

CODE RECD.
cc JUL BR
LPB TAM
P67 aug-jul

FABIAN & CLENDENIN

GEORGE D. MELLING, JR.
WARREN PATTEN
M. BYRON FISHER
STANFORD B. OWEN
WILLIAM H. ADAMS
ANTHONY L. RAMPTON
PETER W. BILLINGS, JR.
THOMAS CHRISTENSEN, JR.
DENISE A. DRAGOO
JAY B. BELL
DANIEL W. ANDERSON
GARY E. JUBBER
ROSEMARY J. BELESS
ANNA W. DRAKE
W. CULLEN BATTLE
KEVIN N. ANDERSON†
RANDY K. JOHNSON

NORMAN J. YOUNKER
MICHELE MITCHELL†
JOHN E. S. ROBSON†
DOUGLAS B. CANNON
DOUGLAS J. PAYNE
ROBERT PALMER REES
DIANE H. BANKS
P. BRUCE BADGER
JOHN (JACK) D. RAY
CRAIG T. JACOBSEN
BRUCE D. REEMSNYDER
BROCK R. BELNAP
DOUGLAS R. BREWSTER
CRAIG E. HUGHES
JULIE FORTUNA
ELAYNE WELLS HARMER

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

TWELFTH FLOOR
215 SOUTH STATE STREET
P.O. BOX 510210
SALT LAKE CITY, UTAH 84151
TELEPHONE (801) 531-8900
FACSIMILE (801) 596-2814

OF COUNSEL
PETER W. BILLINGS, SR.
RALPH H. MILLER

NEVADA OFFICE
2835 SOUTH JONES BLVD., SUITE 5
LAS VEGAS, NEVADA 89102
TELEPHONE (702) 367-4545
FACSIMILE (702) 252-5014

†ALSO MEMBER NEVADA BAR

HAND DELIVERED

June 2, 1994

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

JUN - 2 1994

94C
Copy Jason, Joe
Jim Smith

RE: Application for Renewal of White Oak Mine Complex,
ACT/007/001, Folder #3, Carbon County, Utah
(Abatement of N94-43-1-1)

Dear Director Carter:

This application for permit renewal is submitted on behalf of White Oak Mining & Construction Company, Inc. ("White Oak") pursuant to Utah Code Ann. § 40-10-9(4), R645-303-230, and the Division of Oil, Gas & Mining's ("Division's") Coal Regulatory Directive on permit renewals dated January 12, 1994. On May 27, 1994, the Division transferred Permit No. ACT/007/001 to White Oak from Valley Camp of Utah, Inc. ("Valley Camp"). The term of the permit expires on August 24, 1994 and White Oak seeks to invoke its right to successive renewal for an additional five-year permit term under Utah Code Ann. § 40-10-9(4). An application to transfer Permit No. ACT/007/001, submitted to the Division on September 27, 1993, was still pending when Valley Camp's application for permit renewal came due. Valley Camp requested an extension to renew the application until after approval of the permit transfer. However, on May 13, 1994, the Division issued Valley Camp notice of violation N94-43-1-1 (the "NOV") alleging failure to submit a timely application for permit renewal. White Oak assumed this NOV upon transfer of the permit and this application abates the NOV without waiving White Oak's right to appeal the fact of violation.

White Oak meets the requirements for renewal of Permit No. ACT/007/001 for an additional five-year term through August 24, 1999 as follows:

James M. Carter
June 2, 1994
Page 2

- R645-303-232.220. Evidence of Liability Insurance.

Enclosed is a copy of the Certificate of Liability Insurance submitted as Exhibit "C" to White Oak's Coal Reclamation Agreement executed and approved by the Division on May 27, 1994. This Certificate of Liability Insurance confirms that insurance policy number 3710-45-17 was issued to White Oak by the Chubb Group (Federal Insurance Company) effective September 16, 1993. This certificate specifically states that "the policy shall be maintained in full force during the life of the permit or any renewal thereof." This policy will continue in full force and effect through August 24, 1999 and thereafter pursuant to its terms.

- R645-303-232.230. Evidence of Reclamation Bond.

