



**DATE:** February 13, 2023

**ORDER NO.:** 2023-47

Jane Holt  
M&M Title Company

**RE:**

145.80 acres, Indian Mountain  
Williamsburg, KY 40769

To Whom It May Concern:

Pursuant to your request, we have examined the property index records in the Whitley County Court Clerk's Office, through the effective date of January 26, 2023 at 8:00 AM and submit herewith our title opinion letter in reference to the following described property: 0 Indian Mountain, Williamsburg, KY 40769 and more particularly described as follows:

See attached Exhibit "A"

Title to the Property is subject to the following exceptions:

1. **NOTE: TAX DATA:**  
Parcel No: 117-00-00-010.01  
2022 Assessment: \$70,000.00  
2022 Whitley County Taxes were paid October 20, 2022 in the discounted amount of \$520.09. Face Amount: \$530.70
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments on the Land of existing improvements located on the adjoining land.
4. Taxes or special assessments which are not shown as existing liens by the public records.
5. Taxes and assessments for the year 2023 and subsequent years, which are not yet due and payable.

6. That certain Agreement as recorded in Miscellaneous Book 32, Page 425, of the Public Records of Whitley County, Kentucky.
7. Pipeline Right of Way in favor of Alamco, Inc., a Delaware Corporation recorded in Miscellaneous Book 90, Page 310, of the Public Records of Whitley County, Kentucky.
8. Compressor Site and Right of Way in favor of Alamco, Inc., a Delaware Corporation recorded in Miscellaneous Book 94, Page 450, of the Public Records of Whitley County, Kentucky.
9. Easements and Right of Way Agreement in favor of Delta Natural Gas Company, Inc., a Kentucky corporation recorded in Miscellaneous Book 50, Page 190, of the Public Records of Whitley County, Kentucky.
10. Oil and Gas Lease as recorded in Lease Book 67, Page 322, of the Public Records of Whitley County, Kentucky.
11. Oil and Gas Lease as recorded in Lease Book 39, Page 730, as assigned by Assignment of Lease in Lease Book 40, Page 17, Lease Book 40, Page 29, Lease Book 40, Page 51, Lease Book 42, Page 574, Lease Book 43, Page 368, Lease Book 43, Page 377, Lease Book 48, Page 202, and Lease Book 58, Page 50, and as affected by Ratification and Rental Division Order of record in Lease Book 47, Page 483, all of the Public Records of Whitley County, Kentucky.
12. Oil and Gas Lease as recorded in Lease Book 74, Page 161, as affected by Assignment and Bill of Sale of record in Miscellaneous Book 91, Page 149, and Partial Release of Oil and Gas Lease of record in Miscellaneous Book 93, Page 585, all of the Public Records of Whitley County, Kentucky.
13. Amended and Corrected Oil and Gas Lease as recorded in Lease Book 75, Page 118, of the Public Records of Whitley County, Kentucky.
14. Oil and Gas Lease as recorded in Lease Book 77, Page 572, of the Public Records of Whitley County, Kentucky.
15. 20 foot Right of Way recorded in Deed Book 228, Page 629, of the Public Records of Whitley County, Kentucky.
16. Terms and conditions set out in Deed Book 228, page 629, Deed Book 256, Page 139, and Deed Book 422, page 677, all of the Public Records of Whitley County, Kentucky.
17. Anything to the contrary notwithstanding, this Policy shall not insure for loss or damage, and the Company shall not be liable for attorney's fees and defense costs, by reason of any requirement by the County for a new survey and description prior to transfer pursuant to those standards governing conveyances as adopted by Whitley County, Kentucky.
18. Covenants, conditions, restrictions and/or assessments, if any, appearing in the Public Records; however, this policy insures against loss or damage arising from: (a) the violation of those covenants, conditions, or restrictions on or prior to Date of Policy. The

words "covenants, conditions, or restrictions" do not refer to or include any covenant, condition, or restriction (a) relating to obligations of any type to perform maintenance, repair or remediation on the Land, or (b) pertaining to environmental protection of any kind or nature, including hazardous or toxic matters, conditions, or substances, except to the extent that a notice of a violation or alleged violation affecting the Land has been recorded or filed in the Public Records at Date of Policy and is not referenced in an addendum attached to this policy.

19. Any easements or servitudes appearing in the Public Records; however, this policy insures against loss or damage arising from (a) the encroachment, at Date of Policy, of the improvements on any easement, and (b) any interference with or damage to existing improvements, excluding lawns, shrubbery, and trees, resulting from the use of the easements for the purposes granted or reserved.

