

95613

GRANT OF RIGHT OF WAY AND AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Agreement made and concluded during the month of December, 1975, by and between the following named parties:

- Delmar Baer and Helen Baer, husband and wife,
- Carl J. Miller and Shirley Miller, husband and wife,
- Earl L. Scott and Mildred Scott, husband and wife;

WITNESSETH:

That, whereas, the parties hereto are the respective owners in fee simple of adjacent parcels or lots of land, briefly described as follows:

Baers owning the southernmost tract of land adjoining County Road No. 62, and being situated in the State of Ohio, County of Tuscarawas and Township of Warwick and being a tract of 52.12 acres, more or less, as conveyed to M. Delmar Baer by deed from Dora E. Schindler recorded in Vol. 216, page 516 of the Deed Records of Tuscarawas County, Ohio to which reference is hereby made for a complete description. A copy of the description is attached hereto, marked "Exhibit A";

Millers owning a tract of land adjoining the Baer premises on the North and briefly described as being situated in the State, County and Township aforesaid and being 20 acres in the Second and Third Quarters, Township 7, Range 1 as conveyed to Carl J. Miller by deed from Kyle P. Jarvis and Beverly Jarvis recorded in Vol. 499, page 608 of the Deed Records of Tuscarawas County, Ohio to which reference is hereby made for a complete description. A copy of the description is attached hereto, marked "Exhibit B";

Scotts owning two tracts of land adjoining the Baer premises on the North and briefly described as being situated in the State, County and Township aforesaid and being 10 acres as conveyed to Earl L. Scott by deed from Indian Hill Coal Company and Dwight G. Scott recorded in Vol. 481, page 878, also 9½ acres contained in the same conveyance, and 6.3 acres as conveyed to Earl L. Scott by deed from Robert T. Benner, Jr. and Sarah S. Benner recorded in Vol. 215, page 343, Tuscarawas County, Ohio Deed Records, to which deeds reference is hereby made for a complete description. Copies of the descriptions are attached hereto, marked "Exhibit C";

And, whereas, it is necessary for the Scotts to cross over the Miller tract and the Baer tract to and from the public highway adjoining the Baer tract on the South, and being County Road No. 62, and it is necessary for the Millers to cross and recross over the Baer tract on the same roadway to reach County Road No. 62 on the South of the Baer tract;

And, whereas, the parties desire to establish on the

JOHN P. REED
ATTORNEY AT LAW
UHRICHSVILLE, OHIO 44683

COUNTY AUDITOR

NO TRANSFER NECESSARY

Donald R. Kinsey

record the right of way that has existed for many years;

Now, therefore, in consideration of the grants and agreements of the parties herein contained, Delmar Baer and Helen Baer hereby grant and release unto Carl J. Miller and Shirley Miller, and unto Earl L. Scott and Mildred Scott;

And Carl J. Miller and Shirley Miller hereby grant unto Earl L. Scott and Mildred Scott, their respective heirs and assigns forever:

A right of way over that portion of the Baer lands, and that portion of the Carl J. Miller lands over which the presently established and long-used road and right of way exists leading from County Road No. 62 on the South of the Baer lands, in a northward direction along the easterly side of the Tuscarawas River Bank, through the Carl J. Miller lands and ending in the Earl L. Scott lands, together with the right to maintain and improve the roadway as the grantees thereof may from time to time desire and/or need to do or perform to keep the same in good and passable condition for the persons entitled to the use thereof. Any damage caused by heavy equipment by anybody taking the same upon the roadway, or by the agents or invitees of anybody taking the same upon the roadway, shall be repaired by the persons causing the damage or permitting it to be caused by their agents or invitees. There is no obligation upon any of the parties hereto to contribute or pay for any improvement or paving of the roadway if they don't specifically agree to that in writing. Any party to the agreement who wants to improve or pave the roadway at their own expense may do so.

The right of way over such lands of Baers and Millers is for the respective heirs and assigns of all parties hereto, their agents, servants, tenants, visitors, licensees and all other persons for the advantages of the parties hereto, their respective heirs and assigns, at all times, to freely pass and repass, on foot or with

vehicles of every description, to and fro, across each parties' portion of the presently established right of way to the County Road No. 62 on the South of the Baer tract. Provided, however, that the use of this way is limited to private use of the parties hereto and the successors in ownership of their lands and private use shall be construed as including the use of the way in connection with farming activities, private residential use, and any clay and coal mining on the Scotts lands that the Scotts, their successors or assigns, may wish to do.

