

DISTRICT COURT OF THE UNITED STATES, SOUTHERN
DISTRICT OF NEW YORK.

In Equity No. 11—129.

THE UNITED STATES OF AMERICA, PETITIONER.

VS.

LEHIGH VALLEY RAILROAD COMPANY AND THE LEHIGH
VALLEY COAL COMPANY, ET AL., DEFENDANTS.

SUPPLEMENTARY DECREE.

Upon consideration of the petition of the Lehigh Valley Railroad Company and The Lehigh Valley Coal Company made this day for an order modifying the Final Decree signed November 7, 1923, and the Decree supplementary thereto signed November 28, 1932, the United States having approved such modification, by the Assistant Attorney General, and this Court being fully advised in the premises, it is ordered, adjudged and decreed:

That the Final Decree herein signed November 7, 1923, and the Decree supplementary thereto signed November 28, 1932, be and the same hereby are modified and supplemented in all respects as may be necessary to authorize and permit the following:

1. The Lehigh Valley Railroad Company and The Lehigh Valley Coal Company are hereby authorized and permitted to adopt, put into effect, and carry out, in whole or in part, and with such modifications as they may deem advisable, a plan for the extension to January 1, 1943, of the Five-Year Secured 6% Notes of The Lehigh Valley Coal Company maturing January 1, 1938, which Notes are guaranteed as to the payment of princi-

pal, interest, and minimum sinking fund requirements by the Lehigh Valley Railroad Company, which plan is hereto attached and made a part hereof, marked Exhibit "A".

2. The Lehigh Valley Railroad Company is hereby authorized and permitted to deposit, in accordance with the provisions of the Deposit Agreement hereto attached and made a part hereof, marked Exhibit "B", the approximately \$2,164,500 principal amount of Notes now owned by it and any such Notes which it hereafter may acquire.

3. The Lehigh Valley Railroad Company is hereby authorized and permitted to agree with The Lehigh Valley Coal Company that none of the approximately \$2,164,500 principal amount of Notes now owned by it shall be entitled to the benefit of sinking fund payments or redemption by The Lehigh Valley Coal Company during the period of extension unless and until all other Notes now outstanding shall have been retired, and that it will subordinate the claim of the said \$2,164,500 principal amount of the Notes to the claim of the Notes deposited under the Plan by holders other than the Railroad Company to the collateral securing the Notes.

4. The Lehigh Valley Railroad Company is hereby authorized and permitted to receive from The Lehigh Valley Coal Company, when the Plan is declared effective, Notes in the aggregate principal amount deposited by it with extension agreements, coupon sheets, and guaranties attached as provided in the Plan.

5. The Lehigh Valley Railroad Company is hereby authorized and permitted to guarantee the payment of the principal, interest, and minimum sinking fund requirements of the Notes, as extended to January 1, 1943, and to sign the Certificates of Deposit provided for by said Plan.

6. The proper officers of the Lehigh Valley Railroad Company and of The Lehigh Valley Coal Company are hereby authorized and permitted to execute in such manner as they may determine any and all papers and docu-

ments deemed by them to be necessary or advisable in order to adopt, put into effect and carry out the terms and intent of the aforesaid Plan, with any modifications as aforesaid.

WM. BONDY,
United States District Judge.

Dated: November 18th, 1937.

Draft of November 16, 1937.

1937 SUPPLEMENTARY DECREE.

EXHIBIT "A".

THE LEHIGH VALLEY COAL COMPANY LEHIGH VALLEY RAILROAD COMPANY

Plan in Connection with the Extension of the Five-Year Secured 6% Notes of the Lehigh Valley Coal Company Due January 1, 1938, Which Are Guaranteed by Lehigh Valley Railroad Company.

PLAN.

In 1933, The Lehigh Valley Coal Company (hereinafter called the "Coal Company") issued \$6,340,000 principal amount of Five Year Secured 6% Notes due January 1, 1938, guaranteed as to principal, interest and minimum sinking fund of \$250,000 per annum by Lehigh Valley Railroad Company (hereinafter called the "Railroad Company"). Through the operation of the sinking fund from January 2, 1933, to October 31, 1937, \$1,641,500 principal amount of the Notes has been retired. It is estimated that from November 1, 1937, to December 31, 1937, approximately \$52,000 additional principal amount of Notes will be retired, leaving approximately \$4,646,500 principal amount of Notes to be provided for at maturity on January 1, 1938. Neither the Coal Company nor the Railroad Company is able, because of prevailing conditions, to provide in the usual manner by the sale of securities, or otherwise, sufficient cash for the payment of these Notes at maturity. The Railroad Company now

owns \$2,164,500 of the said Notes, part of which have been pledged by the Railroad Company as security for bank loans.

The Notes are secured by a Trust Indenture between the Coal Company and The Pennsylvania Company for Insurances on Lives and Granting Annuities (hereinafter called the "Trustee"), as Trustee, dated January 2, 1933. October 31, 1937, the Trustee held as security under the aforesaid Trust Indenture \$4,779,800 principal amount of the First and Refunding Mortgage Sinking Fund Bonds, 6% Series of 1932, of the Coal Company (which Bonds mature August 1, 1950), and a bond of the Coal Company in the principal amount of \$3,000,000, due January 1, 1938, and secured by a first lien or encumbrance upon certain anthracite properties and leasehold interests owned or held by the Coal Company. The Trust Indenture further provides for sinking fund payments by the Coal Company to the Trustee in the minimum sum of \$250,000 annually, payable in equal monthly installments.

