map depicts a 500 foot setback boundary around your buildings that are shown as occupied. This means that no mining activities will occur within the setback area, but areas outside of setback boundary that are permitted will be affected by mining based on Falkirk's current mining plans.

Mr. Denny R. Portra
February 11, 2016
Page 2 of 2

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "James R. Deutsch".

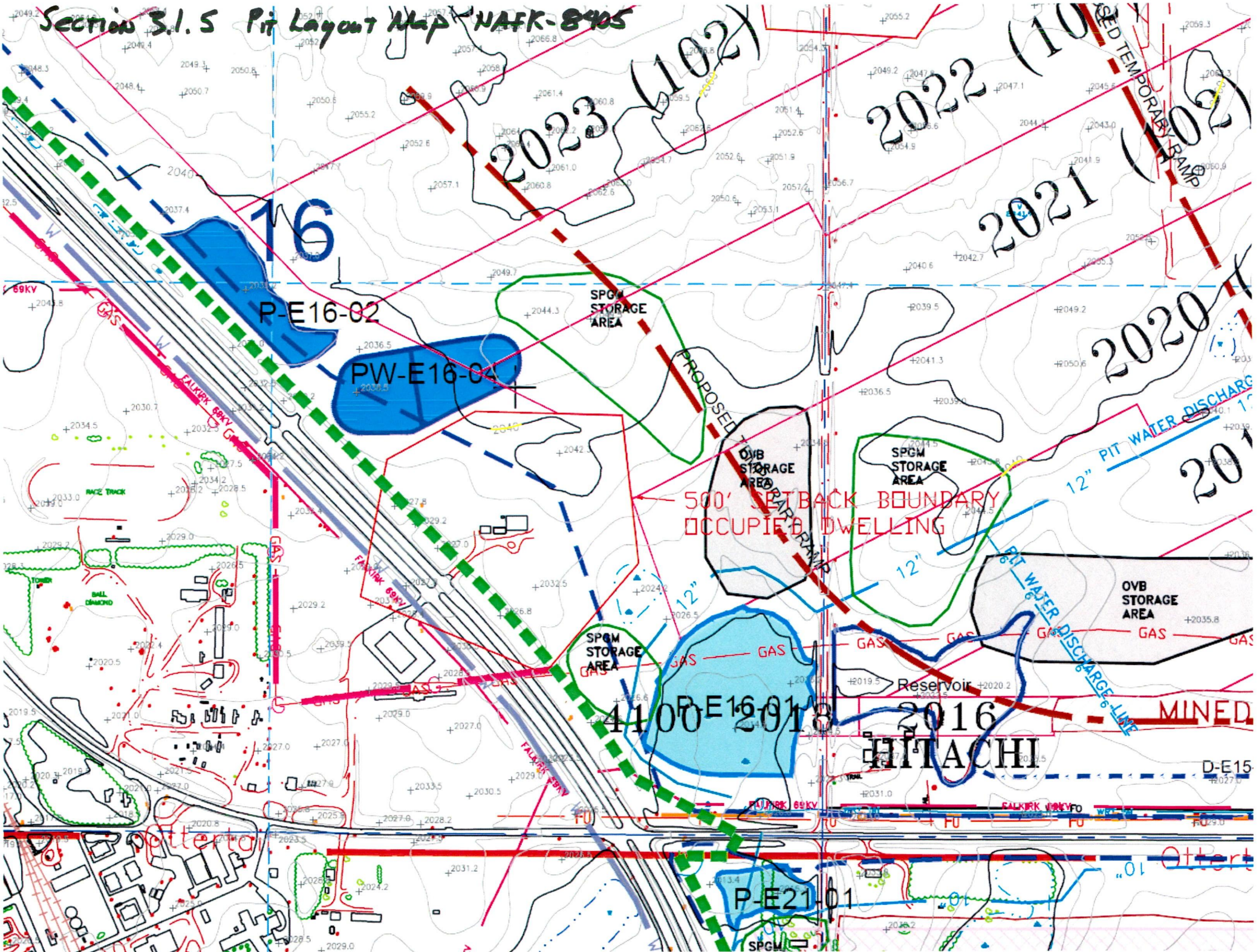
James R. Deutsch
Director
Reclamation Division