20. Any lease, grant, exception, or reservation of minerals or mineral rights appearing in the Public Records; however, this policy insures against loss or damage arising from (a) any affect on or impairment of the use of the Land for residential one-to-four family dwelling purposes by reason of such lease, grant, exception or reservation of minerals or mineral rights, and (b) any damage to improvements existing at Date of Policy, excluding lawns, shrubbery, or trees, resulting from the future exercise of any right to use the surface of the Land for the extraction or development of the minerals or mineral rights so leased, granted, excepted, or reserved. Nothing herein shall insure against loss or damage resulting from subsidence.

Title to the Property is also subject to the following general exceptions:

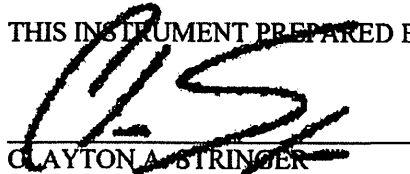
1. Restrictions of record regarding subject property recorded in the Whitley County Clerk's Office.
2. All State, County, City and School ad valorem taxes for the current year, and all subsequent years, which are not yet due and payable.
3. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished.
4. Discrepancies, conflicts in boundary lines, encroachments, easements, variations in area or content, party walls and/or any facts that a correct survey and/or physical inspection of the premises would disclose.
5. Any laws, ordinances or government regulations(including, but not limited to, building and zoning ordinances), relating to environmental protection, restricting, regulating or prohibiting the occupancy, use or enjoyment of said property, or regulating the character, dimensions or location of any improvement now or hereafter erected on said Property or prohibiting a separation in ownership or a reduction in the dimensions or area of said Property or any parcel of which said Property is or was a part.
6. Rights and claims of parties in possession.
7. Covenants, Conditions, Restrictions, Reservations and easements of record.
8. Ownership of minerals and mineral rights.
9. Easements and claims of easements not shown by the public records.

10. Taxes and special assessments not shown as existing liens by the public records.
11. All public roads, highways and rights-of-way.
12. Any indexing errors, forgeries, alterations, or false statements in any recorded documents, or other unauthorized acts affecting the records in the aforesaid office.
13. Any records relating to the United States Bankruptcy Court or any bankruptcy proceeding which could affect the subject property.
14. Any inaccuracy as to the statement of quantity of land contained in the subject legal description.
15. Outstanding mineral rights, if any, in the subject property, and all rights and easements thereunder, this policy insures only against loss or damage to existing improvements from the legal and proper exercise of such rights.
16. Any defects in the title due to errors by or inaccurate information in the office of the County Clerk in which subject property is located.
17. Matters first appearing of record subsequent to the effective date of this opinion or more than 30 years prior to the effective date of this opinion.

We did not obtain an environment risk assessment of the Property and, therefore, do not warrant or represent that the Property is free of any environmental conditions, hazards or risks.

It is understood that this letter is written for your company only and any liability arising hereunder goes only to it. This letter may not be used or relied upon by any other person or entity without the prior written consent of the undersigned. It is further understood that any liability continues only during the life of the mortgage to be executed by your customer contemporaneously herewith.

THIS INSTRUMENT PREPARED BY:



CLAYTON A. STRINGER  
ATTORNEY AT LAW  
FIVE STAR TITLE, LLC  
105 E. RIDGE LANE  
SOMERSET, KY 42501  
833-378-4853

## EXHIBIT "A"

### Property Description

That portion of the following described property located in Whitley County, Kentucky.

