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OIL, GAS & MINING

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VIA FACSIMILE

November 11, 1993

(801) 359-3940

CONFIRMATION OF TELECOPY

James M. Carter
Director
UTAH DIVISION OF OIL, GAS & MINING
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

RE: Valley Camp of Utah, Inc. Belina Mine Complex Permit No.
ACT/007/001; NOV No. 93-39-7-1; CO No. C93-39-2-1

Dear Jim:

This letter confirms our settlement discussions on Tuesday, November 9, 1993, regarding the above-entitled matter. On behalf of Valley Camp of Utah, Inc. ("Valley Camp") and White Oak Mining & Construction Company, Inc. ("White Oak"), James R. Haisley, Esq., and I, respectively, have agreed to dismiss the pending Petition for Temporary Relief upon the Division's termination of NOV No. 93-39-7-1 and C93-39-2-1.

The nature of these violations and the terms of abatement are not clear from the face of the NOV or CO. However, the Division views these enforcement actions as being abated by: (1) Valley Camp's submission of a letter to you dated October 8, 1993; and (2) White Oak's posting of signs stating Valley Camp as permittee. Valley Camp's letter was faxed to you on October 8, 1993 and serves to clarify that White Oak was designated by Valley Camp as operator of the Belina Mine Complex pending approval of the application transferring Permit No. ACT/007/001. In addition, enclosed is the sworn testimony of Mike Gipson, General Manager for White Oak, stating that White Oak's mining operations are being conducted under Valley Camp's permit and that the signs posted at the Belina Mine Complex identify Valley Camp as the permittee of ACT/007/001. This testimony was

James M. Carter
November 11, 1993
Page 2

presented before Administrative Law Judge John R. Rampton, Jr., on October 18, 1993 in Salt Lake City, Utah. I have since confirmed that the signs identifying Valley Camp as the permittee were posted by White Oak on October 13, 1993, well prior to issuance of C93-39-2-1.

Please signify your agreement to our settlement negotiations by issuing a Notice of Termination confirming abatement of N93-39-7-1 and C93-39-2-1. Upon receipt of this termination/abatement notice, Valley Camp and White Oak will request dismissal of the Petition for Temporary Relief currently pending before the Board of Oil, Gas & Mining. It is our understanding that a hearing on the fact of violation of the NOV and CO is set before the Board in January, 1994. At your earliest convenience, we would like to arrange a pre-hearing conference in this matter to discuss settlement, exchange exhibits and identify witnesses.

Thank you for your assistance in this matter.

Very truly yours,



Denise A. Dragoo

DAD:jmc:23410

Enclosure

cc: William Richards, Esq.
James R. Haisley, Esq.
Mike Gipson
Todd Kiscaden
Scott Kiscaden

VALLEY CAMP OF UTAH, INC.

Seefield Route
Helper, Utah 84526

October 8, 1993

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NOV 12 1993

DIVISION OF
OIL, GAS & MINING

VIA FACSIMILE

James M. Carter
Director
Utah Division of Oil, Gas & Mining
3 Triad Center, Suite 350
Salt Lake City, UT 84180-1203

RE: Designation of Operator and Continued Operation of Belina Mine
Complex Under ACT/007/001

Dear Director Carter:

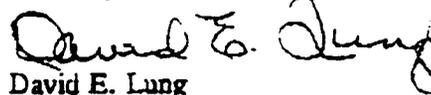
On behalf of Valley Camp of Utah, Inc. ("VC"), I hereby notify you that as of September 16, 1993, White Oak Mining & Construction Company, Inc. ("White Oak") obtained the legal right to enter and continue operations under ACT/007/001. Pursuant to the terms of an Asset Purchase Agreement ("the Agreement") dated September 16, 1993 between Kanawha and Hocking Coal and Coke Co., Inc. ("K&H") and VC, as sellers, and White Oak, as Buyer, K&H and VC have conveyed the Belina Mine Complex to White Oak. Under the terms of the Agreement, White Oak has been designated as operator of the Belina Mine Complex Permit No. ACT/007/001 pending approval of the transfer of the permit from VC to White Oak. It is our understanding that under Utah Code Ann. 40-10-9(2), White Oak may continue operations pursuant to VC's Belina Mine Complex Permit No. ACT/007/001 so long as (1) an application for approval of transfer, assignment or sale of permit is submitted within 30 days of closing the Agreement, and (2) reclamation bond coverage is provided.

It is our understanding that White Oak's Application for Approval of Transfer, Assignment or Sale of Permit No. ACT/007/001 was submitted under Utah Admin. R645-303-300 on September 27, 1993.

VC has made provisions for bond coverage during review and approval of the transfer application.

It is our intention that this letter will serve to abate pending NOV No. C93-39-7-1.