Enclosed is a copy of the Surety Bond in the amount of \$5,891,000 submitted as Exhibit "B" to White Oak's Coal Reclamation Agreement executed and approved by the Division on May 27, 1994. National Union Fire Insurance Company of Pittsburgh, Pennsylvania, is the surety and has specifically agreed that the Surety Bond "will remain in effect until all of the Permittee's reclamation obligations have been met." This Surety Bond will remain in full force and effect through August 24, 1999 and thereafter pursuant to its terms.

- R645-303-232.240. Newspaper Notice and Proof of Publication.

Enclosed is a copy of the proposed newspaper notice which will be published by White Oak upon approval by the Division in the *Sun Advocate*, Price, Utah, at least once a week for four consecutive weeks. Proof of publication will be provided to the Division following completion of the advertising period.

- R645-303-232.250. Additional Revised or Updated Information.

White Oak will submit information as required by Stipulation #2 of the Division's findings dated May 26, 1994 as a separate submission from the permit renewal package.

LAW OFFICES OF
FABIAN & CLENDENIN
A PROFESSIONAL CORPORATION

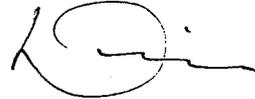
James M. Carter
June 2, 1994
Page 3

- R645-303-232.400. Permit Revisions.

White Oak's application for renewal does not include any proposed revisions to the permit.

Thank you for your assistance in this matter.

Very truly yours,



Denise A. Dragoo

DAD:jmc:34913

cc: Scott Kiscaden
Todd Kiscaden
Steve Tanner
Mike Gipson
Daron Haddock
James D. Smith

Permit Number: ACT/007/001

CERTIFICATE OF LIABILITY INSURANCE

Issued To:
State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
--ooOOoo--

THIS IS TO CERTIFY THAT:

CHUBB GROUP (FEDERAL INSURANCE COMPANY)

(Name of Insurance Company)

15 MOUNTAIN VIEW ROAD, WARREN, NJ 07059

(Home Office Address of Insurance Company)

HAS ISSUED TO:

WHITE OAK MINING & CONSTRUCTION COMPANY, INC.

(Name of Permittee)

WHITE OAK NO. 1 MINE

WHITE OAK NO. 2 MINE

(Mine Name)

ACT/007/001

(Permit Number)

CERTIFICATE OF INSURANCE:

3710-45-17

(Policy Number)

9/16/93

(Effective Date)

UNDER THE FOLLOWING TERMS AND CONDITIONS:

Per R645-301-890 Terms and Conditions for Liability Insurance:

- A. The DIVISION shall require the PERMITTEE to submit as part of its permit application a certificate issued by an insurance company authorized to do business in the state of Utah certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operations for which the permit is sought. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons injured or property damaged as a result of the surface coal mining and reclamation operations, including the use of explosives and who are entitled to compensation under the applicable provisions of state law. Minimum insurance coverage for bodily injury and property damage shall be \$300,000 for each occurrence and \$500,000 aggregate.
- B. The policy shall be maintained in full force during the life of the permit or any renewal thereof, including the liability period necessary to complete all reclamation operations under this chapter.

- C. The policy shall include a rider requiring that the insurer notify the Division whenever substantive changes are made in the policy including any termination or failure to renew.

IN ACCORDANCE WITH THE ABOVE TERMS AND CONDITIONS, and the Utah Code Annotated 40-10-1 et seq., the Insurance Company hereby attests to the fact that coverage for said Permit Application is in accordance with the requirements of the State of Utah and agrees to notify the Division of Oil, Gas and Mining in writing of any substantive change, including cancellation, failure to renew, or other material change. No change shall be effective until at least thirty (30) days after such notice is received by the Division. Any change unauthorized by the Division is considered breach of the RECLAMATION AGREEMENT and the Division may pursue remedies thereunder.

