39th Interrogatory Is there any coal and if so how much or about what quantity, accessible to the Astor Mine and belonging to the Complainant, which can only be reached from said mine by a Slope Gallery? And if so, what is the proper direction for such Slope gallery?

Answer. All of Winters farm – about three hundred acres – the Ross farm, about one hundred and forty acres of Jam right – About one half of Neff farm, containing about three hundred and fifty acres or there about, can only be reached by a Slope gallery. Direction of Slope gallery south 75 degrees West – south 70 degrees might do – say about 70 or 75 degrees west.

40th Interrogatory. Do you know the location of said Hoffman property and said Astor mine sufficiently well, to say whether such slope gallery, as you have just described, can be run from the Astor Mine entrance, without going through part of said Hoffman property?

Answer. My opinion is that it cannot be run without going through part of the Hoffman property – I mean a Slope gallery.

41st Interrogatory If the Complainant had retained out of the land described in Exhibit A, sufficient to have accommodated such slope gallery as you last mentioned and side galleries thereto, could the complainant not have excavated some of its present coal more cheaply than it can possibly now mine the same?

Answer. It could have mined a portion of its coal outside of the Hoffman lines more cheaply, if it had retained a portion which it had sold to the Hoffman Company. My answer is predicated upon the supposition that Exhibit A. does not reserve to the complainant the right to make such slope gallery as I have last mentioned; but if it does, there would still be the extra expense in mining the plaintiffs coal.

42nd Interrogatory. From your experience in the Eckhart mine did the flow of mine water or drainage water increase in proportion to the number of acres mined out?

Answer. It does increase according to the number of acres mined out.

43rd Interrogatory. Are the drainage privileges stated in said Exhibit A. to which to the grantees therein, valuable? And if so state why?

Answer. They are valuable from the fact that it saves them the expense of water pumps and additional machinery to draw water from said slope – I mean the Hoffman property slope.

This witness being here again re-cross examined, on part of Respondents, deposed and said.

5th Cross – Interrogatory You have stated that if complainant had retained a part of the property sold to Sherman and Dean, that complainant could have mined out coal from its other remaining property, cheaper than it can now do; Will you please to designate upon

the Plat "D. D. Brown" such portion which if so retained, would enable the Company so to mine out its coal on its other property; and state the number of acres which ought so to have been retained for this purpose?

Answer. Upon taking at the Plat "D. D. Brown" I would state, if the Plaintiff had retained from the mouth of Astor Mine to number 2 – And thence to number 4, all south of that line, they would have no difficulty in getting to their other property lying south of Astor Mine as well as a great portion lying west – say to from three to five hundred acres out of Slope Gallery.

5th Cross – Interrogatory. What do you mean by saying if Complainant had retained from the mouth of Astor Mine to number 2 upon the plat?

Answer. I mean from mouth of mine to number 2, as the course of slope; and that same course of slope should be continued through the Hoffman property.

5th Cross Interrogatory. What do you mean by number 2 upon the plat?

Answer. I mean the black figure 2 designated upon the plat as the second line of the Hoffman property; and at about the middle of said line

5th Cross. Interrogatory. When you speak of the same course of Slope, extended to number 4 upon the Plat, designate where said number four is?

Answer. I mean the black figure 4 on said plat, designating the 4th line of said Hoffman property.

5th Cross Interrogatory Please now designate upon said plat from the mouth of the Astor Mine through the figure 2, and up to the figure 4 spoken of your testimony, the location of such Slope gallery as mentioned by you in your testimony?

Answer. I now do so by drawing a red line between the points named, which I intend the south seventy to seventy five degrees west.

5th Cross Interrogatory What quantity of land conveyed by Exhibit A. according to the plat "D. D. Brown" lies south of the red line drawn by you upon said plat?

Answer. (no answer given) (in behalf)

5th Cross Interrogatory Would not the Complainants have had to haul its coal, which it would mine from its lands south of the Hoffman property, the same distance to the Slope gallery designated by you, whether it has sold the triangle south of the red line designated by you or not?

Answer. It would have had to haul its coal the same distance as if it had not sold the triangle south of the red line I have marked on the plat from No 2 to 4 on second and fourth line.

"The witness asks to explain and adds"

I mean to add that I understood the triangle designated by the red line as belonging to the Cumberland Coal and Iron Company.