

Alpine 
COURT REPORTING

**In The Matter of The Request for an Informal
Conference by Smith Hartvigsen, PLLC, et al.
CAUSE NO. C/0007/0005**

Date Taken: July 28, 2016

ORIGINAL

Alpine Court Reporting
Location in Salt Lake City and Provo
801-691-1000

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

IN THE MATTER OF THE REQUEST
FOR AN INFORMAL CONFERENCE BY
SMITH HARTVIGSEN PLLC,
ATTORNEY AT LAW FOR THE
CANYON FUEL COMPANY,
LLC, FLAT CANYON LEASE ADDITION,
CARBON COUNTY, UTAH

CAUSE NO. C/0007/0005

TAKEN AT: Department of Natural Resources
Price Field Office
319 North Carbonville Road
Price, Utah
Conference Room

DATE: Thursday, July 28, 2016

TIME: 1:00 p.m. to 2:06 p.m.

REPORTED BY: Michelle Mallonee, RPR

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APPEARANCES

FOR THE DIVISION OF OIL, GAS AND MINING:

JOHN BAZA, Director, Division of Oil, Gas and Mining
Hearing Examiner

PRISCILLA BURTON - Soil Scientist

STEVE CHRISTENSEN - Permit Supervisor/Hydrologist

AMANDA DANIELS - Hydrologist

DANA DEAN - Associate Director - Mining

DARON HADDOCK - Environmental Manager

CHERYL PARKER - Engineer

LISA REINHART - Biologist

STEVE SCHNEIDER - Administrative Services and Policy
Coordinator

BEVERLY WISER - Oil & Gas Auditor

ASSISTANT ATTORNEY GENERAL:

MELISSA REYNOLDS - Division Attorney

FOR CANYON FUEL COMPANY:

GREGG GALECKI
Canyon Fuel Company, Skyline Mine

JEREMIAH ARMSTRONG
Canyon Fuel company, Skyline Mine

FOR PACIFICORP/ROCKY MOUNTAIN POWER:

CODY ALLRED
Pacifiorp/Rocky Mountain Power

1 FOR HUNTINGTON-CLEVELAND IRRIGATION COMPANY:

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6 RICHARD SNOW, Law Clerk

7 JEFF GUYMON
Huntington-Cleveland Irrigation Company

8
9 JAMES ALLEN STAKER
Huntington-Cleveland Irrigation Company

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1 Cause No. C/0007/0005

2 Thursday, July 28, 2016

3 (The proceedings began at 1:00 p.m.)

4 HEARING OFFICER BAZA: Good afternoon, everyone.

5 I'm John Baza. I'm the director of the Division of Oil,

6 Gas and Mining. It's 1 o'clock on July 28, 2016, and

7 this is an informal conference regarding an application

8 for significant revision to the Skyline Mine permit.

9 We will have a sign-up sheet going around, and

10 so I'd ask everybody to identify themselves on the

11 sign-up sheet. Then after it gets around, let's hand it

12 to the court reporter so she has a record of who is here.

13 Under the Division's rules, applications for

14 significant revisions must be processed according to Utah

15 Administrative Rule 645-300-100, which is explicitly

16 meant to provide for public participation in the review

17 of these applications. To further that goal, when

18 someone with an interest that could be adversely affected

19 by the application requests an informal conference, the

20 Division holds such an informal conference where it can

21 accept oral or written statements from members of the

22 public as well as the operator.

23 That process leads to the reason we are here

24 today. On March 25, 2016, Huntington-Cleveland

25 Irrigation Company requested that the Division hold a

1 hearing on an application for a significant revision of
2 the Skyline Mine permit. The specifics of the proposed
3 significant revision will be outlined shortly.

4 Because Huntington-Cleveland requested a
5 hearing, the Division is conducting this informal
6 conference to give the public an opportunity to provide
7 both oral and written statements that will assist the
8 Division in deciding whether or not to approve the
9 significant revision.

10 Now, this raises an important point which I want
11 to emphasize: The Division has not yet made a decision
12 whether or not to grant this revision; rather, the
13 Division seeks public input today so it can gather the
14 necessary information that will assist it in making such
15 a decision.

16 With that in mind, I ask anyone who provides a
17 comment today to keep two things in mind. First, I'd ask
18 that you limit the content of your comments to matters
19 relating to this proposed significant revision. This is
20 not an opportunity to express concerns that generally
21 relate to Skyline Mine or coal mining in general or to
22 the Division's coal program as a whole.

23 Second, please direct your comments to the
24 Division and only to the Division, not to the operator.
25 Again, the purpose of this informal conference is to

1 provide the Division with a wide array of public comments
2 on the significant revision in order to improve the
3 Division's decision-making process. Specifically, the
4 comments provided today should assist the Division in
5 deciding whether or not to approve the revision. To that
6 end, the Division will take each comment into
7 consideration.

