

DECLARATION OF MARY ANN WRIGHT

I, **Mary Ann Wright**, make the following sworn declaration in lieu of affidavit as permitted by 28 U.S.C. § 1746:

1. I reside at Salt Lake County, Utah , and am over 21 years of age. I have personal knowledge of the facts to which I testify in this declaration.

2. I am employed by the Utah Division of Oil, Gas and Mining for the State of Utah in the Department of Natural Resources. I am the Associate Director of Mining for the State of Utah and my duties include supervising the Division's activities in its role as regulator of coal mining program under Utah law. I have held this position since 1996.

3. I am personally knowledgeable of the permitting, inspections, and other regulatory actions that have been taken regarding Lodestar Energy's mining activities in the State of Utah and particularly those activities related to permitting and mining at the White Oak (Whiskey Creek) Mine.

4. The White Oak Mine was granted a permit to proceed with surface coal mining on October 26, 2001.

5. The approved mining plan required that reclamation would not occur until after the much of the coal was removed from the two seams so that the overburden could be placed in the pit left after the removal of the coal. Accordingly, reclamation was not scheduled to begin and did not begin until after a substantial

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portion of the coal had been uncovered, and removed from the upper seam, additional overburden had been removed, and the lower seam had been mined. (This did not occur until late in fall of 2002.)

5. Lodestar Energy, Inc. commenced mining shortly after the permit was issued in October 2001, but DOGM objected to the adequacy of the reclamation bond and granted Lodestar until January 7, 2002, to replace the bond. Eventually, pursuant to an Agreed Order entered in February 26, 2002, by the bankruptcy court, Lodestar was permitted to continue mining. The Agreed Order provided that a reorganization plan would be filed by Wexford or Congress that would provide a replacement bond, or the payment of 10% of the Wexford superpriority to the State of Utah to be used for reclamation. Pursuant to this Stipulation and Order, Lodestar Energy, Inc., was to continue mining until October 28, 2002 when a reorganization plan was to be submitted. Lodestar failed to submit a plan and continued mining pursuant to Court order and eventually pursuant to a court order over the objections of Utah, until the end of January 2003, when mining was stopped due to the auction sale of the mining equipment.

6. Prior to the termination of mining in January 2003, a very substantial amount of coal had been mined and removed and revenues received by Lodestar Energy, Inc., from the White Oak (Whiskey Creek) Mine during the Chapter 11 bankruptcy and very little contemporaneous reclamation had been completed.

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7. All of the surface mining at the White Oak mine was conducted by Lodestar Energy, Inc. during the Chapter 11 phase of its bankruptcy and Lodestar failed to contemporaneously reclaim that mine site as is required by state and federal law.

8. Because Lodestar failed to contemporaneously reclaim the Whiskey Creek Mine, DOGM issued three imminent harm cessation orders to Lodestar this past June. The violations covered by those cessation orders were created during the Chapter 11 phase of Lodestar's bankruptcy.

9. The only coal mining at the White Oak or Whiskey Creek other than the mining by Lodestar Energy was the sale to Blue Ridge Services in March of 2003 of coal previously uncovered by Lodestar Energy (approximately 30,000 tons of "pit coal" and "stockpiled coal"). The Utah DOGM issued a cessation order for mining without a permit. The sale was allowed after an agreement was reached with the trustee that provided for an escrow (based on \$3.00 per ton) established and eventually used to conduct emergency reclamation.

10. DOGM has entered into a settlement agreement with Frontier Insurance Company which will abate much of the environmental damage caused by Lodestar's failure to contemporaneously reclaim the Whiskey Creek Mine. Unfortunately, the reclamation work now being performed under the auspices of Frontier Insurance will not completely eliminate all of the conditions at the Whiskey

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Creek Mine that pose a danger to the health and safety of the public and to the environment. DOGM has made an estimate of the costs of this additional reclamation which includes backfilling dangerous highwalls created by the mining and other safety and environmental concerns not able to be fully rectified by the reclamation plan agreed upon by the Stipulation with Frontier. The total estimated costs for this additional required reclamation is \$2.6 million. The DOGM analysis is attached at Exhibit B to this Declaration.

11. In DOGM's settlement agreement with Frontier Insurance, the State of Utah reserves the right to pursue its enforcement options against Lodestar and its owners, controllers and *Dix Fork* agents. This right was reserved so that DOGM could take additional steps to cause Lodestar's violations at the Whiskey Creek Mine to be abated.

I have read this page and the preceding page, and I declare under penalty of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

Date: November 13, 2003



Mary Ann Wright
Associate Director for Mining,
Utah DOGM

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