By reason of the foregoing, the Coal Company and the Railroad Company now propose that the holders of said Notes extend the maturity date thereof to January 1, 1943, continuing the present interest rate of 6% per annum, the present Sinking Fund provisions, and the present collateral security (the above mentioned \$3,000,000 bond and mortgage of the Coal Company due January 1, 1938, to be extended for a like five-year period). The Railroad Company will deposit its Notes under the Plan and proposes to continue its present guaranty of the extended Notes as to principal, interest and minimum sinking fund. As additional consideration to holders of Notes other than the Railroad Company, the Coal Company has secured from the Railroad Company its agreement that, if the Plan becomes effective, the form of extension agreement to be affixed to the \$2,164,500 principal amount of Notes now owned by the Railroad Company shall provide that none of said Notes shall be entitled, during the period of the extension, to be purchased or redeemed either through the

operation of the Sinking Fund or through any redemption provisions of the Trust Indenture, unless and until all Notes, other than such \$2,164,500 principal amount, are retired, and that the said \$2,164,500 principal amount of the said Notes owned by the Railroad Company are to be subordinated to the claim of the Notes deposited under this Plan by holders other than the Railroad Company, to the collateral securing the said Notes. Other details of the proposed extension are set forth in the Extension Agreements referred to below.

Holders of the Five-Year Secured 6% Notes may assent to the Plan by depositing their Notes at the office of Drexel & Co., Philadelphia, Pa., or of J. P. Morgan & Co., New York, N. Y., who are acting as Depositaries for the Coal Company under the Plan. Depositors will receive appropriate Certificates of Deposit of the Coal Company and the Railroad Company at the time of deposit. The Plan will not be declared effective unless and until the Coal Company and the Railroad Company so determine.

If the Plan is declared effective, depositors will receive on surrender of their Certificates of Deposit the deposited Notes with Extension Agreements and additional interest coupons, covering the period from January 2, 1938 to January 1, 1943, attached thereto. The Extension Agreements to be attached to all Notes other than the \$2,164,500 principal amount of Notes extended by the Railroad Company will be in the form attached hereto as Exhibit A. The Extension Agreements to be attached to the \$2,164,500 principal amount of Notes extended by the Railroad Company will be in the form attached hereto as Exhibit B. As more fully set forth therein, the Extension Agreements will extend the maturity date of the Notes to which they are attached to January 1, 1943, and will authorize the Coal Company and the Trustee to extend the above mentioned \$3,000,000 bond and mortgage of the Coal Company to January 1, 1943, and to amend the Trust Indenture in so far as may be necessary to limit the application of the Sinking Fund and the redemption provisions so that they will operate only

to effect the purchase or redemption of extended Notes other than the aforesaid \$2,164,500 principal amount of Notes extended by the Railroad Company, unless and until all other Notes are retired, and as may be necessary or desirable as an incident to extension on the terms herein stated.

The extended Notes will also carry the guaranty of the Railroad Company in the form set forth in Exhibits A and B.

The Railroad Company is making application to the Interstate Commerce Commission for authority to guarantee the extended Notes.

Interest due January 1, 1930, on the Notes will be paid to each depositing Noteholder at the time of deposit if the depositor furnishes at that time appropriate Federal Income Tax Ownership Certificates. The extension offer will remain open until the close of business December 24, 1937, and Notes should be deposited by that date.

Registered Notes which are deposited under the Plan must be accompanied by instruments of transfer duly executed in the blank, with signatures guaranteed in a manner satisfactory to the Depositary receiving the Notes. No documentary stamps need be affixed at the time of deposit unless certificates of deposit are to be issued in a name other than that of the owner or registered holder of the Notes Deposited. Each depositor must furnish the Depositary receiving the Notes with the address to which notices relating to the Plan may be sent.

Dated, , November 15, 1937.

THE LEHIGH VALLEY COAL COMPANY,

By _____
President

LEHIGH VALLEY RAILROAD COMPANY,

By _____
President

EXHIBIT A.

FORM OF EXTENSION AGREEMENT FOR NOTES EXTENDED BY HOLDERS OTHER THAN LEHIGH VALLEY RAILROAD COMPANY.

THE LEHIGH VALLEY COAL COMPANY
FIVE-YEAR SECURED 6% NOTES

Note No. _____ \$ _____

EXTENSION AGREEMENT OF JANUARY 1, 1938.

By this agreement executed by The Lehigh Valley Coal Company (a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, hereinafter called the "Company") and attached to the accompanying Note, the serial number of which is as above indicated, of The Lehigh Valley Coal Company, dated January 2, 1933, issued under and secured by a Trust Indenture dated January 2, 1933, duly executed and delivered by the Company to the Pennsylvania Company for Insurances on Lives and Granting Annuities (a corporation of the Commonwealth of Pennsylvania, hereinafter called the "Trustee"), as Trustee, and guaranteed as to principal, interest and minimum sinking fund of \$250,000 per annum by Lehigh Valley Railroad Company (a corporation of the Commonwealth of Pennsylvania), and by the additional interest coupons attached to the accompanying Note (unless such Note be registered as to principal and interest), and by the acceptance hereof by the holder of said Note; and in consideration (1) of the execution by the Lehigh Valley Railroad Company of the guaranty hereto attached, (2) of the promises of other holders of Notes issued under the above-mentioned Trust Indenture indicated by their acceptance of Extension Agreements identical in their terms to this Extension Agreement, and (3) of the covenants of the Company herein contained, it is mutually agreed between the Company and such holder as follows:

(1) The maturity date of said Note is extended from January 1, 1938, to January 1, 1943, and, except as hereinafter provided, payment of the principal thereof shall not be required before January 1, 1943, which shall become the maturity date of said Note for all purposes of the aforesaid Trust Indenture.