UNDERWRITING AGENT:

<u>PHILIP B. GIBSON</u> (Agent's Name)	<u>606-273-6600</u> (Phone)
<u>MCDONOUGH CAPERTON INSURANCE GROUP</u> (Company Name)	
<u>3201 NICHOLASVILLE ROAD, SUITE 410</u> (Mailing Address)	<u>LEXINGTON, KENTUCKY 40503-3311</u> (City, State, Zip Code)

The undersigned affirms that the above information is true and complete to the best of his/her knowledge and belief, and that he/she is an authorized representative of the above-named insurance company. (An Affidavit of Qualification must be completed and attached to this form for each authorized agent or officer.)

4/18/94 Philip B. Gibson Vice President
(Date, Signature and Title of Authorized Agent of Insurance Company)

Signed and sworn before me by Philip B. Gibson

this 18th day of April, 1994.

Charita W. Clements
(Signature)

My Commission Expires: 2/17/97

EXHIBIT "B"

**SURETY BOND
(FEDERAL COAL)**

THIS SURETY BOND entered into and by and between the undersigned PERMITTEE, and SURETY company, hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns unto the State of Utah, Division of Oil, Gas and Mining (DIVISION), and the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement (OSM) in the penal sum of ^{Five Million Eight Hundred} ~~Ninety One Thousand Dollars~~ \$5,891,000.00 (Surety Bond Amount) for the timely performance of reclamation responsibilities of the permit area described in Exhibit "A" of this Reclamation Agreement.

This SURETY BOND will remain in effect until all of the PERMITTEE's reclamation obligation have been met and released by the DIVISION and is conditioned upon faithful performance of all of the requirements of the Act, the applicable rules and regulations, SMCRA, the approved permit and the DIVISION.

The SURETY will not cancel this bond at any time for any reason, including non-payment of premium or bankruptcy of the Principal during the period of liability.

The SURETY and their successors and assigns, agree to guarantee the obligation and to indemnify, defend, and hold harmless the DIVISION and OSM from any and all expenses which the DIVISION and OSM may sustain as a result of the PERMITTEE's failure to comply with the condition(s) of the reclamation obligation.

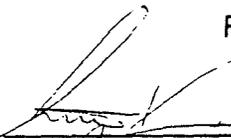
The SURETY will give prompt notice to the PERMITTEE and to the DIVISION and OSM of any notice or action involving insolvency or bankruptcy of the SURETY, or alleging any violations of regulatory requirements which could result in suspension or revocation of the SURETY's license in this state. In the event the Cooperative Agreement between the DIVISION and OSM is terminated, then the portion of the bond covering the Federal Lands will be payable only to the United States, Department of Interior, Office of Surface Mining.

Terms for release or adjustment of this BOND are as written and agreed to by the DIVISION and the PERMITTEE in the RECLAMATION AGREEMENT incorporated by reference herein, to which this SURETY AGREEMENT has been attached as Exhibit "B".

IN WITNESS WHEREOF, the PERMITTEE has hereunto set its signature and seal
this 31 day of March, 19 94.

White Oak Mining and Construction Co., Inc.

PERMITTEE

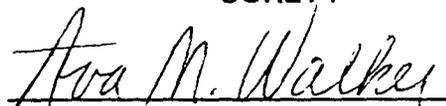
By: 

Title: 

IN WITNESS WHEREOF, the SURETY has hereto set its signature and seal
this 31 day of March, 19 94.

National Union Fire Insurance Company of Pittsburgh

SURETY

By: 

Title: Ava M. Walker, Attorney-in-Fact

ACCEPTED BY THE STATE OF UTAH
this 27th day of May, 19 94.


James W. Carter, Director
Division of Oil, Gas and Mining

NOTE:

An **Affidavit of Qualification** must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the **PERMITTEE** is a corporation, the Agreement shall be executed by its duly authorized officer.

American Home Assurance Company
National Union Fire Insurance Company of Pittsburgh, Pa.
Principal Bond Office: 70 Pine Street, New York, N.Y. 10270

POWER OF ATTORNEY

No. 02-B-54926

KNOW ALL MEN BY THESE PRESENTS:

That American Home Assurance Company, a New York corporation, and National Union Fire Insurance Company of Pittsburgh, Pa., a Pennsylvania corporation, does each hereby appoint

—James H. Godfrey Jr., Phillip S. McCrorie, Ava M. Walker: of Lexington Kentucky—

its true and lawful Attorney(s)-in-Fact, with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa. have each executed these presents



this 22 day of June, 1993.

