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January 22, 2010

Mr. Patrick A. Donovan
Lange & Donovan, PLLP
P.O. Box 488
Hazen, ND 58545-0488

Dear Mr. Donovan:

In re: Donald L. and Kathleen Voigt Coal Lease
Our File No. 70-451-000

Please be advised that we represent North American Coal Royalty Company (North American). We are in receipt of your letter dated December 21, 2009, to the Land Department of The North American Coal Corporation regarding the Coal Lease dated June 25, 1971, from Donald L. Voigt and Kathleen Voigt, husband and wife, et al., to Star Drilling, Inc. recorded August 31, 1971, in Book 48 Misc., page 601 ("Coal Lease").

On behalf of the Voigt family, you assert that the Coal Lease has terminated by what you claim are multiple violations of a covenant not to assign the lease more than one time. You should be aware that your letter constitutes the third letter which The North American Coal Corporation or one of its subsidiary companies has received from an attorney on behalf of the Voigt family asserting that the Coal Lease has terminated by virtue of alleged violation of the one assignment provision. The first letter was dated on July 11, 1975.

In responses to the first two letters, it was pointed out that the assignments between The North American Coal Corporation and its wholly owned subsidiaries did not violate the assignment provision of the lease, as they were merely internal inter-company transactions.

We note that members of the Voigt family have, on at least three occasions (1991, 1996 and 1997), executed rental division orders by which they ratified and confirmed the Coal Lease. They have also continued to accept advance royalty payments for well over 30 years.

As the attorneys for the Voigt family were informed on both prior occasions, and now by this response, the Coal Lease has not terminated and continues in full force and effect by reasons which include, but are not limited to, the doctrines of estoppel, waiver and laches.

We also note that your clients were each notified by separate letter in July of 2005 by North American of the sublease to Dakota Westmoreland Corporation ("Dakota Westmoreland"). No objection was made by your clients, and they have continued to accept advance royalties from Dakota Westmoreland since that time. In addition, we have been informed by Dakota Westmoreland that your client, Casey Voigt, executed a surface use agreement just last summer in which he acknowledged the sublease to Dakota Westmoreland, and recognized the validity of the Coal Lease. There is not a better case for application of the doctrines of estoppel, waiver and laches.

We have reviewed the Sublease Agreement between North American, as Sublessor, and Dakota Westmoreland, as Sublessee. We have every confidence that the terms and provisions of this Agreement constitute a true sublease under the law, and not an assignment as you allege. Lease covenants restricting assignments (like the one in the Coal Lease) are strictly construed against the lessor. In addition, if a lease covenant only disallows assignments, subletting is permissible. See *Hieb vs. Jelinek*, 497 N.W.2d 88 (N.D. 1993).

For these and other reasons, the Coal Lease remains in full force and effect. North American fully intends to defend its interest in the Coal Lease by all legal means.

Very truly yours,

BRIAN R. BJELLA

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