Enclosures

cc: Chris Friez
Jeremy Eckroth

Minedata/Falkirk/Permits/NAFK-8405/Revisions/No.35/D_Portra_rsp_ltr_2-11-16

Section 3.1.5 Pit Layout Map NAFK-8405



03129

EXPLORATION CONTRACT
AND COAL LEASE

THIS AGREEMENT, made and entered into this 6th day of AUGUST,
19 71, by and between LYNN H. STEWART AND EVA M. STEWART, HUSBAND AND WIFE
720 N.E. HARBOUR DRIVE, BOCA RATON, FLORIDA, 33402 hereinafter called "Lessor"
(whether one or more) and CHARLES L. DONLIN,
of P. O. BOX 1543, BISMARCK, NORTH DAKOTA 58501 hereinafter called "Lessee."

Lessor, in consideration of the sum of TEN AND MORE (\$10.00) DOLLARS
, in hand paid, the receipt of which is hereby acknowledged,
hereby grants the exclusive right unto the Lessee, or his assigns to explore for coal, lignite,
or sub-bituminous seams or beds by core or hole drilling, geophysical or other methods and
the use of such machinery or equipment as may be necessary to accomplish such exploration for
such coal seams or beds, and determine the depth, thickness, quality of such coal, if any, and
hereby grants the Lessee, or its assigns, the exclusive right to make such exploration for a
period of ONE YEAR from the date hereof, on the following described land in the

County of MCLEAN, State of NORTH DAKOTA, to wit:
TOWNSHIP 146 NORTH, RANGE 83 WEST TOWNSHIP 145 NORTH, RANGE 83 WEST
SECTION 15: NW $\frac{1}{4}$ SECTION 8: N $\frac{1}{2}$
TOWNSHIP 146 NORTH, RANGE 82 WEST
SECTION 16: NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
SECTION 21: SE $\frac{1}{4}$ EAST 495 FEET OF SW $\frac{1}{4}$
SECTION 30: NE $\frac{1}{4}$

LESS HIGHWAY AND RAILROAD RIGHT-OF-WAYS

and containing for purposes of this instrument 1081.78 acres more or less.

In the event Lessee concludes from such core drilling or other exploration, by
him or his assign made, that there are favorable coal conditions on or in the vicinity of
said land, the Lessee, in his sole discretion shall have the right to convert this Exploration
Contract into a coal lease by complying with the terms of paragraph 4 hereof, and such com-
pliance shall constitute a valid and adequate consideration for all of the rights and privileges
herein granted and for the coal lease hereinafter set out.

Upon the commencement of operations for the mining of coal, by sinking of a shaft
or shafts or the stripping of overburden, or the tender of payments of the sum provided in
paragraph 4, this instrument shall immediately and automatically and without further action,
on the part of the Lessor or the Lessee and without the execution of any additional instrument,
be converted into a Coal Lease between the Lessor and Lessee, the terms of which are as
follows:

WITNESSETH:

1. Lessor, for and in consideration of the covenants and agreements herein contained has
granted, demised, leased and let and by these presents does demise, lease and let exclus-
ively unto Lessee, the lands hereinabove described, with the exclusive right of mining,
exploring, drilling, stripping, sinking shafts and tunnels, and producing, transporting, and
selling coal, sub-bituminous coal, lignite, and their respective constituent products and
other materials or minerals intermingled, co-mingled, or associated therewith, including
all beds, seams, veins, or coal strata, being in, underlying, in or under the lands described,
including the right to strip, pile up, overburden, raise, remove and transport away, save
and market the same and the exclusive surface and sub-surface rights and privileges necessary,
incident to or convenient for the economical operation along or conjointly with neighboring
lands for such purposes, including the right to construct buildings, tramways, railroads,
power and communication lines.

