

10-510-119

10301 Feb 14 1940
Hercules Copper Corp
Dep. Desk 516 Rm 198-RN
PO Box 4650 SLC

THIS AGREEMENT, made and entered into this 18 day of
December, 1944, between HERCULES POWDER COMPANY, a corporation
of the State of Delaware, (hereinafter referred to as "Grantor")
and KENNEDOTT COPPER CORPORATION, a corporation of the State of
New York, (hereinafter referred to as "Grantee"); WITNESSETH:

WHEREAS, Grantor is the owner of certain premises situate
in the County of Salt Lake, State of Utah; and

WHEREAS, Grantee desires to acquire, and Grantor to convey,
the hereinafter described right and easement in said premises,
for the purposes herein stated;

NOW, THEREFORE, in consideration of the covenants and agree-
ments to be faithfully kept and performed, hereinafter made by
Grantee, and for other good and valuable consideration, Grantor
does hereby grant to Grantee, its successors and assigns, subject
to the limitations and provisions contained herein, the right and
easement to construct, maintain, use and operate a railway track
or tracks, together with the necessary turnouts, sidings, switches
and other appurtenances, over, upon and across the premises of
Grantor hereinafter particularly described situate in Salt Lake
County, State of Utah, to wit:

(1) MAIN LINE RAILWAY TRACK OR TRACKS

Located in the NW 1/4 of Section 10, the NE 1/4
of Section 9, the SE 1/4 and the SW 1/4 of Section 4,
the E. 1/2 and the NW 1/4 of Section 5, T. 2 S., R.
2 W., S. L. B. & M.

Beginning at a point in the East line of the NW
1/4 of said Section 10, which bears N. 63°51' W.
2940.0 ft., from the E. 1/4 corner of said Section 10;
thence N. 75°29' W. 2133.1 ft.; thence N. 75°36' W.
951.5 ft.; thence on a curve right with radius of
2914.95 ft. tangent to said course N. 75°36' W. 1645.3
ft.; thence N. 42°52' W. 1468.7 ft.; thence on a curve
left with radius of 2914.95 ft. tangent to said course
N. 42°52' W. 1645.3 ft.; thence N. 83°54' W. 2235 ft.
thence N. 74°00' W. 341.2 ft.; thence N. 53°16' W. 993.8
ft.; thence N. 43°01' W. 1014.9 ft. to a point in
Grantor's 1/2 acre property line located in the NW 1/4 of
said Section 10, and to the NE 1/4 of said Section 9, and to
the SW 1/4 of said Section 4, the E. 1/2 of said Section 5,
T. 2 S., R. 2 W., S. L. B. & M.

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thence S. 85°34' E. 2025.1 ft.; thence on a curve right with radius of 2814.93 ft., tangent to said course S. 85°34' E. 2070.6 ft.; thence S. 42°52' E. 1403.7 ft.; thence on a curve left with radius of 2814.93 ft., tangent to said course S. 42°52' E. 1608.2 ft.; thence S. 75°36' E. 3065.7 ft.; thence S. 0°38' E. 200.3 ft., to the place of beginning, containing 34.78 acres.

(2) YARD TRACKS

Located in the NW 1/4 of Section 10, T. 2 S., R. 2 W., S. L. B. & M.

Beginning at a point in the East line of the NW 1/4 of said Section 10, which bears N. 63°51' W. 2940.0 ft. and N. 0°38' W. 475.3 ft. from the E. 1/4 corner of said Section 10; thence N. 87°38' W. 1658.8 ft.; thence N. 75°36' W. 959.2 ft.; thence S. 87°38' E. 2586.4 ft.; thence S. 0°38' E. 200.3 ft., to the place of beginning, containing 9.75 acres.

Together with the right to make such cuts, fills and borrow pits upon the adjoining premises of the Grantor as may be necessary for the preservation and full enjoyment by the Grantee of the rights of way and easements hereby granted, all such cuts, fills and borrow pits to be subject to approval in writing by Grantor's Plant Superintendent.

Also the right and easement to construct, maintain, use and operate an electric substation upon the following described property of Grantor:

A tract of land situate in the NW 1/4 of said Section 10, more particularly described as follows:

Beginning at a point which bears N. 67°31' W. 2889.6 ft. from the E. 1/4 corner of said Section 10 and running thence S. 19°36' W. 71.0 ft.; thence N. 70°23' W. 150.0 ft.; thence N. 19°36' E. 71.0 ft.; thence S. 70°23' E. 150.0 ft., to the point of beginning, containing 0.24 acre, more or less.

Also the right and easement to construct, maintain, use and operate electric transmission and telephone lines over, upon and across the premises of Grantor situated in the NW 1/4 of Section 10, the SW 1/4 of Section 5, the SE 1/4 and N. 1/2 of Section 4 and the NE 1/4 of Section 5, all in T. 2 S., R. 2 W., S. L. B. & M., along center lines more particularly described as follows:

Beginning at a point in the South line of the NW 1/4 of said Section 10, which bears S. 89°52' W.

3663 at the time of the
and starting there

The condition of the road shall be maintained

(1) Grantee owns the right of way of the railroad in connection with the construction, main track, or other track of the said railway track or tracks, subject to the use of the same for phone lines, shall be done in a way that causes as little damage as possible to the Grantee.