(2) The Company covenants to make payment of the interest on said Note at the rate of six per cent (6%) per annum in the manner provided in said Note and to make payment of the principal amount due on said Note on January 1, 1943, in the manner provided in said Note, except that payment of said interest on and principal of said Note, including payment or redemption of said Note before maturity as provided in the aforesaid Trust Indenture, shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts. The Company covenants to pay said interest without deduction for any Federal income tax up to but not exceeding two per cent (2%) per annum upon said interest, and without deduction for any tax or taxes (other than estate, inheritance and succession taxes) of the Commonwealth of Pennsylvania, and/or any political subdivision thereof, up to but not exceeding in the aggregate four (4) mills per annum upon each dollar of said principal amount, which taxes the Company or the Trustee may be required or permitted to retain or deduct therefrom, or to pay thereon, under any present or future law of the United States of America or of said Commonwealth, the Company hereby agreeing to pay such taxes to the extent aforesaid. In the event that neither the Company nor the Trustee shall be required or permitted by law to pay such Federal income tax to the extent aforesaid, the Company will reimburse to the holder of said Note, to the extent aforesaid, any Federal income tax paid by him, provided that request for such reimbursement shall be made in writing to the Company within sixty (60) days after the date of payment of any such tax and within six months after such tax shall have become due and payable, with proof satisfactory to the Company that such tax has been paid.

(3) Such holder agrees that the Company and the Trustee may extend to January 1, 1943, the Company's bond and mortgage for Three Million Dollars (\$3,000,000) due to January 1, 1938, now held by the Trustee as security under the aforesaid Trust Indenture.

(4) The Company covenants that the Notes, Two Million One Hundred Sixty-four Thousand Five Hundred Dollars (\$2,164,500) in principal amount, now owned by Lehigh Valley Railroad Company shall not be entitled, during the period of the extension, to be purchased or redeemed either through the operation of the Sinking Fund or through any redemption provisions of the Trust Indenture, unless and until all other Notes are retired; and that said Notes so held by the Railroad Company shall be extended by means of Extension Agreements which will give effect to the foregoing.

(5) Such holder expressly waives non-payment of the principal of said Note on January 1, 1938, and any other act or omission on the part of the Company incident to extension upon the terms above stated, as an event of default within the terms of the aforesaid Trust Indenture.

(6) Nothing contained herein, nor anything done hereunder, is intended in any manner to affect or prejudice, or in any way shall affect or prejudice, the obligation of the said Note or the rights of the holder thereof thereunder or under the aforesaid Trust Indenture (except as specifically provided in the foregoing paragraphs (1), (2), (3), (4) and (5), or the lien of the aforesaid Trust Indenture as security therefor.

(7) There may be imprinted on the face and also on the outside of said Note the following legend:

"This Note is extended to January 1, 1943, with interest at the rate of six per cent (6%) per annum, on the terms set forth in the Extension Agreement dated January 1, 1938, attached hereto."

(8) Such holder authorizes the Company and the Trustee to amend the aforesaid Trust Indenture so as to incorporate therein the foregoing provisions, together with any changes in the existing provisions thereof which may be necessary or desirable as an incident to extension upon the terms herein stated, and so that the covenants by the Company herein contained shall constitute additional

covenants by the Company under said Trust Indenture.

IN WITNESS WHEREOF The Lehigh Valley Coal Company has caused this instrument to be executed and its corporate seal to be affixed hereto and duly to be attested, and (unless said Note be fully registered as aforesaid) has caused coupons for such interest, bearing the facsimile signature of its Treasurer, to be attached hereto as of the first day of January, 1938.

THE LEHIGH VALLEY COAL COMPANY,

By _____
Vice President

Attest:

Secretary.

FORM OF COUPON

No. _____ \$_____

On the first day of _____, 19____, unless the Note below mentioned shall have been called for previous redemption, The Lehigh Valley Coal Company will pay to bearer _____ Dollars, at the office of Drexel & Co., in the City of Philadelphia, Commonwealth of Pennsylvania, or at the office of J. P. Morgan & Co., in the Borough of Manhattan, City and State of New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts, and without deduction for certain taxes as specified in the Extension Agreement of January 1, 1938, between the Company and the holder of the Company's Five-Year 6% Note No. _____, being interest for the preceding half year on said Note.

Treasurer

FORM OF GUARANTY

LEHIGH VALLEY RAILROAD COMPANY, a corporation of the Commonwealth of Pennsylvania, for a valuable con-

sideration, hereby unconditionally and irrevocably guarantees the due and punctual payment of the principal and interest of the Note of the Lehigh Valley Coal Company referred to in the foregoing Extension Agreement, as and when the same shall respectively become due and payable pursuant to the terms of said Extension Agreement, whether at maturity, as extended, or by declaration, or otherwise, and further unconditionally and irrevocably guarantees the payment to the Trustee under the Trust Indenture securing the within Note of the moneys payable to such Trustee for the Sinking Fund, to the extent of the minimum sums required therefor, in the amounts and at the times provided for in the said Trust Indenture, during the period for which said Note is extended as provided in said Extension Agreement.

LEHIGH VALLEY RAILROAD COMPANY,

By _____
President.

Attest:

Secretary.

EXHIBIT B.