#### Tract No. 1

Beginning at a beech, the 8th corner to Jesse D Lay 100 acre grant, and the beginning corner of the Jesse Beem's 100 acre grant, which stands in the bottom land near the chute of Lewis Francis and Henry Stines; thence with the lines of these grants (Variation being allowed to 1910) N 58 W 1-- feet to a beech; thence N 61 W 463 feet to a large poplar stump stone near the Blue Gem Coal level, having a small buckeye pointer; thence N 81-45 W 430 feet to a poplar (stone); thence S 85-30 E 1188 feet to a white oak near the top of a ridge, said white oak admitted to be the original 12th corner of the Jesse D Lay 100 acre grant; and to be the 5th corner of the Jesse Beems 100 acre grant; thence leaving the Jesse Beems Survey but continuing with the Jesse D Lay survey, as run by a "joint survey", S 56-15-W 367-8/10 feet to a large stone painted by agreement for the 13th or poplar corner of the Lay grant; thence S 36-15 W 236-6/10 feet to a walnut stump (stone) taken by agreement to the 14th corner of the said Lay grant; thence S 63-30 W 677-9/10 feet to a buckeye (fallen), the original corner (15th) of said Lay grant; thence S 24-45 E passing 2 hickories, old line trees, in all 539 feet to a stone in the state line taken by agreement to be the 16th corner of said Lay grant; thence with the State line S 87-10 E 192-7/10 feet to a stone planted between 2 small black oaks, original State line trees, and taken by agreement as the North end of the "Braxton Hackler Line" as decreed by the Courts for the dividing line of the Trammel and Strange tract; thence leaving the State line and with said decreed line S 0-45 W 1189 1/2 feet to a stone set as per decree 198 feet from Jesse D Lay's beech corner; thence leaving the decreed line and running with the Jesse D Lay 180 acre line N 41-45 W 242-6/10 feet to a small hole in a large flat rock taken by agreement for the poplar corner of said Lay 100 180 acre grant; thence still with Lay 180 grant S 85-10 W passing 3 original side line trees, in all 677-4/10 feet to a large corner stone on a bench of the Mountain, said stone being planted by agreement on joint survey, as the intersection of the line made by duly executed and recorded deeds between the Falls Branch Coal Company and the East Tennessee Coal Company in exchanging lands to straighten these lines; thence with said "exchange" or "compromise" or "conditional line" N 0-15 E 168-1/10 feet to a stake by a small cliff, thence N 59-45 W 373-6/10 feet to a stone near a cliff near the top of the Mountain; thence S 30-15 W 3015 feet to a stone, from which a hickory between a chestnut and a buckeye (all marked pointers) bears S 10-30 W 17 feet, and from which another hickory bears S 74-15 W 26 feet, thence S 59-45 E 1523-3/10 feet to a spotted oak on a ridge among some large rocks having arrows () on them pointing to the corner tree. In the grant for the Jesse D Lay 180 acres this tree is called a red oak; but it was admitted and agreed that this was the 11th corner of the Lay grant, and it is certainly the tree named and called for the "exchange" deed of the Falls Branch and East Tennessee Coal Companies in the deeds of exchange; thence (from the spotted oak) the same course continued S 59-45 E 1336-8/10 feet to a stone planted N 73 E 3 feet from a marked chestnut in the line between Richmond and the East Tennessee Coal Company. This stone is now a corner of the East Tennessee Coal Company, the Falls Branch Coal Company and the heir or heirs of John Riley Richmond, and from this stone bearing trees as follows, S 4 W 11 1/2 ft. an 8 inch white oak, S 75 W 3 ft. a 22 inch chestnut, N 54 W 21 1/2 ft. a 5 inch walnut, N 27 E 22 1/2 a 10 inch black oak; thence with the said old line between Hackler and the East Tennessee Coal Co. N 7-10 E 116.5 ft. to a stone at the intersection of the said old line with a fence row laid by said Braxton Hackler and enclosing a small part of land covered by the deed to the East Tennessee Coal Company, but which had been there long enough in the year 1913 to perfect the title by "possession", from which stand bearing trees, N 4 1/2 W 14 1/2 feet to a 4 inch Mulberry, N 55 E 11-1/2 feet a 9' chestnut, S 38 E 2 feet to a 3 inch black gum, South 3/12 feet to a double maple; thence leaving the original line and with the fence row N 56-30- E 146 feet to a 7" dogwood, in the old fence row, having a 5" dogwood and a 20' \_\_\_\_\_ for pointers; thence still with the old fence row N 59-15 E 175