2. Subject to the other provisions herein contained, this lease shall be for a term of twenty (20) years from and after the date of its conversion from an Exploration Contract into a Coal Lease (hereinafter called "primary term") and as long thereafter as coal, lignite, sub-bituminous coal and their respective constituent products and other materials or minerals intermingled, co-mingled or associated therewith as being produced from the above described land or neighboring land as a part of a continuous or integrated mining or coal stripping operation or rental, (herein sometimes referred to as "advance royalty") is being paid. Provided further that the Lessee, his heirs, executors, administrators, successors or assigns, in the event of nonproduction of coal during the base term, shall have an option to renew this lease for a further term of twenty (20) years, and agrees to pay therefor the sum of Ten Dollars (\$10.00) per acre.

3. In consideration of the premises the Lessee covenants and agrees:

(a) To pay the owner of the coal a royalty on every ton of 2000 pounds of coal mined during the term of this lease, said royalty to be at the rate of Eight (\$.08) Cents per ton of coal, lignite, sub-bituminous coal or associated or co-mingled mineral products. Royalties shall be paid quarterly within thirty (30) days from the expiration of the quarter in which the coal is mined or produced.

(b) To pay Two (\$.02) Cents per ton to the owner or owners of the surface, in addition to said royalty above set forth, as surface damage and in lieu of restoring the surface or leveling overburden piles. If more than one person owns the surface or the coal, or in the event that one party owns less than a complete ownership of the surface and coal, said party shall be paid only in the proportion that his interest bears to the whole. Any interest in the production from the lands described, to which the interest of Lessor may be subject, shall be deducted from the royalty reserved.

(c) To permit Lessors to inspect the leased premises and all books or records of coal produced, weights and measurements thereof at all reasonable times and agrees to estimate or keep accurate books and records of coal produced and the weight thereof.

(d) To purchase from Lessor, at the then fair market value, any residence or buildings comprising a farmstead at such time as its actual mining operations approach within two hundred (200) feet of such building or buildings.

(e) To pay all taxes lawfully assessed and levied upon improvements, output of mines, or other rights, property, or assets of the Lessee.

(f) To surrender possession of the leased premises to Lessor upon termination of this lease for any cause, subject to Lessee's right to re-enter, such right of re-entry being hereby granted, at any time within six (6) months after date of termination, for the purpose of removing all machinery, tracks, buildings, and other improvements and equipment from said premises, placed there by Lessee.

4. If no coal mining or stripping operations are commenced on the leased premises or on lands jointly operated with the above described premises or any part thereof, as herein provided, on or before one year from the date hereof, this lease shall terminate as to both parties, unless Lessee on or before that date shall pay or tender to the Lessor or to the Lessor's credit in the 1st BANK AND TRUST CO. bank at BOCA RATON FLORIDA 33432, or its successors, which shall continue as depository for rental regardless of change in the ownership of said land, the sum of \$1081.78 ONE THOUSAND, EIGHTY-ONE & SEVENTY-EIGHT/100th shall operate as a rental and cover the privilege of deferring the commencement of operations for mining or coal stripping operations for twelve (12) months from said date. In like manner and upon like payments or tenders the commencement of operations for coal mining or stripping may be further deferred for like periods of the same number of months successively. All payments or tenders may be made by check or draft of Lessee or any assignee thereof, mailed or delivered on or before the rental paying date. It is understood and agreed that the consideration first recited above, the down payment, is the consideration for execution of this instrument and for any and all rights, provided, however, that any and all rentals by Lessee paid, except the consideration for execution of this lease, shall be considered advance royalty to be credited against the first royalties as they accrue under this lease for coal mined during any subsequent year or years in which this lease is in force. Should the depository bank hereafter close without a successor, Lessee or its assigns may deposit a rental or royalty in any National bank located in the same county with the first named bank, due notice of such deposit to be mailed to Lessor at last known address.