Form of Extension Agreement for the \$2,164,500
Principal Amount of Notes to be Extended by
Lehigh Valley Railroad Company.

THE LEHIGH VALLEY COAL COMPANY
FIVE-YEAR SECURED 6% NOTES

Note No. _____ \$_____

EXTENSION AGREEMENT OF JANUARY 1, 1938.

By this agreement executed by The Lehigh Valley Coal Company (a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, hereinafter called the "Company") and attached to the accompanying Note, the serial number of which is as above indicated, of the Lehigh Valley Coal Company, dated January 2, 1933, issued under and secured by a Trust Indenture dated January 2, 1933, duly executed

and delivered by the Company to The Pennsylvania Company for insurances on lives and Granting Annuities (a corporation of the Commonwealth of Pennsylvania, hereinafter called the "Trustee"), as Trustee, and guaranteed as to principal, interest and minimum sinking fund of \$250,000 per annum by Lehigh Valley Railroad Company (a corporation of the Commonwealth of Pennsylvania), and by the additional interest coupons attached to the accompanying Note (unless such Note be registered as to principal and interest), and by the acceptance hereof by the holder of said Note; and in consideration (1) of the promises of other holders of Notes issued under the above mentioned Trust Indenture indicated by their acceptance of Extension Agreements identical to this Extension Agreement or differing from this Extension Agreement in that they contain no release of rights in the Sinking Fund, and (2) of the covenants of the Company herein contained, it is mutually agreed between the Company and such holder as follows:

(1) The maturity date of said Note is extended from January 1, 1938, to January 1, 1943, and, except as hereinafter provided, payment of the principal thereof shall not be required before January 1, 1943, which shall become the maturity date of said Note for all purposes of the aforesaid Trust Indenture.

(2) The Company covenants to make payment of the interest on said Note at the rate of six per cent (6%) per annum in the manner provided in said Note, and to make payment of the principal amount due on said Note on January 1, 1943, in the manner provided in said Note, except that payment of said interest on and principal of said Note, including payment or redemption of said Note before maturity as provided in the aforesaid Trust Indenture, shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts. The Company covenants to pay said interest without deduction for any Federal income tax up to but not exceeding two per cent (2%) per annum upon said interest, and with-

out deduction for any tax or taxes (other than estate, inheritance and succession taxes) of the Commonwealth of Pennsylvania, and/or any political subdivision thereof, up to but not exceeding in the aggregate four (4) mills per annum upon each dollar of said principal amount, which taxes the Company or the Trustee may be required or permitted to retain or deduct therefrom, or to pay thereon, under any present or future law of the United States of America or of said Commonwealth, the Company hereby agreeing to pay such taxes to the extent aforesaid. In the event that neither the Company nor the Trustee shall be required or permitted by law to pay such Federal income tax to the extent aforesaid, the Company will reimburse to the holder of said Note, to the extent aforesaid, any Federal income tax paid by him, provided that request for such reimbursement shall be made in writing to the Company within sixty (60) days after the date of payment of any such tax within six months after such tax shall have become due and payable, with proof satisfactory to the Company that such tax has been paid.

(3) Such holder agrees that the Company and the Trustee may extend to January 1, 1943, the Company's bond and mortgage for Three Million Dollars (\$3,000,000) due January 1, 1938, now held by the Trustee as security under the aforesaid Trust Indenture.

(4) Such holder expressly agrees that the said Note shall not be entitled, during the period of the extension, to be purchased or redeemed either through the operation of the Sinking Fund or through any redemption provisions of the Trust Indenture, unless and until all Notes, other than the \$2,164,500 principal amount of Notes which have been extended by Extension Agreements in this form, have been retired.

(5) Such holder expressly waives non-payment of the principal of said Note on January 1, 1938, and any other act or omission on the part of the Company incident to extension upon the terms above stated, as an event of default within the terms of the aforesaid Trust Indenture.

(6) Nothing contained herein, nor anything done hereunder, is intended in any manner to affect or prejudice, or in any way shall affect or prejudice, the obligation of the said Note or the rights of the holder thereof thereunder or under the aforesaid Trust Indenture (except as specifically provided in the foregoing paragraphs (1), (2), (3), (4) and (5)), or the lien of the aforesaid Trust Indenture as security therefor.

(7) There may be imprinted on the face and also the outside of said Note the following legends:

"This Note is extended to January 1, 1943, with interest at the rate of six per cent (6%) per annum, on the terms set forth in the Extension Agreement dated January 1, 1938, attached hereto. The Extension Agreement limits the rights of this Note to be purchased or redeemed through the operation of the Sinking Fund or redemption provisions set forth in the within described Trust Indenture."

(8) Such holder authorizes the Company and the Trustee to amend the aforesaid Trust Indenture so as to incorporate therein the foregoing provisions, together with any changes in the existing provisions thereof which may be necessary or desirable as an incident to extension upon the terms herein stated, and so that the covenants by the Company herein contained shall constitute additional covenants by the Company under said Trust Indenture.

IN WITNESS WHEREOF The Lehigh Valley Coal Company has caused this instrument to be executed and its corporate seal to be affixed hereto and duly to be attested, and (unless said Note be fully registered as aforesaid) has caused coupons for such interest, bearing the facsimile signature of its Treasurer, to be attached hereto as of the first day of January, 1938.

THE LEHIGH VALLEY COAL COMPANY,

By _____
Vice President

Attest:

Secretary.

