

3678-A
RECORDATION NO. Filed & Recorded
JAN 27 1977 -9 05 AM
INTERSTATE COMMERCE COMMISSION

1100 Superior Avenue
Cleveland, Ohio 44114
Date JAN 27 1977
Fee \$ 70

7-027A010

8678-B
RECORDATION NO. Filed & Recorded
JAN 27 1977 -9 05 AM
INTERSTATE COMMERCE COMMISSION

January 27, 1977
ICC Washington, D.C.
RECORDATION NO. 8678 Filed & Recorded

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I.C.C. OPERATION BR.

Secretary
Interstate Commerce Commission
Washington, D. C. 20423

JAN 27 1977 -9 05 AM
INTERSTATE COMMERCE COMMISSION

Dear Sir:

I transmit for recording with the Commission, pursuant to Section 20c of the Interstate Commerce Act (Act), three executed copies of each of the following documents:

- (a) Lease Agreement (No. 5), dated as of September 30, 1975, between First National Bank of Louisville, as Trustee, Lessor and Leslie Coal Mining Company, Lessee.
- (b) Lease Supplement No. 1 (Lease Agreement No. 5), dated January 27, 1977, between First National Bank of Louisville, as Trustee, and Leslie Coal Mining Company, Lessee.
- (c) Assignment of Lease and Agreement (Leslie Coal Mining Company Equipment Trust No. 5), dated as of January 27, 1977, among First National Bank of Louisville, as Owner Trustee, Leslie Coal Mining Company, Lessee, and The Chase Manhattan Bank (National Association), as Indenture Trustee.
- (d) Supplemental Indenture and Security Agreement No. 5 (Leslie Coal Mining Company Equipment Trust No. 5), dated as of January 27, 1977, between First National Bank of Louisville, as Owner Trustee, and The Chase Manhattan Bank (National Association), as Indenture Trustee. This document is a supplement to the Trust Indenture and Security Agreement, dated as of September 30, 1975, between First National Bank of Louisville, as Owner Trustees, and The Chase Manhattan Bank (National Association), as Indenture Trustee, previously filed with the Commission, Recordation No. 8182-C, filed January 15, 1976, 8:50 A.M.

8182-C
RECORDATION NO. Filed & Recorded
JAN 27 1977 -9 05 AM
INTERSTATE COMMERCE COMMISSION

Carroll J. Wis

January 27, 1977

It is the intention of Leslie Coal Mining Company (the "Company") to effect such filings with the Commission only to the extent required, if at all, to perfect the security interest created by the above documents in the equipment described below; such recording should not be deemed to be an admission by the Company that it or any of its operations are under the jurisdiction of the Commission nor does the Company by this recording in any way submit to the jurisdiction of the Commission.

The equipment covered by the above documents includes the following:

<u>Description</u>	<u>Manufacturer</u>	<u>Serial No.</u>
Mantrip Car	W. Va. Armature	M100-403
Mantrip Car	W. Va. Armature	M100-404
Mantrip Car	W. Va. Armature	M100-410
Mantrip Car	W. Va. Armature	M100-411
Mantrip Car	W. Va. Armature	M100-413
Supply Locomotive	Greensburg	3242
Supply Locomotive	Greensburg	3243

The names and addresses of the parties to the transaction are as follows:

Lessee - Leslie Coal Mining Company
1100 Superior Avenue
Cleveland, Ohio 44114

Lessor, Trustees - First National Bank of Louisville
First National Tower
Louisville, Kentucky 40202

Indenture Trustee - The Chase Manhattan Bank
(National Association)
One Chase Manhattan Plaza
New York, New York 10015

There is also enclosed a check for the recordation fee in the amount of \$70.00.

Kindly return to the bearer one counterpart of each document filed herewith.