Mark E. Reagan
Mark E. Reagan, Senior Vice President

STATE OF NEW YORK }
COUNTY OF NEW YORK }ss.

On this 22nd day of June, 1993, before me came the above named officer of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa., to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seals of said corporations thereto by authority of his office.

Paulette K. Williams

PAULETTE K. WILLIAMS
Notary Public, State of New York
No. 31-4972606
Qualified in New York County
Certificate Filed in New York County
Commission Expires October 1, 1994

CERTIFICATE

Excerpts of Resolutions adopted by the Boards of Directors of American Home Assurance Company and National Union Fire Insurance Company of Pittsburgh, Pa. on May 18, 1976:

"RESOLVED, that the Chairman of the Board, the President, or any Vice President be, and hereby is, authorized to appoint Attorneys-in-Fact to represent and act for and on behalf of the Company to execute bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, and to attach thereto the corporate seal of the Company, in the transaction of its surety business;

"RESOLVED, that the signatures and attestations of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed with respect to any bond, undertaking, recognition or other contract of indemnity or writing obligatory in the nature thereof;

"RESOLVED, that any such Attorney-in-Fact delivering a secretarial certification that the foregoing resolutions still be in effect may insert in such certification the date thereof, said date to be not later than the date of delivery thereof by such Attorney-in-Fact."

I, Elizabeth M. Tuck, Secretary of American Home Assurance Company and of National Union Fire Insurance Company of Pittsburgh, Pa. do hereby certify that the foregoing excerpts of Resolutions adopted by the Boards of Directors of these corporations, and the Powers of Attorney issued pursuant thereto, are true and correct, and that both the Resolutions and the Powers of Attorney are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of each corporation



this 31 day of March, 19 94

Elizabeth M. Tuck
Elizabeth M. Tuck, Secretary

NOTICE

Notice is hereby given that White Oak Mining & Construction Co., Inc., has submitted an application to the Division of Oil, Gas & Mining for renewal of the White Oak Mine Complex, Permit No. ACT/007/001 under the provisions of R645-303-232.240.

The White Oak Mine Complex mine permit area is located in Carbon County, Utah, as follows:

Township 13 South, Range 6 East, SLBM

- Section 24: SE 1/4, and portions of S 1/2 NE 1/4, NW 1/4 NE 1/4, and E 1/2 SW 1/4
- Section 25: E 1/2, portion of W 1/2
- Section 35: Portions of E 1/2 E 1/2, and SW 1/4 SE 1/4
- Section 36: All.

Township 13 South, Range 7 East, SLBM

- Section 8: E 1/2 SE 1/4, portion of SW 1/4 SE 1/4
- Section 9: W 1/2 SW 1/4
- Section 16: W 1/2 W 1/2, NE 1/4 NW 1/4, NW 1/4 NE 1/4
- Section 17: NE 1/4 excluding parts of SW 1/4 NE 1/4 and NE 1/4 NE 1/4, N 1/2 SE 1/4
- Section 19: S 1/2 SW 1/4, NE 1/4 SW 1/4, and portions of W 1/2 E 1/2, E 1/2 NW 1/4
- Section 20: Portions of NE 1/4 NE 1/4
- Section 21: Portions of NW 1/4 NW 1/4
- Section 30: W 1/2 W 1/2, SE 1/4 SW 1/4, NE 1/4 NW 1/4
- Section 31: W 1/2 NW 1/4, SW 1/4

Township 14 South, Range 6 East, SLBM

- Section 1: E 1/2 NE 1/4, NE 1/4 SE 1/4

Township 14 South, Range 7 East, SLBM

- Section 6: W 1/2, W 1/2 E 1/2
- Section 7: NW 1/4, NW 1/4 NE 1/4

Pertinent comments are solicited from anyone affected by this proposal. Such comments should be filed within the next thirty (30) days with:

State of Utah
Department of Natural Resources
Division of Oil, Gas & Mining
355 West North Temple
III Triad Center, Suite 350
Salt Lake City, Utah 84180-1203