FORM OF COUPON

No. _____

\$ _____

On the first day of _____, 19____, unless the Note below mentioned shall have been called for previous redemption, The Lehigh Valley Coal Company will pay to bearer _____ Dollars, at the office of Drexel & Co., in the City of Philadelphia, Commonwealth of Pennsylvania, or at the office of J. P. Morgan & Co., in the Borough of Manhattan, City and State of New York, in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts, and without deduction for certain taxes as specified in the Extension Agreement of January 1, 1938, between the Company and the holder of the Company's Five-Year Secured 6% Note No. _____, being interest for the preceding half year on said Note.

Treasurer

FORM OF GUARANTY

LEHIGH VALLEY RAILROAD COMPANY, a corporation of the Commonwealth of Pennsylvania, for a valuable consideration, hereby unconditionally and irrevocably guarantees the due and punctual payment of the principal and interest of the Note of The Lehigh Valley Coal Company referred to in the foregoing Extension Agreement, as and when the same shall respectfully become due and payable pursuant to the terms of said Extension Agreement, whether at maturity, as extended, or by declaration, or otherwise, and further unconditionally and irrevocably guarantees the payment to the Trustee under the Trust Indenture securing the within Note of the moneys payable to such Trustee for the Sinking Fund, to the extent of the minimum sums required therefor, in the amounts and at the times provided for in the said Trust Indenture, during the period for which said Note

is extended as provided in said Extension Agreement.

LEHIGH VALLEY RAILROAD COMPANY,

By _____
President.

Attest:

Secretary.

Draft of November 16, 1937

1937 SUPPLEMENTARY DECREE.

EXHIBIT "B".

DEPOSIT AGREEMENT.

This Deposit Agreement dated as of November 15, 1937, between The Lehigh Valley Coal Company (a corporation of the Commonwealth of Pennsylvania, hereinafter called the "Coal Company"), party of the first part; Lehigh Valley Railroad Company (a corporation of the Commonwealth of Pennsylvania, hereinafter called the "Railroad Company"), party of the second part; Drexel & Co., Philadelphia, Pa., and J. P. Morgan & Co., New York, N. Y. (hereinafter called "Depositories"), parties of the third part; and such holders and registered owners of the Five-Year Secured 6% Notes due January 1, 1938 (hereinafter called the "Notes") of the Coal Company, guaranteed as to principal, interest, and minimum sinking fund of \$250,000 per annum by the Railroad Company, as shall become parties hereto in the manner hereinafter provided, and the holders from time to time of the Certificates of Deposit issued and to be issued under this Agreement (all of whom are hereinafter sometimes called the "Depositors"), parties of the fourth part,

Witnesseth, That:

WHEREAS, the Coal Company and the Railroad Company have adopted and approved a Plan dated November 15, 1937, (hereinafter referred to as the "Plan"), a copy of which is hereto attached, and which is hereby incorporated as a part of this Agreement with the same effect as if embodied herein, proposing that the maturity date

of the Notes be extended to January 1, 1943, at the same rate of interest as the Notes presently bear, namely, six per cent per annum, and that the Notes as extended be guaranteed as to principal, interest and minimum sinking fund of \$250,000 per annum by the Railroad Company, all as more fully set forth in said Plan; and

WHEREAS, the Coal Company and the Railroad Company desire, as contemplated in the Plan, to provide by this Agreement a method for the approval and acceptance of the Plan by the holders and registered owners of the Notes, and for the consummation of the Plan if the same shall be declared effective in accordance with its terms; and

WHEREAS, the Depositors desire to approve and accept the Plan, and to authorize the Coal Company and the Railroad Company and the Trustee under the Trust Indenture securing said Notes to take certain action to bring about the consummation of the Plan;

NOW, THEREFORE, in consideration of the promises and of the mutual agreements herein contained, the parties hereto do hereby severally agree, and each Depositor agrees with each other Depositor and with the Coal Company and the Railroad Company and the Depositors, as follows:

1. Any holder or registered owner of a Note may become a party hereto by depositing with a Depository on or before December 24, 1937, or such later date as may be fixed by the Coal Company and the Railroad Company in accordance with this Agreement, his Note or Notes, if coupon Notes with the coupon due January 1, 1938, attached, and if registered Notes, with duly executed assignments in blank, all signatures being guaranteed to the satisfaction of the Depository receiving the deposit, and with such other evidence of ownership as such Depository may require. If the Certificates of Deposit are to be issued in a name other than that of the holder or registered owner of the Notes deposited, the transfer tax stamps required by law must be affixed by the Depositor at the time of deposit. The deposit of the Notes and the accept-

ance of the Certificates of Deposit issued therefor as hereinafter provided shall have the same force and effect as if the Depositors had in fact subscribed their names as parties to this Agreement. Any Depositary, as agent of the Coal Company and the Railroad Company and with their approval as to specific instances, may permit the holders or registered owners of any of the Notes to become parties to this Deposit Agreement and Depositors hereunder by signing counterparts of this Deposit Agreement, or in such other way or ways as the Coal Company and the Railroad Company in their discretion shall determine.

2. The Coal Company agrees that at the time of deposit of any coupon Note with the coupon due January 1, 1938, attached, or of any registered Note, it will pay to the Depositor the amount of the interest due thereon on January 1, 1938, provided that such interest has not been previously paid and provided that an appropriate Federal income tax ownership certificate shall have been furnished to the Depositary receiving such Note. The January 1, 1938, coupon on any such coupon Note shall upon such payment be detached by the Depositary and delivered to the Company; and appropriate notation shall be made of any such payment on any registered Note on which such interest payment is made.