Sincerely,



David E. Lung
Secretary

DEL:nb

cc: Scott Kiscaden
Todd Kiscaden
John Kirkham, Esq.
Denise A. Dragoo, Esq.
Richard Winkler, Esq.

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS

WHITE OAK MINING &)
CONSTRUCTION COMPANY, INC.)

Applicant,)

vs.)

OFFICE OF SURFACE MINING)
RECLAMATION AND)
ENFORCEMENT, (OSMRE))

Respondent.)

Docket No. DV 94-1-R

Cessation Order No.
93-020-244-1

Permit No. ACT/007/001

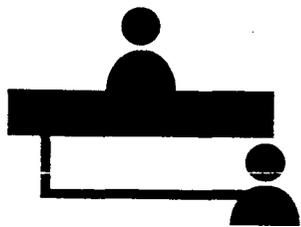
HEARING

BEFORE: John R. Rampton, Jr.
Administrative Law Judge
8432 Federal Building
Salt Lake City, Utah 84111

HELD AT: Federal Building
Salt Lake City, Utah

DATE: October 18, 1993

REPORTED BY: Deanna M. Chandler, CSR, RPR



**CAPITOL
REPORTERS**

175 South Main, #510
Salt Lake City, Utah 84111

(801) 363-7939

1 called as a witness, having been first
2 duly sworn, was examined and testified as follows:

3
4
5 DIRECT EXAMINATION

6 BY MS. DRAGOO:

7 Q. And would you like to state your name
8 for the record?

9 A. My name is Mike Gipson. My address is
10 1452 East Ridge Road, Price, Utah.

11 Q. And what is your position?

12 A. General manager.

13 Q. With whom?

14 A. White Oak Mining.

15 Q. Okay. How long have you held that
16 position?

17 A. For about -- with White Oak, since the
18 closing. But prior to that, I've been with this
19 company for going on five years; general manager
20 for the last three, four years.

21 Q. Okay. How many employees does White
22 Oak use?

23 A. At the present, we have 30.

24 Q. Okay. And were you present when the
25 cessation order in question was issued?

1 A. Yes.

2 Q. What were the consequences that will
3 occur to White Oak due to the issuance of the CO?

4 MR. RETRUM: Objection, Your Honor.
5 For the record, the element of consequences to the
6 company is not an element of the case. We would
7 object to this.

8 THE COURT: You can't consider what's
9 going to happen to the company, it's -- is it your
10 position then that it's only irreparable harm to
11 the environment that is an element to be
12 considered, not to the company itself?

13 MR. RETRUM: Yes, Your Honor.

14 THE COURT: Do you have any response to
15 that?

16 MS. DRAGOO: We understand that's the
17 legal argument. We just wanted you to know, for
18 equitable reasons, what the impact of this
19 cessation order is.

20 THE COURT: Well, I don't know that we
21 need to go into detail. That's quite
22 self-evident. If the application for temporary
23 relief isn't granted, that 30 miners are going to
24 be out of work.

25 MS. DRAGOO: Okay.

1 THE COURT: For some time, according to
2 the evidence that I have heard, because the
3 permitting application process and approval might
4 take some time.

5 MS. DRAGOO: Okay. We will move on to
6 significant imminent environmental harm then.

7 THE COURT: All right.

8 MS. DRAGOO: (Resuming)

9 Q. Are you aware of any significant
10 environmental harm that was caused by White Oak's
11 mining operations?

12 A. No.

13 Q. Were White Oak's mining operations
14 conducted under a permit?

15 A. Yes.

16 Q. And what permit were they conducted
17 under?

18 A. The one under Valley Camp.

19 Q. Okay. To your knowledge, have the
20 signs been changed at the mine?

21 A. Yes.

22 Q. What do they now provide?

23 A. They provide the information of the
24 address and Valley Camp's name on it, also.

25 Q. Valley Camp is the permittee?

1 A. Yes.

2 Q. Okay. That's all we needed. Thank
3 you.

4 THE COURT: I might be getting to an
5 area that I shouldn't, but we've necessarily gone
6 into hearsay here, and you say that you've been a
7 general mine manager for White Oak for some time?

8 THE WITNESS: Prior to when White Oak
9 came into effect here, I'd been a general manager
10 for this company for about four years.

11 THE COURT: Where?

12 THE WITNESS: Back in Kentucky, West
13 Virginia and Virginia.

14 THE COURT: Tell me what your view of
15 that record is.

16 THE WITNESS: Well, I'll tell you, it
17 aggravates me. We've never had -- I've been
18 general manager for 12 mines that we have back
19 east. We have 15 back east and 12 were mine.
20 Never once were we shut down over a permit. If we
21 had a problem, the inspector came to us, we
22 corrected it. We never were shut down due to
23 that. And the man that I work for, which is one of
24 the owners -- I don't work for the other one, but I
25 do now, I guess so to speak, but he runs a good job