The parties hereto do mutually agree that they will not, nor will anybody claiming under them, obstruct said alley or driveway or authorize the same to be obstructed, by any means whatever, including, but not limited to, the parking of a vehicle or vehicles thereon or the storage or placing thereon of any item, or the placing of fences or gates thereon or therein. Temporary parking of a wagon or other vehicle on the roadway shall not be considered a breach of the terms of this agreement not to obstruct so long as there is room to pass such temporarily parked wagon or vehicle with motor vehicles.

To have and to hold the said premises with all the privileges and appurtenances thereunto belonging to each of the respective grantees, their heirs and assigns forever.

In Witness Whereof, the parties hereto have hereunto set their hands as of this 19th day of December, 1975

Signed and acknowledged
in the presence of:

As to Mary Curtis

1 & 2 Maryne Johnston

As to Maryne Johnston

3 John P. Reed

As to Mary Curtis

5 & 6 Maryne Johnston

1. Delmar Baer
Delmar Baer

2. Helen Baer
Helen Baer

3. Carl J. Miller
Carl J. Miller

4. Shirley Miller
Shirley Miller

5. Earl L. Scott
Earl L. Scott

6. Mildred Scott
Mildred Scott

and for said County, personally appeared the above named Delmar Baer and Helen Baer who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed. In testimony whereof, I have hereunto subscribed my name and affixed my official seal at Urrichsville, Ohio this 27th day of ~~December, 1975~~ May, 1976.

MARY CURTISS, NOTARY PUBLIC
MY COMMISSION EXPIRES NOV. 11, 1978

Mary Curtiss

State of Ohio, Tuscarawas County, ss: Before me, a notary public, in and for said County, personally appeared the above named Carl J. Miller and Shirley Miller who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed. In testimony whereof, I have hereunto subscribed my name and affixed my official seal at Urrichsville, Ohio this 17th day of ~~December, 1975~~ May, 1976.

JOHN P. REED, Notary Public
State-Wide Life Time Commission

John P. Reed

State of Ohio, Tuscarawas County, ss: Before me, a notary public in and for said County, personally appeared the above named Earl L. Scott and Mildred Scott who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed. In testimony whereof, I have hereunto subscribed my name and affixed my official seal at Urrichsville, Ohio this 12th day of ~~December, 1975~~ June, 1976.

MARY CURTISS, NOTARY PUBLIC
MY COMMISSION EXPIRES NOV. 11, 1978

Mary Curtiss

This instrument prepared by John P. Reed

109 x 14 13 7 A

ged, does hereby grant, bargain, sell and convey to the said Grantee, his heirs and the following Real Estate situated in the County of Tuscarawas in the State of Ohio, and in the Township of Warwick and bounded and described as follows:

Known as a part of the 3rd Quarter Township 7, Range 1, U. S. Military Lands, more fully described as follows, to-wit: Beginning at a point where the North right of way line of the P. C. C. and St. L. crosses the Mill, Warwick Township line, Thence N. 3° E. 13.8 ft. thence N. 85° 26' W. 35.3 feet to the true beginning of the following described tract, Thence N. 12° 15' W. 419.2 feet to a point, thence N. 85° 26' W. 330 feet to a point, Thence N. 32° 38' W. 502 feet to a point, N. 85° 15' W. 1132 feet to a point, Thence N. 4° 0' E. 788.3 feet to a point, Thence N. 86° 0' W. 1177.3 feet to the East Bank of Tuscarawas River, Thence down East bank of river S. 20° 30' W. 989 feet, Thence S. 64° 14' E. 75.3 feet to a point, Thence along paved road S. 16° 46' W. 373.2 feet to a point, Thence by a curve to the left whose long chord bears S. 39° 41' E. 347.4 feet curve distance of 393.3 feet to a point where said curve strikes the south line of said tract, Thence along the South line of said tract S. 85° 26' E. 462.5 feet to a point, which is the S. W. corner of the Besozzi land, Thence N. 16° 26' E. 500 feet to a point, Thence S. 85° 26' E. 180 feet to a point Thence S. 16° 26' W. 170 feet to a point, Thence S. 85° 26' E. 150 feet to a point, Thence S. 16° 26' W. 330 feet to a point, Thence S. 85° 26' E. 250 feet to a point which is the S. W. corner of Penick land, Thence N. 16° 26' E. 500 feet to a point, Thence S. 85° 26' E. 100 feet to a point, Thence S. 16° 26' W. 495 feet to a point which is on the N. right of way line of I. C. H. 413, Thence S. 79° 45' E. 101 feet to Johnson's W. line, Thence N. 16° 26' E. 485 feet to a point, Thence S. 85° 26' E. 60 feet to a point, Thence S. 16° 26' W. 478 feet to a point which is on the N. right of way line of I. C. H. 413, Thence S. 89° 52' E. 48 feet to a point, Thence by a curve to the right whose long chord bears S. 75° 15' E. 133 feet also having a radius of 149.4 feet a distance of 135 feet to a point on S. line of tract, Thence S. 85° 26' E. 200 feet to a point which is S. W. corner of Schwab land, Thence N. 16° 26' E. 500 feet to a point, Thence S. 85° 26' E. 800 feet to East line of said tract to a point, Thence S. 32° 38' E. 102.1 feet to a point, Thence S. 85° 26' E. 219.7 feet S. 16° 26' W. 411.2 feet to a point, Thence S. 85° 26' E. 312.5 feet to the place of beginning, containing 52.12 acres more or less.