3. Except as below in this Section 3 provided, every Depositor making deposit as aforesaid shall be entitled to receive from the Depositary receiving such deposit a Certificate or Certificates of Deposit substantially in the form hereto annexed and marked "Exhibit 1", which Certificate or Certificate of Deposit shall specify the principal amount of the Note or Notes so deposited.

The Railroad Company agrees that it will promptly deposit hereunder the \$2,164,500 principal amount of Notes now owned by it. On making such deposit, the Railroad Company shall be entitled to receive from the Depositary receiving such deposit a Certificate or Certificates of Deposit substantially in the form hereto annexed as "Exhibit 1", but with appropriate changes to indicate that such Certificate or Certificates evidence the deposit

of said \$2,164,500 principal amount of Notes which are specifically referred to in the Plan, and that if and when the Plan shall be declared effective in accordance with its terms, the holders of such Certificate or Certificates shall be entitled upon surrender thereof to receive Notes in the aggregate principal amount represented by such Certificate or Certificates, with an Extension Agreement, interest coupons and guaranty attached thereto in the form annexed as "Exhibit B" to the Plan.

Every registered owner of a Certificate of Deposit issued hereunder, and any transferee thereof, by receiving such Certificate, thereby becomes a party to this Agreement and is bound by all of its provisions, and agrees that so long as his Note or Notes are deposited hereunder, he will take no action on the same inconsistent with the carrying out of the Plan.

4. Any Certificate of Deposit issued hereunder and all rights and interests represented thereby shall be transferable, subject to the terms of this Agreement, only on the books of the Coal Company and the Railroad Company kept by each Depositary as agent, upon the surrender thereof, properly endorsed for transfer and with the endorsement guaranteed satisfactorily to the Depositary, accompanied by any transfer tax stamps required by law, by the registered holder thereof in person, or by his attorney thereunto duly authorized, at the office of any Depositary. Upon such surrender a new Certificate or certificates of Deposit, registered in the name of the transferee on the books of the Coal Company and the Railroad Company kept by the Depositary as their agent, shall be issued in the same form as the form of the Certificate so surrendered.

Neither the Coal Company, nor the Railroad Company, nor the Depositaries, nor any agent of any of the aforesaid shall be bound to take notice of, or shall in any wise be affected by, any trust respecting the title to or ownership of any Certificate of Deposit, or the interest represented thereby, but they shall be entitled to treat the registered owner thereof as the absolute owner thereof

for all purposes, unaffected by any notice or claim of notice to the contrary.

The deposit of Notes in accordance with the terms of this Agreement shall not constitute an assignment or transfer of such Notes, but title thereto shall remain in the Depositors.

Each owner of a Certificate of Deposit agrees that any transfer of the same shall operate as an assignment by the transfer or of all his right, title and interest in and to or in respect of the deposited Note or Notes represented by such Certificate of Deposit.

5. The Coal Company and the Railroad Company may from time to time cause the transfer books for the certificates of Deposit to be closed for such period or periods as they may deem expedient. In lieu of closing said transfer books the Coal Company and the Railroad Company may fix a day and hour as the time for determining registered holders of Certificates of Deposits for any purpose.

Upon the termination of this Agreement for whatsoever cause, the Coal Company and the Railroad Company may, upon notice as provided in Section 15 hereof, terminate the right to transfer the Certificates of Deposit.

6. The Coal Company and the Railroad Company, in their discretion, may extend the time for receiving deposits, or authorize deposit at a later date, and may accept for deposit Notes without interest coupons due January 1, 1938 appertaining thereto.

7. In case any Certificate of Deposit issued hereunder shall be mutilated, destroyed or lost, there may be issued a new Certificate or like tenor representing the same amount of Notes, in exchange and substitution for the Certificate mutilated, destroyed or lost, upon the delivery of such mutilated Certificate or upon furnishing to the Coal Company and the Railroad Company through their agent, a Depositary, proof satisfactory to the Depositary of the destruction or loss of such Certificates, and upon furnishing the Coal Company and the Railroad Company and the Depositary indemnity satisfactory to them against any loss or damage for so doing.

8. The Coal Company and the Railroad Company may at any time in their discretion declare the Plan effective. In the event that the Plan is declared effective by the Coal Company and the Railroad Company, the Coal Company shall promptly give notice to that effect to each of the registered owners of Certificates of Deposit, in the manner provided for giving such notice in Section 15 hereof, which notice shall state that each Depositor may, upon surrender of his Certificate or Certificates of Deposit, properly endorsed for transfer, to any Depositary, secure from such Depositary a Note or Notes in the aggregate principal amount represented by his Certificate or Certificates of Deposit, with attached to each Note an Extension Agreement, interest coupons, and guaranty substantially in the form annexed to the Plan as "Exhibit A" in the case of Certificates of Deposit representing Notes other than the \$2,164,500 principal amount of Notes deposited by the Railroad Company, and with attached thereto an Extension Agreement, interest coupons, and guaranty substantially in the form annexed to the Plan as "Exhibit B" in the case of Certificates of Deposit representing said \$2,164,500 principal amount of Notes deposited by the Railroad Company. Each Depositor hereby covenants and agrees that, in the event the Plan is declared effective as aforesaid, he will accept the Extension Agreement or Agreements attached to his Note or Notes and all the terms thereof and of the amended Trust Indenture as thereby authorized.