feet to a 22' spotted oak in a drain at the corner of the old fence, from which stand bearing trees N 85 W 33 1/2 feet to a 7" black gum, N 12 W 11 feet to a 16" maple, S 32 E 24 feet to a 6" black gum; thence still with the old fence row S 68 E 104 feet to a 13" hickory which is at the intersection of the old original line with the line of the old fence, having a 28" beech pointer; thence leaving the old fence row, and with the old original line, S 87-30 E 117 feet to a stone set in the remains of a beech stump, and identified corner, from which stand bearing trees, S 63 E 4 feet a 1 1/2 inch maple, S 19" a 3" white oak, N 32 E 11 1/2 feet to a 2 1/2 inch black oak, N 53 1/2 E 11 1/2 feet a 2 1/2 inch black oak; thence with original marked "conditional line" N 54 E passing an old dead beech snag at 30 feet which still shows the old center marks in 1928, and passing other old line trees, in all 355 feet to a stone set in the middle of a follow beech stump in a ravine at the corner of the fence, which beech was standing properly marked in the year 1913, from which a 20" beech bears N 60 W 14 1/2 feet; thence still with the old marked conditional line, S 48 E passing an 18" white oak and old center line tree at 60 feet in all 198 feet to a stone set for a black gum, from which stand bearing trees, S 47 W 5 feet to a 2 inch locust, S 58 W 26 feet to an 8" black oak, N 26 1/2 E 6 feet to a 2 inch locust, N 34 E 3 feet to a 3 inch locust, thence crossing out of the field, but still with the old conditional line and passing old marked line trees, S 63-30 E 476 feet to a stone set in the hollow of a black gum on a ridge above some small cliffs which shows the old center line tree marks, having a 14" black oak pointer, thence S 63-50 E 259 feet to a stone set where a large white oak, and old center line tree, was upturned from, in a barren place with no place suitable for bearing trees; thence still following the old marked conditional line, S 56 E 679 feet to a stone set in the middle between a 16" black gum and 17" beech at the fence, both of these trees being marked from center line trees in the said conditional line; from which stone there are pointers as follows: a 7" black oak, a 4" black oak, a 12" black oak and a 3" pine; thence S 59-15 E 551 feet to a large white oak at the fence, an old center line tree; thence through a corner of the field S 57-30 E 170 feet to a stone in the remains of a chestnut stump, which was standing and showed corner marks in 1913; thence up the mountain N 24-45 255.3 feet to a 17" chestnut oak properly marked; among some large rocks, and two of these rocks having arrows () chiseled on them pointing to the corner tree; thence along the side of the mountain, passing old line trees S 68-35 E 433 feet to a stone set in the remains of a spotted oak stump which is 20 feet west of a mountain haul road, and from which stand bearing trees N 18 1/2 W 10 feet to a 4 inch pine, S 14 1/2 E 15 1/2 feet to a 4" pine, N 49 1/2 E 13 1/2 feet to a 3" pine, S 32 1/2 E 17 feet to a 2" pine, S 4 E 10 feet a 2 inch sourwood; thence S 68-15 E passing old line trees and passing a stone set on line on top of a ridge at 1472 feet and continuing the same course, in all 1660 feet to a stone set for a dogwood in a ravine, from which stand bearing trees, S 74 1/2 W 9 feet to a 9" ash, N 43 1/2 W 14 feet to a 9" maple, N 2 W 37 feet to a 7" elm and arrow chiseled on a large rock, N 18 E 30 feet to a 16" white oak; thence down the branch S 4-15 E 73.5 feet to a stone set at an upturned ash in the ravine, a corner of the East Tennessee Coal Company, a corner of the Proctor Coal Company and a corner of \_\_\_\_\_ Davis, from which an 8" ash bears N 9 W 18 1/2 feet thence with the Proctor line N 76-05 E 912 feet to a stone on a ridge in a mountain haul road, from which stand bearing trees, N 8 E 33 1/2 feet to a 12" black gum, with lots of Mistletoe in it, N 86-30 E 17 feet a 3 inch pine, S 40 E 46 feet to an 8" pine, S 3 W 41 feet to a 9" chestnut; thence down the ridge S 13-45 E passing an arrow chiseled on a rock at a small cliff at 240 feet and continuing the same course, in all 422.7 feet to a large white oak at the corner of a fence; thence N 65-40 E 288 feet to an 18" leaning poplar near the fence on the inside; thence N 70-25 E 185 feet to a large black gum on a ridge near the fence and near a dirt dump, wasted from a cut on the old incline, a corner or Aaron Hackler; thence with Hackler's line up the mountain N 18-20 W 346 feet to a stone set where a white oak corner was upturned from, having a 8" maple, a 4" maple and as 12" maple pointers; thence still with Hackler S 80-30 W 53.3 feet to chestnut stump at the corner of the fence, having an arrow chiseled on a rock, and a 4" maple pointers; thence still with Hackler N 11-30 E 206 feet to a sourwood at the fence, having a 2 1/2 inch maple, and two 8" maple pointers, thence with Hackler N 2-30 E 302 feet to a stone set where the dogwood stood at the fence; thence with Hackler N 53-10 E 271.2 feet to a stone set at the place from which a large rock had a X mark on it for a corner was taken to help build a rock wall used as a fence, from which bearing trees stand S 63 E 10 1/2 feet to a 7" maple, S 72 1/2 W 16 feet to the south end of the rock wall, N 74 W 33 feet to an 8" ash, N 33 W 35 1/2 feet to a 9" chestnut