Very truly yours,

LESLIE COAL MINING COMPANY

By 
R. H. Chisholm, President

Enclosures

**Assignment of Lease
and Agreement**

**(Leslie Coal Mining Company
Equipment Trust No. 5)**

RECORDATION NO. 8678/B Filed & Recorded

JAN 27 1977 -9 25 AM
INTERSTATE COMMERCE COMMISSION
INTERSTATE COMMERCE COMMISSION

Dated as of January 27, 1977

**FIRST NATIONAL BANK OF LOUISVILLE,
*as Owner Trustee***

AND

LESLIE COAL MINING COMPANY

TO

**THE CHASE MANHATTAN BANK (National Association),
*as Indenture Trustee***

10¾% Equipment Trust Certificates

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ASSIGNMENT OF LEASE AND AGREEMENT dated as of January 27, 1977 (herein, as the same may be amended or supplemented from time to time as permitted hereby and by the Indenture referred to below, called "this Assignment"), among FIRST NATIONAL BANK OF LOUISVILLE, as trustee under the Trust Agreement referred to below (herein, together with its successors in the trusts thereunder, called "Assignor"), having an address at First National Tower, Louisville, Kentucky 40202, LESLIE COAL MINING COMPANY, a Delaware corporation (herein, together with any corporation succeeding thereto by merger, consolidation or acquisition of all or substantially all of its assets and its permitted successors and assigns, called the "Lessee"), having an address at 1100 Superior Avenue, Cleveland, Ohio 44114, and THE CHASE MANHATTAN BANK (National Association), a national banking association, as Trustee under the Indenture referred to below (herein, together with its successors in the trusts thereunder, called the "Indenture Trustee"), having an address at 1 Chase Manhattan Plaza, New York, New York 10015.

PRELIMINARY STATEMENT

Assignor has entered into a Trust Agreement dated as of September 30, 1975 (herein, as the same may be amended or supplemented from time to time as permitted thereby and by the Indenture, called the "Trust Agreement"), with Citicorp Lescaman, Inc., a Delaware corporation (herein, together with each person succeeding to any part of the Ownership Interest as defined in the Trust Agreement pursuant to Section 9.01 of the Trust Agreement, called the "Owner Participants"), whereby, among other things, Leslie Coal Mining Company Equipment Trust No. 5 (herein called the "Trust") has been created for the use and benefit of the Owner Participants.

Assignor and the Lessee have entered into the Lease Agreement (No. 5) dated as of September 30, 1975 (herein, together with Lease Supplement No. 1 thereto of even date herewith, and as the same may be further amended or supplemented from time to time as permitted thereby, hereby and by the Indenture, called the "Lease"). The separate items of equipment leased to the Lessee pursuant to the Lease are described in Schedules 1A, 1B, 1C and 1D to said Lease Supplement No. 1 (such items, including all replacement Parts incorporated or installed pursuant to the Lease but excluding Parts replaced by such replacement Parts, are herein individually called an "Item" or an "Item of Equipment" and collectively called the "Equipment"). The terms used hereinafter in this Assignment and not defined herein shall have the meanings set forth in the Lease.

Assignor has entered into a Participation Agreement dated as of September 30, 1975 (herein, as the same may be amended or supplemented from time to time as permitted thereby, called the "Participation Agreement") with the Lessee, Carolina Power & Light Company, the Indenture Trustee, John Hancock Mutual Life Insurance Company (herein called the "Loan Participant") and Citicorp Lescaman, Inc. The Participation Agreement, as amended, provides, among other things, for the issuance and sale by the Indenture Trustee to the Loan Participant of 10 $\frac{3}{4}$ % Interim Equipment Trust Certificates (herein called the "Interim Equipment Trust Certificates") in the aggregate principal amount of \$18,900,000 (to be exchanged for 10 $\frac{3}{4}$ % Definitive Equipment Trust Certificates in an aggregate principal amount not exceeding \$18,900,000). The Equipment Trust Certificates are being issued pursuant to, and are being secured by, among other things, the Trust Indenture and Security Agreement dated as of September 30, 1975 (herein as the same may be amended or supplemented from time to time as permitted thereby, called the "Indenture"). The proceeds from the sale of the Interim Equipment Trust Certificates will be used to finance a substantial portion of the Capitalized Costs of the Equipment.

Assignor and the Lessee are entering into this Assignment in order to induce the Loan Participant to purchase the Interim Equipment Trust Certificates. This Assignment shall equally and ratably secure all of the Interim and Definitive Equipment Trust Certificates without preference, priority or distinction of any thereof over any other by reason of any difference in time of issuance or otherwise.

such person, and at the expense of the Lessee, deliver to Assignor or any other such person an instrument cancelling and discharging this Assignment.

3. POWER OF ATTORNEY TO INDENTURE TRUSTEE:

Subject to the provisions of Section 4.04(b) of the Indenture, Assignor hereby constitutes the Indenture Trustee its true and lawful attorney, irrevocably, with full power (in the name of Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys due and to become due from the Lessee under or arising out of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Indenture Trustee may deem to be necessary or advisable.