(2) All Grantee's agents, employees, subcontractors and invitees shall enter and leave Hercules plant premises in a manner and way as Hercules Plant Superintendent shall specify. Furthermore, if any such persons are admitted into the operating areas of the said Bacchus Plant, all such persons must submit to and comply with the safety rules and regulations, such as compulsory match and other searches required in explosive plants, which Hercules may require of its own employees in such plants.

(3) All work shall be carried on by Grantee in a manner as not to interfere with the normal operations of Hercules explosives plant.

(4) Grantee shall have the right to erect and maintain the right of way thereby, suitable conveyance or other equipment in going to or from the premises on opposite sides of said right of way, and for such purpose Grantee shall construct (a) guide channels on said railroad at points designated by Grantee, and Grantee shall also have the right to install and place of the same, over, upon or under said right of way track, suitable electric light or other signaling devices, and (b) also have the right to install and place of the same, over, upon or under said right of way track, suitable

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rights hereby reserved in such a manner as to cause no damage and inconvenience as practicable to Grantor in the enjoyment of said right of way hereby granted.

(5) Grantee agrees to pay any damages which may be sustained by Grantor resulting from the exercise by Grantee of the aforesaid right of ingress to and egress from said right of way, and in addition thereto, Grantee agrees to pay any damages which may arise or result from the construction, maintenance and operation of said railroad tracks, substation, and transmission and telephone lines, or the exercise of the rights herein granted. Should it become necessary, due to any existing or future State or Federal law, to protect certain buildings of Grantor with bulkheads or otherwise because of distance requirements from railroads or to reconstruct such buildings in other locations because of the construction and operation of Grantee's railway, Grantee will at its cost provide such bulkheads or other protection or relocate or reconstruct such buildings at such location as Grantor may require in order to comply with said State or Federal law.

(6) Above right and privilege is always subject to the condition that the occupancy and use of said right of way so granted shall in no way substantially interfere with the normal operation of Hercules' explosives plant or its explosives magazines, either in their present condition or as altered, changed or enlarged by Grantor, situate at or near said premises, and also upon the condition that Grantee, in using said premises and entering and continuing thereon, shall assume all risk of damage or loss to its property and to the person or property of its agents, employees, servants or workmen on said premises, from any cause or causes whatsoever, originating at said explosives plant or the said magazines, or on Grantor's said premises.

(7) Hercules Powder Company has heretofore granted of right of way to the State Road Commission of Utah that are

the boundaries of said railroad right of way, and which have been conveyed to the State Road Commission of Utah by Deed of Powell Company by instrument bearing date of November 5, 1945, and recorded in the records of Salt Lake County in Book No. 217 of Deeds, page 413; and by instrument bearing date of August 5, 1946, and recorded in the records of Salt Lake County in Book No. 494 of Deeds, page 40; to which instruments reference is hereby specifically made for further descriptions of the highway right of way heretofore granted to the State of Utah. The rights of way hereby granted and Grantee's rights and interests therein, derived by or through this agreement, are and shall continue subject to said grants to the State Road Commission of Utah.

(8) The Grantee, for itself, its successors and assigns, agrees that if Grantee abandons with no intention of further using any of the rights of way above granted for the purposes aforesaid at any time hereafter, then and thereupon such granted easements and rights of way, not used, shall be forfeited and revert to the Grantor, its successors or assigns, as though said easement had never been made, and the lands affected thereby shall thereupon be freed and discharged from such easements and rights of way. Upon surrender of said right of way the Grantee will be permitted an additional six months within which to remove its improvements from said premises. Intention to abandon above referred to shall be conclusively established by the Grantee's non-use of the said railway for the purposes herein set forth for a period of twenty-four (24) consecutive calendar months.

(9) Grantee further covenants and agrees to indemnify and save Grantor free and harmless from and against any and all liability or loss due to the injury, damage or death, directly or indirectly caused whatsoever, either by reason of an explosion, or otherwise on Grantor's said explosives plant or at its loading station, to persons on said premises with Grantor's permission or consent.

due to damage or loss from any cause... of an explosion or other... of the 4th paid magazines, to stop... telephone lines, railroad track or tracks or other... thereof or equipment operated thereon.

This agreement shall be binding upon and firm to the last of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

WITNESS:
R. N. McAdams
Secretary

HERCULES POWDER COMPANY
By J. B. Johnson
General Manager, Explosives Dept.



W. M. [unclear]
COUNTY OF NEW CASTLE } ss:

KENNESOTT COFFEE CORPORATION
By [Signature]
Vice Pres.

On the 17th day of December, A.D., 1946, personally appeared before me, J. B. Johnson, who being by me duly sworn did say that he is General Manager of HERCULES POWDER COMPANY, and that said instrument was signed in behalf of said corporation by resolution of its Executive Committee, and said J. B. Johnson acknowledged to me that said corporation executed the same.

My commission expires:
August 2, 1947

[Signature]
Notary Public for the State of Delaware

STATE OF UTAH }
COUNTY OF SALT LAKE } ss:

On the 14th day of July, A.D., 1946, personally appeared before me, D. D. Morgan, who being by me duly sworn did say that he is Vice President of Kennesott Coffee Corporation, and that he signed said instrument in behalf of said corporation as Vice President, and said D. D. Morgan acknowledged to me that said corporation executed the same.

My commission expires:
July 6, 1949

[Signature]
Notary Public for the State of Utah

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COUNTY OF SALT LAKE