This deed is to convey the remainder of the 97.65 acre tract formerly owned by Henry A. Schindler.

This conveyance also embraces all the mineral and mineral rights in the 52.12 acres above described which is owned by the grantor Dora E. Schindler.

Also hereby conveying to the said grantee his heirs and assigns forever all the mineral and mineral rights heretofore reserved in the various tract of land formerly sold off of the 97.65 acre tract aforesaid by Henry A. Schindler and Dora E. Schindler to various persons as shown by the deed records of Tuscarawas County, Ohio.

Total acreage of said parcels so sold being about 38 acres more or less.

Also all the driveways and rights of way together with all other rights and easements owned by said grantor in connection with said real estate and subject thereto.

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Situated in the County of Tuscarawas in the State
of Ohio and in the Township of Warwick : (2)

Beginning at a point, Letter "A" which is at low water mark on East shore of Tuscarawas River; thence E. 11.027 chains to a corner marked "B"; thence S. 15½ deg. W. 16.40 chains to corner marked "C"; thence on line dividing the second and third quarters of Seventh Township and First Range of United States Military District; thence along said line West 11.27 chains to low water mark on East shore of Tuscarawas River to corner marked "D"; thence N. 15½ deg. E. 18.40 chains along bank of said river at low water mark to the place of beginning, containing twenty acres, and being the same premises conveyed by Clara Holiger and husband to Mary Hite by deed dated September 26, 1905 and of record in Vol. 158 page 421. SAVING AND EXCEPTING all of the No. 6 vein of stone coal in and underlying N. E. corner of above described real estate and being adjacent to what is known as Nelson and Black farms and estimated to contain 2 ac. of No. 6 stone coal. Being same real estate conveyed by Manhattan Whitman to Earl Scott, Vol. 215, Page 542.

EXHIBIT B

TRACT NO. 1:

And known as a part of the second quarter of township seven and range one of the U S M Lands, and beginning for the same in the middle of the Tuscarawas River at the north-west corner of a 9-1/4 acre tract deeded by Nicholas Holliger to John Kopelt in 1879, see Vol. 79, pp 437-8; thence east on the north line of said Kopelt tract 512 feet to a point thereon 49 feet west of Hogg's north-west corner; thence N 29-45 E along Lint's west line 875 feet; thence N 82-37 W along the south line of the Kent Tract about 600 feet to the middle of the River; thence down the middle of the river 920 feet to the place of beginning containing ten acres, more or less.

TRACT NO. 2:

Being a part of the second section of the Seventh Township and First range of the United States Military District, Beginning in the middle of the Tuscarawas River on the line of lands formerly belonging to Mrs. Knaga, and at the southwest corner of this lot; thence east along said Knaga's line to the top of the ridge to the northeast corner of Knaga's Land, and the southeast corner of this lot; thence north along the line of lands belonging to Daniel Anthony to a post on the line of lands belonging to William Poland where a maple tree ten inches in diameter bears west three links distant; thence west 8 chains and 50 links to the middle of the Tuscarawas River; thence down the middle of said river south 24-00 west 6.60 chains; thence South 19-15 west 14 chains and 35 links to the place of beginning containing nine and one-half (9-1/2) acres, more or less.

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Part of the second quarter of the seventh township of Warwick and bounded and described as follows: Beginning in the middle of the Tuscarawas River on the line of lands formerly belonging to Nicholas Holliger; thence east thirty perches to a post on the top of a ridge, where a chestnut 17 inches in diameter bears N. 45 degrees E. 34 links distant; thence north 65 degrees west thirty-four perches into six perches to a stake on the top of a ridge; thence north 25 degrees East twenty-
37 perches to the place of beginning, containing six and three-hundredths acres, more or less.

95613

RECEIVED FOR RECORD
THEODORE M. UNDERWOOD, County Recorder

1:50 PM
JUN 21 1976

Recorded Jun 21 19 76
Vol. 76 Page 800 of the
Tuscarawas County, Ohio Records of

EXHIBIT C