4. INDENTURE TRUSTEE DESIGNATED RECIPIENT; NOTICES:

Assignor hereby designates the Indenture Trustee as recipient of, and hereby directs the Lessee to deliver or remit directly to the Indenture Trustee at 1 Chase Manhattan Plaza, New York, New York 10015, or at such other address as the Indenture Trustee may from time to time designate, (i) copies of all notices and other instruments or communications required or permitted to be given or made by the Lessee pursuant to the Lease (it being understood by the Lessee that duplicate copies of such notices and other instruments or communications are also to be sent to Assignor), and (ii) all Basic Rent, Supplemental Rent (including, without limitation, payments of Termination Value and Stipulated Loss Value), liquidated damages and other payments, tenders and security now or hereafter due and payable to or receivable by the lessor under the Lease, *excluding, however*, but only so long as no Event of Default shall be continuing under the Lease, the Excepted Payments. Assignor hereby agrees to send to the Indenture Trustee, by prepaid United States registered or certified mail, return receipt requested, copies of all notices and other instruments or communications required or permitted to be given by the lessor under the Lease pursuant thereto.

5. REPRESENTATIONS AND WARRANTIES:

The Lessee represents and warrants that the Lease is in effect and is not in default. Assignor represents and warrants that it has not executed any assignment of, or in any way affecting, the subject matter of the assignment made hereby to the Indenture Trustee, other than the assignment to the Indenture Trustee made by the Indenture.

6. IRREVOCABILITY; SUPPLEMENTAL INSTRUMENTS:

Assignor agrees that the assignment made hereby and the designation and direction to the Lessee hereinabove set forth are irrevocable, and that Assignor will not, while said assignment is in effect, accept any payment from the Lessee (other than an Excepted Payment as aforesaid), settle or compromise or release any claim against the Lessee arising under the Lease, or submit or consent to the submission to arbitration of any dispute, difference or other matter arising under or in respect of the Lease or the foregoing assignment or take any action as lessor under the Lease or otherwise which is inconsistent with said assignment, or make any other assignment, designation or direction of the subject matter hereof, and that any such assignment, designation or direction shall be void. Assignor will from time to time, upon request of the Indenture Trustee, execute all instruments of further assurance and all such supplemental instruments as the Indenture Trustee may reasonably request.

7. AMENDMENT OR TERMINATION OF LEASE:

Assignor and the Lessee each agrees that it will not, *except* as permitted or required by the Lease or the Indenture, enter into any agreement subordinating, amending, supplementing, hypothecating or terminating the Lease (or purporting so to do) without the Indenture Trustee's prior written consent thereto, and that any attempted subordination, amendment, supplement, hypothecation or termination without such consent shall be void unless so permitted or required. In the event that the Lease shall be amended or supplemented as herein permitted, the Lease, as so amended or supplemented, shall continue to be subject to the provisions of this Assignment without the necessity of any further act by any of the parties hereto.

may be, may elect, by notice to Assignor, the Owner Participants and the Indenture Trustee, to treat the amount of such indebtedness and claims as unsecured demand loans or advances to Assignor or the Owner Participants but notwithstanding the foregoing all such indebtedness and claims are hereby subordinated and made fully subject in right of payment to the prior payment of all amounts due and owing, at the time of the Lessee's or the Lease Guarantor's enforcement of any such indebtedness or claim, upon the Interim and Definitive Equipment Trust Certificates.

(d) Nothing contained in paragraph 8(b) hereof shall be construed to require the Lessee to take any action with respect to any claim, or to incur any expense, or to make any payment with respect to any obligation which is incurred by the Indenture Trustee or any holder of any of the Interim or Definitive Equipment Trust Certificates to any third party and which claim or obligation is not related to or does not arise directly or indirectly out of the Overall Transaction.