8 In addition, to ensure the Division can
9 adequately consider each comment, I've arranged for a
10 court reporter to transcribe this meeting. I would ask
11 that, for the sake of properly capturing the comments
12 made today, we avoid having more than one person speak at
13 a time and that you properly identify yourself when it's
14 your turn to speak.

15 Given the purpose of this conference, I've
16 determined that we should proceed as follows: First, the
17 Division, Mr. Daron Haddock specifically, will provide a
18 brief explanation of the proposed significant revision.
19 Secondly, Huntington-Cleveland will get the chance to
20 provide comments on the significant revision. The
21 Division has received Huntington-Cleveland's written
22 comments on the revision, and will take those comments
23 into consideration when deliberating. However, if anyone
24 from that organization wants to provide additional
25 comments, you are more than welcome to do so today.

1 Next, the operator will have a chance to comment
2 on the proposed revision if they desire. They may also
3 wish to respond to any points raised at that point to
4 make an additional statement on the application.
5 However, the operator is not required to make a statement
6 today.

7 Finally, anyone else in attendance will be given
8 a chance to submit comments.

9 After the informal conference concludes -- and
10 we'll take whatever time is necessary to do that today --
11 the Division will leave the public comment period open
12 for one week until August 4, 2016. Anyone who wishes to
13 submit a comment on the revision in that time frame,
14 please send a written statement to the Division at 1594
15 West North Temple in Salt Lake City, Utah 84116.

16 With that, I think it's appropriate to begin,
17 and Mr. Daron Haddock with the Division will start by
18 explaining the proposed significant revision.

19 MR. HADDOCK: Okay. As John said, my name's
20 Daron Haddock. This is, of course, a revision by the
21 Skyline Mine.

22 And just a little background. The Skyline Mine
23 is located in the Carbon and Emery Counties,
24 approximately five miles southwest of Scofield and
25 18 miles west of Helper, Utah. Canyon Fuel Company has

1 operated the Skyline Mine since 1981 under Utah DOGM
2 permit C/007/0005. Since that time, Skyline Mine has
3 operated an underground mine on leasehold interests of
4 approximately 10,733 acres and mined almost
5 100 million tons of coal.

6 The existing mine facilities total approximately
7 125 acres of surface disturbance. Coal is primarily
8 shipped by rail to industrial customers and power plants.
9 Mining methods include both continuous miner and longwall
10 panel extraction.

11 Canyon Fuel Company submitted a modification to
12 their mine plan on October 13, 2015, for the inclusion of
13 Flat Canyon Federal Coal Lease Tract UTU-77114 into their
14 existing SMCRA permit. The Flat Canyon Coal Lease
15 encompasses approximately 2692 acres of federal coal
16 reserves of the Wasatch Plateau Cold Field on National
17 Forest system lands within the Manti-La Sal National
18 Forest. The Flat Canyon Lease is located in Sanpete
19 County just west of the existing mine. Including this
20 lease will extend the life of the Skyline Mine by
21 approximately nine to 12 years.

22 The Flat Canyon lease contains a probable
23 maximum of 42 million tons of mineable coal. This mining
24 plan modification would authorize mining activities to
25 produce up to 8 million tons per year of coal. However,

1 it is anticipated that the mine would likely produce 3 to
2 4.5 million tons per year, which has been their general
3 range of production over the last ten years.

4 And then just a little bit of an explanation of
5 what a significant revision entails. Basically, this is
6 part of our rules. It's part of the DOGM rules. It's
7 under R645-303-220, which talks about permit changes.
8 And at any time during a term of a permit, the permittee
9 may submit to the Division an Application for Permit
10 Change. And there's basically two types of permit
11 changes.

12 The first is considered -- what's considered an
13 amendment; and that is, any permit change that is not a
14 significant revision, which also includes incidental
15 boundary changes. So in this case, we're talking about a
16 significant revision. And so that means it's more than
17 just an amendment, and there are certain criteria that --
18 that require a permit change to be designated as a
19 significant revision. And these are the things that
20 do -- that fall in that category: Any extension to the
21 approved permit area, except for an Incidental Boundary
22 Change. And that is the case with this particular
23 project. They are extending their approved permit area.
24 So that's one of the reasons.

25 Also: An increase in the size of the surface or

1 subsurface disturbed area in an amount of 15 percent or
2 greater. And in the case of this one, they are
3 increasing the size of their subsurface area, and so that
4 does also kick in.

5 Another one is: Engaging in operations outside
6 of the Cumulative Hydrologic Impact Assessment area. And
7 that's not necessarily the case here, but they are
8 expanding their -- their area of production.

9 Another one that -- one of the criteria
10 includes: Engaging in operations in the hydrologic
11 basins other than those already authorized.

12 And another one is: In order to continue
13 operation after the cancellation or material reduction of
14 the liability insurance policy, performance bond, or
15 other guarantee. That's really not the case here, but
16 that would be one of them if that was the situation.

17 And the last one is: As otherwise required
18 under applicable law or regulation. And an example of
19 that would be like changing a post mining land use. That
20 would constitute a significant revision.