oak; thence crossing the rock wall N 11-45 E 137 feet to a stone set in the remains of a hickory stump, from which bearing trees stand S 53 1/2 E 10 feet to the North end of the rock wall, S 55 W 13 1/2 feet to a 5" maple, N 84 W 3 feet to a 13" chestnut oak; N 25 W 4 1/2 feet to an arrow chiseled on a large rock, N 18 W 8 1/2 feet, a 6" black oak, N 37 E 5 feet to an arrow chiseled on a large rock; thence down the hill, crossing a ravine N 65-30 E 239 feet to a stone set in the middle of a large white oak stump which is hollow, having two small locust pointers on the inside of the fence, and from which bearing trees stand N 67 1/2 W 21 feet to an 8" hickory, N 12 1/2 W 21 feet to an 8" maple; thence with the lines of Jeremiah Smith N 0-05 E 539 feet to a stone set in the remains of a chestnut stump on the brink of a bench of the mountain, from which stand bearing trees, N 27 E 2 feet, a 12" chestnut. S 22 W 11 feet a double maple, S 52, W 26 feet to a 14" white oak, N 39 1/2 W 41 feet, an 8" elm, thence N 27-20 E 159 feet to a hollow maple properly marked, having a stone set in the hollow of the corner tree, and from which bearing trees stand N 68-30 W 10 1/2 feet to a 6" walnut, N 9 E 33 1/2 feet to a 5" walnut; thence N 30-10 E 84.2 feet to a stone set at a maple stump, from which stand bearing trees N 68 1/2 W 15 feet, an 8" elm, N 16 1/2 E 7 feet a double sourwood, N 76 E 10 1/2 feet to an 8" hickory, S 43 1/2 E 19 feet an 8" sassafras, N 15 W 32 feet to a 6" maple; thence down the hill N 58-55 E 147 feet to a large spotted oak stump, from which stand bearing trees S 68 E 12 feet to an 8" maple, S 16 1/2 E 20 feet an 8" hickory; thence N 16-55 E 109 feet to a 10" hickory, having a 6" hickory and a 10" black oak pointers; thence N 47-10 W 140.7 feet to a X mark on a large flat rock imbedded in the ground where a deed marked beech stood ready to fall, in a ravine, from which stand bearing trees S 28 W 35 1/2 feet to a 10" ash, N 69 1/2 W 16 feet an 8" hickory, N 8 W 33 feet to a 12" ash N 86 E 15 1/2 feet to a 7" buckeye; thence N 44 E 274.4 feet to a walnut, having an 11" white oak, a 5" ash, an 8" black oak, a 7" chestnut oak on a small cliff, and 7" spotted oak pointers; thence N 28 E 113 feet to a deed 16" black oak, having a 7" hickory, a 10" hickory, and arrow chiseled on a large rock, and a 26" black oak pointers; thence N 34-50 E 182.2 feet to a chestnut stump which grew against a small cliff, having two arrows chiseled on a rock of the cliff, a 17" black oak, a 4" chestnut, a 7" walnut, and a 2 1/2 inch maple pointers; thence N 51-40 W 231.3 feet to a 6" dogwood, from which bearing trees stand S 32 E 9 1/2 feet to a 12" maple, S 72 W 22 feet to a 14" beech, N 82 W 17 1/2 feet to a 6" dogwood; thence N 25-40 W 164.2 feet to a 20" beech nearly deed, from which stand bearing trees, south 33 1/2 feet to a 24" beech, S 55 W 28 feet a 6" chestnut oak, N 73 W 25 1/2 feet a 6" dogwood, N 59 W 33 1/2 feet to an 18" ash, N 5 E 19 feet a 13" Spanish oak; thence N 17-15 W 155 feet to a stone set against the upper ridge of a 6" sourwood, from which stand bearing trees S 55 E 13 1/2 feet to a 5" dogwood, S 34 1/2 E 12 feet 16" chestnut, S 36 W 14 1/2 feet a 4" dogwood, S 63 W 22 feet to a 26" chestnut oak; thence N 70-50 W 141/8 feet to a stone on the southeast side of ravine, with old original pointers, and from which stand bearing trees, S 20 E 13 feet a 5' sourwood, S 70 1/2 W 22 1/2 feet to a 6" dogwood, N 73 W 23 1/2 feet to a 6" beech N 57 W 24 1/2 a 9" beech; thence down the hill N 1-15 E 275.7 feet to a stone at the fence, near 22" beech, the fence having been in place the requisite length of time to perfect the title for land enclosed; thence leaving the original line and with the fence N 74-30 W 145 feet to a 22" sweet gum at the corner of the fence; thence still with the fence N 22-10 W 29.7 feet to a 16" elm at the fence; thence still with the fence N 11-20 E 344.5 feet to a stone at the fence, set at the intersection of the fence with the original property line; from which a 14" sugar tree bears S 61 1/2 W 9 1/2 feet; thence leaving the fence and with the original property line N 1-15 W 226 feet to an old corner alone set in the State line between Tennessee and Kentucky, which has three arrows chiseled in large rocks nearby, and other pointers; thence 15-15 E 84 1/2 feet to a walnut; thence N 3 E about 70 feet to the right of way of the Proctor Railroad; thence westerly with said right of way about 780 feet to the line of the Main Jellico Mountain Coal Company; thence with their line S 23 W with the fence about 420 feet to a stone planted at the old fence corner in the State line; thence with the State line N 87-30 W 485 feet to a stone 2 feet above a black walnut stump, the beginning corner of their Tennessee tract; thence still with the lines S 19-15 W 542 feet to a leaning dogwood near the level of the Jellico seam; thence 42-30 W 194 1/2 feet to a chestnut (not found) now a stone; thence N 75 W 400 feet to a sugar tree near the head of a hollow; thence N 69 W 186 1/2 feet to a dogwood (not found) now a stone; thence N 22-30 W 378 feet to a sugar tree and a black gum on a ridge near a path (the black gum gone but the sugar tree o.k.) with a beech and 2 dogwood pointers; thence (from sugar tree) N 20-30 E 100 feet to a hickory in the State line