9. The Coal Company and the Railroad Company, or either of them, at any time in their discretion may declare the Plan inoperative and abandoned, and in such case the Coal Company shall give notice to each of the Depositors in the manner provided in Section 15 hereof. In case of such abandonment of the Plan or if the Plan shall not have been declared effective by May 15, 1938, all obligations of all parties hereto shall forthwith be terminated and each Depositor shall thereupon be entitled to receive a Note or Notes in the aggregate principal amount represented by his Certificate or Certificates of Deposit upon the surrender of such Certificate or Certifi-

cates of Deposit properly endorsed for transfer to any Depositary. No Depositor shall be entitled to withdraw from this Agreement prior to May 15, 1938, except in the case of the abandonment of the Plan as provided in this Section 9.

10. Drexel & Co., Philadelphia, Pa., and J. P. Morgan Co., New York, N. Y., are hereby appointed Depositaries by the Coal Company and the Railroad Company. The Coal Company and the Railroad Company may appoint such additional Depositaries, or Sub-Depositaries, in such place or places as the Coal Company and the Railroad Company in their discretion may deem desirable.

11. Each of the Depositaries shall as agent keep at its office books in the name of the Coal Company and the Railroad Company as principal and shall record in such books the names and addresses (as furnished) of all persons to whom Certificates of Deposit are issued by the Coal Company and the Railroad Company through such Depositary as agent, and shall likewise record in such books all transfers of Certificates of Deposit made by such Depositary as agent for the Coal Company and the Railroad Company. Sub-Depositaries may be appointed by the Coal Company and the Railroad Company, and if so appointed will receive Notes for deposit under the Plan and cause such Notes to be deposited with the appropriate Depositary, through which the Coal Company and the Railroad Company will issue Certificates of Deposit in respect thereof.

12. Each Depositary shall forward daily, at the end of each day, to each other Depositary, a statement of all Certificates of Deposit issued through it as agent and of all transfers of Certificates of Deposit made by it as agent during the day; and no Depositary shall be responsible or under any liability, either to the Coal Company or to the Railroad Company or to any Depositor, for failing or declining to transfer any Certificate of Deposit issued by the Coal Company and the Railroad Company through another Depositary, of the issue of which it shall not have been advised. No Depositary shall be under any

duty or responsibility in connection with the names in which Certificates of Deposit are issued by the Coal Company and the Railroad Company through any other Depositary or for the correctness of any transfer made by any other Depositary as agent for the Coal Company and the Railroad Company.

13. Each Depositary, for itself and its successors, agrees to act as Depositary under this Agreement, but only upon the terms and conditions hereof, including the following, all of which shall bind the Coal Company, the Railroad Company, the Depositors, and the Depositaries:

(a) The Depositaries shall not be under any duty or obligation, and shall have no power or right, while in possession of any of the Notes deposited hereunder, to present any of the Notes for payment or to take any action to endeavor to enforce the collection or payment thereof or of interest thereon.

(b) No Depositary assumes any obligation to deliver any Extension Agreements or interests coupons or guaranties to any Depositor unless and until, and only to the extent that, the same shall have been delivered to it for such purpose.

(c) No Depositary shall be responsible in any manner whatever for any of the representations or recitals contained herein or in the Plan or in any circular issued hereunder or in connection herewith, or for the validity or genuineness of any Note, Extension Agreement, interest coupon or guaranty. The Depositaries act hereunder merely as agents of the Coal Company and the Railroad Company to perform for them those ministerial functions provided for herein.

(d) No statement, explanation or suggestion contained in any notice or circular which may be issued or advertised or otherwise distributed by any Depositary or by the Coal Company or by the Railroad Company is intended or is to be accepted as a representation or warranty by any Depositary or as a condition of deposit of Notes hereunder.

(e) No Depositary shall be liable to anyone for any act or omission of any agent or employee selected in good faith, nor for anything under or in connection with this Agreement other than its own wilful misfeasance.

(f) No Depositary, by the execution and delivery of this Agreement, assumes any obligation, legal or equitable, express or implied, to any holder or registered owner of a Note or Notes who shall not deposit his Note or Notes hereunder, or to any person whomsoever, other than the registered owners of Certificates of Deposit issued in accordance with the terms of this Agreement.

(g) The Depositors shall not be liable for any costs, charges, or expenses whatever in connection with the deposit of Notes or the operation of the Plan, and the Depositaries shall look solely to the Coal Company and the Railroad Company for the reimbursement of their costs, charges, and expenses and compensation for their services hereunder, all of which the Coal Company and the Railroad Company agrees to pay to the Depositaries upon request.

(h) The Depositaries may advise with counsel (who may be of counsel for the Coal Company or for the Railroad Company) and the opinion of counsel shall be full protection and justification of the Depositaries for anything done or omitted or sought to be done by them in accordance with such opinion; and any Depositary shall be entitled to reply and act upon instructions of the Coal Company or of the Railroad Company if given over the signature of an officer of such company.

(i) No Depositary shall by the deposit of Notes hereunder obtain any title to the Notes so deposited, or any interest therein or obligation in respect thereto, other than the custody and disposition thereof, in accordance with the terms of this Agreement.

(j) Any Depositary, and any of its partners, officers, directors, or agents may be or become Depositors and may deposit Notes hereunder, and shall in such event be entitled to all benefits and rights conferred upon Depositors under any provisions hereof or of the Plan with the

same effects as if the Depositary were not acting as such hereunder.

(k) Any Depositary may at any time, upon giving reasonable written notice to the Coal Company and the Railroad Company, resign as Depositary.