5. Lessee may, at any time, release this lease as to any stratum or strata and as to part or all of the lands above described, after which all payments and liabilities thereafter to accrue as to the lands released shall cease and terminate. In the event of a partial release, the annual delay rental above mentioned shall be reduced proportionately.

6. If the estate of either party hereto is assigned, and the privileges of assigning in whole or in part is expressly allowed, although it is agreed that no change or division in ownership of the land, rentals or royalties, however accomplished, shall operate to enlarge the obligations or diminish the rights of the Lessee, the covenants hereof shall extend to their heirs, executors, administrators, successors or assigns, but no change in the ownership of the land or assignment of rentals or royalties shall be binding on the Lessee until after the Lessee has been furnished with certified copies of muniments of title deraining title from Lessor; and it is hereby agreed in the event this lease shall be assigned as to a part or parts of the above described lands and the assignee or assignees of such part or parts shall fail or make default in the payment of the proportionate part of the rents due from him or them, such default shall not operate to defeat or affect this lease insofar as it covers a part or parts of said land as to which the said Lessee or any assignee thereof shall make due payment of said rental. In the event of death of any person entitled to rentals hereunder, Lessee may pay or tender such rentals to the credit of the deceased or to the estate of the deceased until such time as Lessee is furnished with proper evidence of the appointment and qualification of an executor or administrator of the estate, or if there be none, then until Lessee is furnished with evidence satisfactory to it as to the heirs or devisees of the deceased.

7. Lessor hereby warrants and agrees to defend the title to the lands herein described, and agrees that the Lessee shall have the right at any time to pay for Lessor, any mortgage, taxes or other liens on the above described lands in the event of default of payment by Lessor, and be subrogated to the rights of the holder thereof, and Lessor hereby agrees that any such payments made by the Lessee for the Lessor may be deducted from any amounts of money which may become due the Lessor under the terms of this lease.

8. If said Lessor owns a less interest in the above described land than the entire and undivided fee simple estate therein, then the royalties and rentals herein provided shall be paid the Lessor only in proportion which his interest bears to the whole and undivided fee. Any interest in the production from the lands herein described to which the interest of Lessor may be subject shall be deducted from the royalty herein reserved.

9. Lessee shall comply with all laws and regulations of any governmental body purporting to exercise taxing authority over the lands covered by this lease or the person of the lessor herein and in so complying lessee shall not be responsible for determining the legality, validity or constitutionality of any such law or regulation enacted or issued by any such governmental body. In determining the residence of Lessor for purposes of complying with such law or regulations Lessee may rely upon the address of Lessor herein set forth, or upon the last known address of Lessor. Neither any error in the determination of the residence or status of Lessor nor an error in the payment of any sums of money due or payable to Lessor under the terms of this lease which is made during the course of or as a result of Lessee's good faith efforts to comply with any such laws or regulations shall terminate this lease or constitute grounds for any cause of action against Lessee. All of Lessee's obligations and covenants hereunder, whether express or implied, shall be suspended at the time or from time to time as compliance with any thereof is prevented or hindered by or is in conflict with Federal, State, County, or Municipal laws, rules, regulations or Executive Orders asserted as official by or under public authority claiming jurisdiction, or Act of God, adverse field, weather, or market conditions, inability to obtain materials in the open market or transportation thereof, war strikes, lockouts, riots, or other conditions or circumstances not wholly controlled by Lessee, and this lease shall not be terminated in whole or in part, nor Lessee held liable in damages for failure to comply with any such obligations or covenants if compliance therewith is prevented or hindered by or is in conflict with any of the foregoing eventualities. The time during which Lessee shall be prevented from conducting mining operations during the primary term of the lease under the contingencies above stated, shall be added to the primary term of the lease; provided, however, that delay rentals as herein provided shall not be suspended by reason of the suspension of operations and if this lease is extended beyond the primary term above stated by reason of such suspension, Lessee shall pay an annual delay rental on the anniversary dates hereof in the manner and in the amount above provided.