on the point of a ridge (not found now a stone in State line); thence easterly and northerly with the East Tennessee and Main Jellico Coal Companies' lines 850 feet to the Proctor R.R. right of way near the "Rock House Trestle"; thence with said right of way westerly about 1700 feet to the point where it intersects with the line of the J.B. Perkins tract (a part of the Jesse D Lay 100 acre grant); thence with said Perkins line S 55 W about 85 feet to a stake near a forked hornbeam; thence N 76 W with a fence 693 feet to a stake at corner of fence; thence S 77 W 330 feet to the beech, the beginning.

#### Tract No. 2

Beginning at a stone on the east side of the Indian Creek County Road and in the south line of the Indian Mountain incline right of way, thence with the right of way and Sam Hackler line S 58 E passing black oak side line trees, in all 200 feet to a stone; thence S 70 E 180 feet to a stone planted between 2 hickories on a side hill; thence S 7-3/4 W 77 feet to a stone in the bottom with a cross mark on it, and with other large rocks nearby having arrows chiseled on them pointing to the corner; thence S 80 1/2 E 243 feet to a stone; thence S 41 E 353 feet to a stone at the northwest corner of Solomon Hubbard's fence; thence with the line of the old fence; S 42 E 150 feet to a stake; S 42 E 150 feet to a stake; S 25 1/2 E 156 feet to a stake; S 13 E 192 feet to a stake; S 1 W 180 feet to a stake in the K & O now Southern Railway Company right of way, and in the north line of a 40 foot street or road; thence with the K & O now Southern Railway Company right of way, northwardly about 330 feet to Elk Fork Creek; thence northwardly with said creek about 385 feet to a stake at the mouth of a spring branch; thence up said branch passing between an ash and a willow, and with the line of Sam Hackler's a present fence N 61 1/4 W 386 feet to a stone; thence N 42-3/4 W 196 feet to a stone; thence N 31-3/4 W 100 feet to a stone; thence N 11-3/4 W 334 feet to a mulberry on the side of a hill; thence N 20 1/2 W 346 feet to a forked elm in the line between Sam Hackler and Squire Broyles lands; thence S 62 1/2 W 96 feet to a stake; thence S 3-45W 270 feet to a stake; S 2-45 W 243 feet to a stone; thence N 70 W 180 feet to a stone; thence N 60-06 W 185 feet to a stone on the East side of the road; thence with the road S 15-30 W 81 feet to the beginning.

