

DOUGLAS COUNTY

The resolutions, certificates, instruments and opinions hereinbefore provided for shall be full warrant and authority to the Trustees for making any such release; but before making any such release the Trustee may, in its discretion, and shall, if requested in writing so to do by the holders of not less than ten per centum in principal amount of the outstanding bonds and if furnished with security and indemnity satisfactory to it, cause to be made such independent investigation as it may see fit, and, in that event, may decline to take action unless satisfied with such investigation of the truth and accuracy of the statements regarding the matters so investigated. The expense of any such investigation shall be paid by the Company, or, if paid by the Trustee, shall be repaid by the Company upon demand, with interest from the date of the payment thereof by the Trustee at the rate of six per cent per annum, and all sums so paid by the Trustee with interest as aforesaid shall be secured hereby, having the benefit of the lien hereby created in priority to the indebtedness evidenced by the bonds and coupons.

Any new property acquired by the Company by exchange or purchase, to take the place of any property released hereunder, shall forthwith and without further conveyance be and become subject to the lien of and be covered by this Indenture, but if requested by the Trustee the Company shall convey the same to the Trustee by proper deeds upon the trusts and for the purposes of this Indenture.

SECTION 3. If any property is taken by condemnation proceedings, the Trustees may accept any award therein, if approved by the Company as representing its full value, and, if such award is accepted by the Trustees, they shall, if requested by the Company by resolution of its Board of Directors, execute and deliver a release of the property so taken upon receipt by the Trustee or the Trustees of the consideration therefor, after deducting from the amount thereof the amount of any assessments levied on property of the Company in connection with such condemnation proceedings unless some other disposition thereof is required under some prior mortgage. In any such proceedings the Trustees may be represented by counsel, who may be of counsel to the Company, and either the Company or the Trustees may appeal from any judgment, order or decree in such proceedings.

SECTION 4. No purchaser in good faith of property purporting to be released hereunder shall be bound to ascertain the authority of the Trustees to execute the release or to inquire as to any facts required by the provisions hereof for the exercise of such authority; nor shall any purchaser of machinery or equipment be under obligation to ascertain or inquire into the existence of any fact on which any such sale is hereby authorized.

SECTION 5. In case the mortgaged property shall be in the possession of a receiver or trustee appointed in judicial proceedings, the powers hereinbefore conferred upon the Company will respect to the sale or other disposition of property covered hereby may be exercised by such receiver or trustee; and if the Trustees or either of them shall be in possession of the mortgaged property under any provision of this Indenture, then such powers may be exercised by the Trustees in their discretion.

SECTION 6. So long as the Company is not in default hereunder, it may execute and deliver a lease or leases in the usual form for the extraction of gas, oil or other minerals with respect to any real estate subject to the lien hereof and the interest of the lessee under any such lease shall be free from the lien of this Indenture; but the interest of the Company, as lessor under any such lease, shall be subject to the lien hereof, provided, however, that so long as the Company is not in default hereunder, the Company shall be entitled to collect and retain all amounts payable as rentals or otherwise under any such leases.

ARTICLE IX

Application of Money Received by the Trustee

All moneys received by the Trustee as proceeds of released property or of property taken by the power of eminent domain or as insurance money, and all other moneys received by the Trustee which, under any other provision of this Indenture, are required to be paid out or disposed of under the provisions of this Article, shall be paid over from time to time by the Trustee to the Company to reimburse the Company to the extent of one hundred per centum of (1) net expenditures for bondable property (as defined in Section 3 of Article II hereof) made by it at any time subsequent to December 1, 1935, and whether prior or subsequent to the receipt of such money by the Trustee, or (2) expenditures for the repair or replacement of property damaged or destroyed by fire (to the extent that insurance moneys arising from such loss are in the hands of the Trustee).

Such payments shall be made by the Trustee only upon receipt by it of:

(1) A request in writing signed by the President or a Vice-President and by the Treasurer or an Assistant Treasurer of the Company for the payment of the amount of money stated therein;

(2) A certificate signed by the President or a Vice-President and the Treasurer or an Assistant Treasurer of the Company setting forth:

(a) That, subsequent to December 1, 1935, the Company has acquired bondable property (as defined in Section 3 of Article II of this Indenture), briefly describing the same and separately describing any purchased property, and showing the gross and net expenditures (as defined in said Section 3) therefor, and that they were usable for, but have not been used, as a basis for the authentication of bonds under this Indenture, or has made certain repairs or replacements of property damaged or destroyed by fire (describing the same with reasonable detail), and that such bondable property (including such repairs or replacements) was not encumbered by any lien at the time of its acquisition by the Company prior to the lien of this Indenture, except current taxes, and is subject to the lien of this Indenture;

(b) That the Company has made net expenditures for such bondable property in the amount specified in the certificate; and said certificate shall further distinctly specify whether any of such expenditures, and if so what portion, were made to repair or replace property damaged or destroyed by fire;

(c) That no part of any such net expenditures for bondable property has been previously used as a basis for the authentication of any bonds or for the withdrawal of any moneys or for the release of any property under any provision of this Indenture or has been made out of insurance moneys or out of the proceeds of the sale or condemnation of any property of the Company, or has been used or applied or certified to the Trustee to comply with the requirements of Article VII of this Indenture or to comply with the provisions respecting any sinking fund created hereafter pursuant to the terms of this Indenture, or, in the alternative, that the provisions relating to any such sinking fund do not preclude the use of any such expenditures as a basis for the withdrawal of moneys under this Article IX; and

(d) That the Company is not, to the knowledge of the officers signing the certificate, in default in any of the terms, covenants or conditions of this Indenture.

(3) An engineer's certificate (conforming to the requirements of Section 3 of Article II) certifying to the value at the time of its acquisition by the Company of any purchased property described in the foregoing certificate (excepting repairs or replacements of property damaged or destroyed by fire), from which certificate it shall appear that the value of such purchased property at the time of its acquisition was not less than the amount of the expenditures made therefor as shown by the foregoing certificate;

(4) An opinion of counsel stating that the Company has acquired substantially good title to and has lawful power to own and operate, any bondable property described in the certificate required by sub-paragraph (2) above (unless the bondable property described in such certificate shall have been covered by an opinion of counsel theretofore filed with the Trustee) and that such bondable property is subject to the lien of this Indenture and is not subject to the lien of any mortgage prior in lien to this Indenture and is free and clear of all other liens of record for the payment of money