8.78

DOCUMENT

NO. 255421

GRANTED

CLERK

INDEXED *CRS*

RECORDED

INDEXED

STATE OF NORTH DAKOTA, } SS
COUNTY OF McLEAN
REGISTER OF DEEDS OFFICE

I hereby certify that the within instrument was filed in this office for record on the 5th day of September A. D. 19 71 at 1 o'clock P.M., and was duly recorded in book 472 of _____, Page 207.

[Signature]
REGISTER OF DEEDS

Deputy

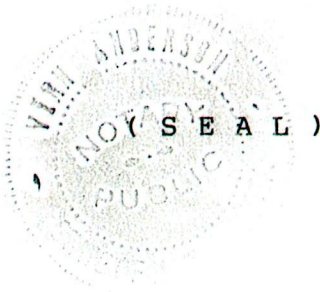
4-20-71

That the Coal Lease is presently valid and existing and is continuing in full force and effect.

Dated this 21st day of SEPTEMBER, 1987.

James F. Melchior
James F. Melchior,
Manager - Western Land Office

Subscribed and sworn to before me this 21st day of September, 1987.



Vern Anderson
Notary Public

VERN ANDERSON
Notary Public, BURLEIGH CO., N. DAK.
My Commission Expires MAR. 3, 1990

INDEXED PP
CHECKED CC
GRANTOR PP
GRANTEE PP
COPIED PP
MICROFILM C



STATE OF NORTH DAKOTA } SS
COUNTY OF McLEAN }
REGISTER OF DEEDS OFFICE
I hereby certify that the within instrument was filed in this office for record on the 27th day of OCTOBER A.D. 19 87 at 8:10 o'clock A. M., and was duly recorded in Book G-109 of MISC/COAL, Page 419 of Document Number 306403

Dwayne J. Oster
REGISTER OF DEEDS

DWAYNE J. OSTER
REGISTER OF DEEDS
McLEAN COUNTY, N. D.

WHEN RECORDED, RETURNED TO:

North American Coal Corp.
The Falkirk Mining Co.
2000 Schafer Street
P.O. Box 5500
Bismarck, ND 58502-5500

RECORDING FEE - \$7.00 P
(PORTION FALKIRK MINING CK. #80932)

ATTN: VERN ANDERSON

AFFIDAVIT

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

James F. Melchior, of lawful age, being first duly sworn upon oath, deposes and states:

That he is Manager, Land of The Falkirk Mining Company, an Ohio corporation, duly qualified to do business in the State of North Dakota with offices at 2000 Schafer Street, Box No. 5500, Bismarck, North Dakota.

That said corporation is the owner of the following described Exploration Contract and Coal Lease (the "Coal Lease") covering lands situated in McLean County, North Dakota, to-wit:

Lessor: Lynn H. Stewart and Eva M. Stewart, husband and wife
Lessee: Charles L. Donlin
Date of Lease: August 6, 1971
Term: 1 year exploration contract, 20 year primary term with option to renew for 20 years
Recorded: September 8, 1971, Book G-72, Page 209
Lands Covered: Insofar and only insofar as Lease covers:
 Township 146 North, Range 82 West
 Section 16: NW4, N2NE4SW4, W2SE4
 Section 21: SE4, E 495 feet of the SW4
 Section 30: NE4

That the above Coal Lease is currently in effect, it previously having been converted into a lease in accordance with the terms and provisions thereof.

That the said Lessee or its successors and assigns has renewed the Coal Lease for a further term of 20 years in accordance with the terms and provisions thereof.

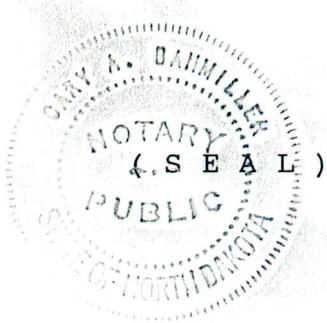
That the Coal Lease is presently valid and existing and is continuing in full force and effect.

Dated this 29th day of July, 1992.

James F. Melchior
James F. Melchior,
Manager, Land

Subscribed and sworn to before me this 29th day of July, 1992.