14. Each Depositor, by the surrender of his Certificate of Deposit and the acceptance of a Note or Notes with Extension Agreement or Extension Agreements and interest coupons and guaranties attached thereto as provided in the Plan, or, in the event that the Plan shall not become effective, upon the delivery to him of a Note or Notes of the aggregate principal amount specified in his Certificate of Deposit, releases and discharges the Depositaries from all liability and accountability of every kind, character and description whatsoever.

15. All notices to the Depositors under this Agreement shall be given by mail addressed to the Depositors at their respective addresses as the same appear on the transfer books of the Coal Company and the Railroad Company kept by the Depositaries as agents, and in addition such notice may (but need not) be published in such manner as the Coal Company and the Railroad Company may determine. Any such notice so mailed may be taken and construed as though personally served upon all Depositors as of the date of the mailing thereof.

16. This Agreement and all the provisions herein contained shall extend to and be obligatory upon the parties hereto, and their and each of their survivors, heirs, executors, administrators, successors, and assigns.

17. This Agreement may be executed in several counterparts and all of such counterparts shall be taken together as forming one Agreement.

IN WITNESS WHEREOF The Lehigh Valley Coal Company, Lehigh Valley Railroad Company, Drexel & Co., and J. P. Morgan & Co., have caused this agreement to be duly executed by their respective officers and partners, and the Depositors have deposited their Notes hereun-

der, all as of the day and year first above written.

THE LEHIGH VALLEY COAL COMPANY,

By _____
President.

Attest:

Secretary.

LEHIGH VALLEY RAILROAD COMPANY,

By _____
President.

Attest:

Secretary.

EXHIBIT 1.

Certificate of Deposit No. _____

CERTIFICATE OF DEPOSIT FOR
THE LEHIGH VALLEY COAL COMPANY

FIVE-YEAR SECURED 6% NOTES DUE JANUARY 1, 1938

This is to certify that _____, or predecessor in interest has deposited _____ dollars principal amount of the Five-Year Secured 6% Notes of the Lehigh Valley Coal Company due January 1, 1938, upon which the interest due January 1, 1938, has been paid, under the Deposit Agreement dated as of November 15, 1937, executed by The Lehigh Valley Coal Company (hereinafter referred to as the "Coal Company"), Lehigh Valley Railroad Company (hereinafter referred to as the "Railroad Company"), Drexel & Co. (hereinafter referred to as the "Philadelphia Depositary") and J. P. Morgan & Co. (hereinafter referred to as the "New York Depositary"), all in accordance with the Plan of the Coal Company and the Railroad Company, dated November 15, 1937, an original copy of which Plan annexed to an original copy of the above mentioned Deposit Agreement is

lodged with and may be inspected at the principal office of any Depositary. The holder hereof by receiving this Certificate assents to and is bound by the provisions of said Plan and Deposit Agreement with the same force and effect as if he had signed the said Deposit Agreement.

If and when the said Plan shall be declared effective in accordance with its terms, the registered owner hereof shall be entitled upon the surrender of this Certificate, duly endorsed as required, at the office of the Philadelphia Depositary, Drexel & Co., 15th & Walnut Streets, Philadelphia, Pa., or of the New York Depositary, J. P. Morgan & Co., 23 Wall St., New York, N. Y., or of any other Depositary appointed as provided in said Deposit Agreement, to receive Notes of the above issue in the aggregate principal amount represented by this Certificate, with Extension Agreements, interest coupons, and guaranties attached thereto in the manner provided in said Deposit Agreement, and in the form annexed as Exhibit A to the Plan, and with the imprint upon the face and also upon the outside of each of such Notes of a legend referring to said Extension Agreement, when such Notes, Extension Agreements, coupon sheets, and guaranties shall have been received by the Depositary to which this Certificate shall have been surrendered, as aforesaid.

If and when said Plan shall be declared inoperative in accordance with the terms of the Deposit Agreement, or if said Plan shall not have been declared effective by May 15, 1938, the registered owner hereof shall be entitled upon the surrender to a Depositary of this Certificate duly endorsed as required, to receive Notes of the above issue in the aggregate principal amount represented by this Certificate.

This Certificate of Deposit, and all rights and interests evidenced hereby, are transferable, subject to the terms and conditions of said Deposit Agreement, only on the books of the Coal Company and the Railroad Company kept by each Depositary as agent, upon the surrender hereof, properly endorsed for transfer, by the registered holder in person, or by his attorney thereunto duly au-

thorized, and upon payment of all transfer taxes, at the office of any Depositary, and until so transferred each Depositary and the Coal Company and the Railroad Company may treat the registered holder hereof as the owner of the rights and interests represented hereby and shall not be affected by any notice to the contrary.

Each holder of this Certificate of Deposit agrees that so long as the Note or Notes represented hereby are deposited under the aforesaid Plan and Deposit Agreement he will take no action inconsistent with the carrying out of the Plan.

The Notes received by the undersigned upon the issue of this Certificate and Certificates of similar tenor will, pending redelivery thereof, be segregated from the other property of the Coal Company, the Railroad Company and the Depositaries in such manner that no persons other than the registered owners of such Certificates can assert any right, title or interest therein.

The Depositaries act merely as agents of the Coal Company and the Railroad Company to perform for it those ministerial functions provided for in the above mentioned Deposit Agreement, pursuant to which this Certificate of Deposit is issued.

Dated, _____, 193_____.

THE LEHIGH VALLEY COAL COMPANY,
LEHIGH VALLEY RAILROAD COMPANY,

By _____
Depositary