#### Tract No. 3

Beginning at a stake in the western edge of county road and corner of J.P. Weavers; thence with the fence N 58 W 840 feet to a stake in the property line of East Tennessee Coal Company; thence N 18-20 W 115 feet with the property line of East Tennessee Coal Company to a stake; thence S 58 W 973 feet with the old fence to a stake on the west side of county road; thence with said county road S 15-30 W 81 feet to the beginning.

#### Tract No. 4

A twenty (20) feet right of way beginning at the present end of the county road near the rock house trestle and running to the East Tennessee Coal Company lands just west thereof. The right of way is to follow the shortest direct line. If such direct line is not marked by severe natural obstructions. This right of way is not to revert if not used, kept open or properly identified. It is further provided that the officials and agents of the East Tennessee Coal Company shall have the right to use the private highway of the Proctor Coal Company from Jay Lane crossing, which highway occupies the old proctor railroad bed and trestle, for making inspection of their property so long as the Proctor Coal Company rents the farming and grazing land of the East Tennessee Coal Company. This is not to be construed to mean that the East Tennessee Coal Company, its agents or assignees shall have the right to haul coal or timber or any other commodity over said private highway, since the sole right of use is for inspection and all other uses are prohibited.

#### Tract No. 5

Grantor herein likewise conveys all rights, title and interest conveyed to the East Tennessee Coal Company by deed from J.S. Lindsay, et al dated March 8, 1887, and recorded in Deed Book X, Page 376-380, Campbell County, Tennessee, Clerk's Office.

it is the intent of the grantor hereon to convey the grantee herein all of the right, title and interest to the above described tracts of land, and its interest therein, as well as all other rights, title and interest which it may own to lands, mineral rights, easements, and all other rights which is owns located in Campbell County, Tennessee, and in Whitley County, Kentucky, and such rights are intended to, and do, include all tenements, stores, and other buildings, mining equipment, tip-houses, residences, barns, stables, easements, rights of way contracts, and all other things used in connection with grantor's premises, which are in tended to, and are likewise conveyed by this deed.

(B) One tract containing 7 acres, more or less, in Campbell County, Tennessee, and being the same land conveyed to the grantor by deed bearing date July 23, 1975, which is duly recorded in Deed Book 218, Page 429, Campbell County, Tennessee, Register of Deeds, which land is more particularly described as follows:

Beginning on a stake 5 feet east of power pole west side of county road; running with road N 19 deg. 30 min. E 294.4 feet to a 12 inch walnut west side of road, same being a corner of Byrd lands; thence with Byrd line N 72 deg. 55 min. W 817.8 feet to a stake in the C. C. Vermillion line, stake being 17.2 feet S W of set stone now gone; thence with Vermillion line S 30 deg. 10 min. W 227.0 feet to a set stone on lower edge of flat; thence with Vermillion line S 01 deg. 00 min. W 312 feet to a 10 inch maple, John Marion corner; thence with Marion line S 61 deg. 00 min. E 274.4 feet to a 10 inch locust on top of cliff, a corner of Abner lot; thence with Abner line N 17 deg. 00 min. E 313 feet to a 16 inch mulberry, also a corner to Abner lot; thence with Abner line S 69 deg. 00 min. E 490 feet to the beginning. Containing seven (7) acres, more or less.

(C) All interest of Party of the First Part in 838 acres of land described in deed recorded in Deed Record Book 228, Page 629, Whitley County Clerk's Office, Whitley County, Kentucky, and Deed Book 269, Page 197, Campbell County, Tennessee, Register of Deeds, and reference is here made to said Deeds for full particulars and full description.

(D) All other assets, real and personal or mixed, including land, minerals royalties, fees, rentals and accounts receivable, easements and assets of any nature owned by Party of the First Part, wherever located.

SAVE AND EXCEPT the surface of 124 acres of land described as follows:

Situate in the Fifth Civil District of Campbell County, Tennessee, in what is known as the Falls Branch area and being more fully described as follows:

BEGINNING on an iron pin in the head of the hollow in Falls Branch, said iron pin being the Northeasterly corner of the John K Irish tract and the Northwesterly corner of the Lee Davis tract, and running thence out the side of the mountain with Lee Davis line and fence the following calls: North 74 deg. 10 min. 00 sec. East, 116.5 feet to a set stone; Thence North 57 deg. 10 min. 37 sec. East 150.24 feet to an iron pin; Thence North 59 deg. 21 min. 31 sec. East, 175 feet to a marked oak standing in a drain; thence South 60 deg. 21 min. 18 sec. East 111.79 feet to an iron pin; Thence South 87 deg. 30 min. 00 sec. East, 117.00 feet to a set stone on a ridge; Thence North 59 deg. 42 min. 55 sec. East, 343.51 feet to a set stone in a drain and ravine; Thence South 50 deg. 34 min 07 sec. East, 161.21 feet to a set stone; Thence South 61 deg. 24 min. 23 sec. East, 476.43 feet to a set stone; Thence South 60 deg. 20 min. 29 sec. East 241.46 feet to a set stone; Thence South 54 deg. 44 min. 49 sec. East, 667.56 feet to a set stone; Thence South 56 deg. 56 min. 51 sec. East, 557.79 feet to a large white oak in the fence; Thence South 55 deg. 25 min. 28 sec. East 162.92 feet to a set stone at the Southwesterly corner of the W. M Davis or Bert Davis tract; Thence leaving the Lee Davis line and running with the W.M. Davis or Bert Davis line North 27 deg. 09 min. 05 sec. East, 255.97 feet to a chestnut oak standing in some large rocks with arrows cut in the rocks pointing to the chestnut oak, said chestnut oak being the Northwesterly corner of the W.M. Davis or Bert Davis tract; Thence running out the mountain with the W.M. Davis or Bert Davis line South 66 deg. 18 min. 05 sec. East 434.20 feet to a set stone near an old mountain road; Thence continuing with the W.M. Davis or Bert Davis line South 89 deg. 23 min. 32 sec. East, 369.49 feet crossing a ridge and

then a deep hollow to an iron pin on the Easterly side of said hollow; Thence leaving the W.M. Davis or Bert Davis line and running up the hill with the remainder of the Ronald L Giles tract North 7 deg. 27 min. 55 sec. East, 1593.74 feet to a marked hickory on top of the mountain on a steep slope and on the North side of and old logging road; Thence running with the top of the mountain and the remainder of the Ronald L Giles tract the following calls: South 73 deg. 18 min. 18 sec. West, 720.83 feet to a marked hickory at a turn in the top of the mountain; Thence North 51 deg. 52 min. 54 sec. West, 629.03 feet to a forked chestnut marked as a corner; Thence North 46 deg. 16 min. 13 sec. West 500.35 feet to a hickory marked as a corner; Thence South 85 deg. 40 min. 23 sec. West, 456.70 feet to a marked double hickory; Thence North 75 deg. 51 min. 46 sec. West, 168.19 feet to a marked white oak; Thence South 83 deg. 49 min. 12 sec. West 518.34 feet to an oak snag in a rock outcrop marked as a corner; Thence South 56 deg. 41 min. 49 sec. West, 452.72 feet to a crooked oak marked as a corner and standing in some rocks on the East side of a gap in the mountain; Thence South 82 deg. 26 min. 31 sec. West, 327.48 feet to an old chestnut oak marked as a corner; Thence North 77 deg. 16 min. 13 sec. West, 401.87 feet to a small white oak marked as a corner; Thence South 71 deg. 03 min. 03 sec. West, 225.97 feet to a hickory on a flat area marked as a corner; Thence North 86 deg. 53 min. 35 sec. West, 225.03 feet to a chestnut oak marked as a corner and standing on a small rock ledge on steep slope; Thence South 68 deg. 47 min. 29 sec. West, 310.89 feet to a hickory marked as a corner; Thence South 80 deg. 19 min. 08 sec. West, 228.92 feet to a hickory marked as a corner; Thence South 84 deg. 21 min. 26 sec. West, 314.68 feet to a iron pin in the edge of a strip mined area; Thence South 31 deg. 30 min. 29 sec. West, 59.32 feet to an iron pin in a strip-mined area a corner of the John K Irish tract; Thence leaving the top of the mountain and running down the mountain with the Irish line South 59 deg. 45 min. 00 sec. East 1352.57 feet to the point of BEGINNING containing a calculated area of 124.782 acres as per survey and plat dated December 12, 1991, by Gary R Owens, Registered Land Surveyor.

Being the same property conveyed to Mountain Minerals, L.L.C., a Texas Limited Liability Company, by Deed from Ronald L. Giles, et al, Joint Venture, a joint venture composed of Ray E. Jones, Antoinette (Toni) Jones, A.V. Holden, Wanda Holden, Larry L. Smith and Patty Smith, dated August 1, 2000, recorded November 6, 2000, of record in Deed Book 422, Page 677, of the Public Records of Whitley County, Kentucky.