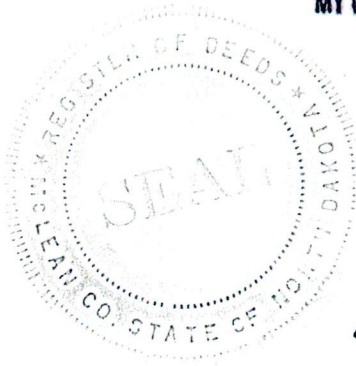
My commission expires on October 1, 1997.



Gary A. Bahmiller
Gary A. Bahmiller, Notary Public
Burleigh County

GARY A. BAHMILLER
NOTARY PUBLIC, BURLEIGH, CO., ND
MY COMMISSION EXPIRES OCTOBER 1, 1997

INDEXED DD
CHECKED IT
CORRECTED F
REPLACED F
COPIED D
MICROFILM F



STATE OF NORTH DAKOTA }
COUNTY OF McLEAN } SS

REGISTER OF DEEDS OFFICE

I hereby certify that the within instrument was filed in this office for record on the 6th day of AUGUST, A.D. 19 92 at 1:20 o'clock P. M., and was duly recorded in Book G-118 of MISC/COAL, Page 61 as Document Number 318334

Dwayne J. Oster
REGISTER OF DEEDS

By DWAYNE J. OSTER Deputy
REGISTER OF DEEDS
McLEAN COUNTY, N. D.

INST. REC'D FROM & WHEN
RECORDED, RETURNED TO:

North American Coal Corp.
The Falkirk Mining Co.
2000 Schafer Street
P.O. Box 5500
Bismarck, ND 58502-5500

ATTN: CHARLIE DONLIN

2

RECORDING FEE - \$7.00 P
(CASH-C. DONLIN, JR.)

BOOK G-118 PAGE 62

DOCUMENT No. 318334

AFFIDAVIT

03129

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

James F. Melchior, of lawful age, being first duly sworn upon oath, deposes and states:

That he is the Land Manager for The Falkirk Mining Company, an Ohio corporation, duly qualified to do business in the State of North Dakota with offices at 2000 Schafer Street, Suite D, Bismarck, North Dakota.

That said corporation is the Lessee of the following described Exploration Contract and Coal Lease ("Coal Lease") covering land situated in McLean County, North Dakota:

Lessor: Lynn H. Stewart and Eva M. Stewart, husband and wife
 Lessee: Charles L. Donlin
 Date of Lease: August 6, 1971, amended October 12, 1993, and May 21, 1984
 Term: 1 year exploration contract, 20 year primary term with option to renew for 20 years
 Recorded: September 8, 1971, Book G-72, Page 209, Document No. 255421
 Lands Covered: Insofar as the following land:
Township 146 North, Range 82 West
 Section 16: NW4, N2NE4SW4, W2SE4
 Section 21: SE4, E 495 Ft of SW4
 Section 30: NE4

That the term of the Coal Lease has been continued and remains in full force and effect as a result of coal being produced from neighboring land as part of a continuous or integrated mining or coal stripping operation.

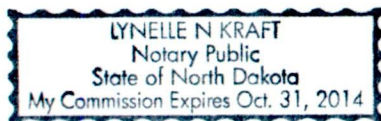
That the Coal Lease is presently valid and existing and is continuing in full force and effect.


Dated this 2nd day of July 2012.



 James F. Melchior, Land Manager

Subscribed and sworn to before me this 2nd day of July 2012.





 Notary Public



RECEPTION ph
INDEXED ph
CHECKED #ph
COPIED
VERIFIED PT
MICROFILM



RECORDER'S OFFICE, MCLEAN COUNTY, ND 7/16/2012 2:50 PM
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.
BETH A. KNUTSON, COUNTY RECORDER
Pandora Hummel Deputy **3375449**



7/16/2012 2:50 PM \$13.00
THE FALKIRK MINING COMPANY

3375449
Page: 2 of 2
McLean Co., ND