9. CHARACTER OF LESSEE'S OBLIGATIONS:

(a) The liabilities, obligations and undertakings of the Lessee under this Lease Assignment are independent of, separate from and in addition to those of the Lessee as lessee under the Lease, and shall not be diminished, deferred, affected or impaired for any reason whatsoever, although without notice to or the further consent of the Lessee, including, without limitation, (i) any of the reasons referred to in Section 16 of the Lease; or (ii) the invalidity or unenforceability of the Lease or any provision thereof, whether because the Lease or a memorandum thereof or financing statements have not been filed, registered or recorded as may be required by applicable law, or because Assignor may not have had good right or lawful authority to lease the Equipment to the Lessee (even if Assignor may not have had sufficient title to any Item of Equipment at the time of the leasing thereof to the Lessee), or because Assignor may not have complied with applicable law, or because of any other reason similar or dissimilar to the foregoing; or (iii) the invalidity or unenforceability of this Assignment, or any provision hereof, whether because this Assignment or financing statements have not been filed, registered or recorded as may be required by applicable law, or because of revocation, or because of any other reason similar or dissimilar to the foregoing; or (iv) the waiver by the lessor under the Lease or the Indenture Trustee of the observance or performance by the Lessee of any of the obligations or undertakings contained in the Lease, this Assignment or any other instrument to which the Lessee is a party or by which it is bound or which affects the Equipment (*except* the particular observance or performance so waived); or (v) the extension of the time for payment by the Lessee of any Basic Rent, Supplemental Rent, liquidated damages or other amounts, payments, tenders or security or any other sums or any part thereof owing or payable under any of such instruments, or of the time for performance by the Lessee of any other obligations under or arising out of any of such instruments, or the extension or the renewal of any thereof (*except* for the particular extension or renewal so granted); or (vi) the modification or amendment (whether material or otherwise) of any obligation or undertaking of the Lessee set forth in any of such instruments; or (vii) the taking or the omission of any of the actions referred to in any of such instruments; or (viii) any failure, omission, delay or lack on the part of the lessor under the Lease or the Indenture Trustee to enforce, assert or exercise any right, power or remedy conferred on the lessor under the Lease or the Indenture Trustee in any of such instruments or any action on the part of the lessor under the Lease or the Indenture Trustee granting indulgence or extension in any form; or (ix) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, the Lessee or any of its assets, or the disaffirmance of the Lease in any such proceeding; or (x) the release or discharge of the Lessee from the performance or observance of any obligation or undertaking contained in any of such instruments by operation of law; or (xi) the release, substitution or replacement (whether or not in accordance with terms of the Lease) of any Item of Equipment or any portion thereof; or (xii) the receipt and acceptance by the lessor under the Lease or the Indenture Trustee of notes, checks or other instruments for the payment of money made by the Lessee and extensions and renewals thereof (*except* to the extent that such instruments are paid or converted into cash); or (xiii) the substitution or release of any security for the Interim or

12. THE INDENTURE TRUSTEE:

The Indenture Trustee enters into and accepts this Assignment upon the terms and conditions set forth in Article VIII of the Indenture with the same force and effect as if those terms and conditions were repeated at length herein and made applicable to the Indenture Trustee in respect of any action taken by the Indenture Trustee hereunder. Without limiting the generality of the foregoing, the Indenture Trustee assumes no responsibility as to the validity or enforceability hereof or for the correctness of the recitals of fact herein contained, which shall be taken as the statements, representations and warranties of the other parties hereto.

IN WITNESS WHEREOF, Assignor, the Lessee and the Indenture Trustee have each caused this Assignment to be duly executed and delivered in its name and behalf and under its corporate seal, as of the day and year first above written.

FIRST NATIONAL BANK OF LOUISVILLE,
as Owner Trustee

By *[Signature]*
Vice President and Trust Officer

[CORPORATE SEAL]

Attest:

[Signature]
Assistant Secretary

LESLIE COAL MINING COMPANY

By *[Signature]*
President

[CORPORATE SEAL]

Attest:

[Signature]
Secretary

THE CHASE MANHATTAN BANK
(National Association),
as Indenture Trustee

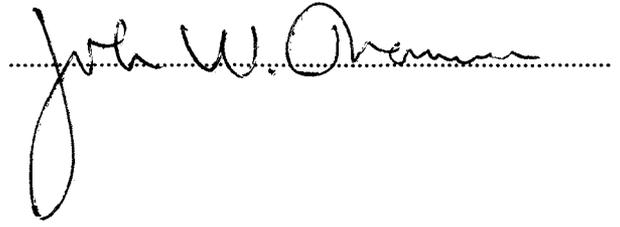
By *[Signature]*
Vice President

[CORPORATE SEAL]

Attest:

[Signature]
Assistant Secretary

This instrument was drafted by the undersigned, JOHN W. THOMSON, attorney at law, whose address is c/o Dewey, Ballantine, Bushby, Palmer & Wood, 140 Broadway, New York, New York 10005.

A handwritten signature in cursive script, reading "John W. Thomson", is written over a horizontal dotted line. The signature is fluid and extends slightly below the line.