21 And then just the last thing I want to mention
22 is that: Significant Permit Revisions will be reviewed
23 and processed by the Division in accordance with the
24 requirements of the R645-300-100 and R645-300-200 rules,
25 and the information requirements of R645-301 and

1 R645-302, including requirements for notice, public
2 participation, and notice of decision.

3 And that's part of why we're here today is that
4 there is the requirement to have public participation and
5 public notice on a revision and so that's -- that is part
6 of the process here.

7 HEARING OFFICER BAZA: So maybe if I could color
8 a little bit of what Daron just explained.

9 The significant revision process involves a
10 little bit more than simply an amendment. And
11 significant revision does require public notice,
12 opportunity for public input, and it's processed very
13 similar to an initial mining permit. So we have to go
14 through a little more effort by the Division with a
15 significant revision than we would for a simple
16 amendment.

17 MR. HADDOCK: Exactly.

18 HEARING OFFICER BAZA: So with that in mind,
19 what I'd like to do is go to the next stage of this
20 process and allow the representative from
21 Huntington-Cleveland Irrigation Company to speak for a
22 few minutes.

23 MR. SMITH: Thank you, Mr. Baza. My name is
24 Craig Smith. I'm an attorney with the law firm of Smith
25 Hartvigsen. With me, I have a law clerk who's just

1 learning to see how these things work. His name is
2 Richard Snow. Maybe he'll -- maybe I'll have him speak.
3 No, I'm just kidding.

4 I've had the privilege of representing
5 Huntington-Cleveland Irrigation Company since 1992, so I
6 do have a few years of history with the company and with
7 Huntington Creek Drainage. We also have several board
8 members here of the company that are here as well, and
9 they've signed into the roster. It's Mr. Guymon and Mr.
10 Allred.

11 First, just to tell you a little bit about -- I
12 know this is -- you know, water companies and water
13 rights and things aren't, you know, what you deal with
14 every day -- just to tell you a little bit about the
15 company and who we are and what it is.

16 In Utah, we don't have enough water. I don't
17 think anybody would disagree. Our problem is we don't
18 have enough, it's not the opposite. And water is a very
19 precious resource in the state of Utah. The Supreme
20 Court has likened a drop of water to a drop of gold.
21 Now, I wish it was worth that much, but that is what the
22 Supreme Court has said. So, obviously, our focus is on
23 the water.

24 And a mutual irrigation company like
25 Huntington-Cleveland does not just provide water for

1 farmers. Many irrigation companies, that's all they do.
2 But Huntington-Cleveland, as the major water right
3 holder, has the right to use water that comes out of the
4 Huntington Creek Drainage. And under Utah law, we have
5 the right to look to that whole drainage to satisfy our
6 water right.

7 We also serve one of our large -- in fact, our
8 very largest shareholder is Pacificorp, who operates the
9 power plant in the mouth of the canyon. We also have
10 shareholders of the city of Huntington, the town of Elmo,
11 North Emery water users. So we provide irrigation water,
12 municipal drinking water, industrial water in this area.
13 And I'm not aware of other sources that we could look to
14 if we were to lose our source.

15 We are a nonprofit company, which means we don't
16 make money. All we do is we have shareholders, and we
17 try to meet the water needs of our shareholders. By the
18 shares they own, they're entitled to receive a certain
19 amount of water. Obviously, that changes from year to
20 year as different changes in the -- droughts, things like
21 that happen and other things happen. But -- and if we
22 don't provide them water, no one does.

23 The second thing I'd like to make a point of.
24 I'll break a little bit of the rule, Mr. Baza. You said
25 not to comment on the coal industry. We are very

1 supportive of the coal industry. We are not here to stop
2 anybody from mining coal. We think it's a very important
3 thing for the economy of this area. A number of our
4 shareholders work in the various mines and power plants.
5 We think that the coal industry is very important, and we
6 think Skyline Mine is very important. And we hope that
7 they can get their permit granted. We just want to have
8 it granted in a way that protects the water.

9 And so we are not here -- this is not -- we're
10 not the Earth Guardians or somebody like that that has a
11 philosophical axe to grind. We are looking to the
12 Division to help us and make sure that our water is --
13 continues to come to us.

14 Now, one of the reasons that this permit
15 modification and the lease that underlies it, or the
16 reason for it, has caught our attention is we've been
17 around a while, and we've been around since 1885. And
18 something fairly unexpected happened in 2000-2001, and
19 that was when mining began under Electric Lake. And
20 large amounts of water were encountered in the mine, and
21 Electric Lake started losing water.

22 We know there's been lots of different ideas and
23 theories about why -- where that water comes from and
24 where it goes and all those kinds of things. And we're
25 not here saying we have all the answers. In fact, we

1 don't have really any of the answers. But that was a
2 fairly significant thing to happen, and it's not ended.
3 And it was unexpected.

4 I think Mr. Haddock was working for the Division
5 at that time, and I think he would concur that no one was
6 expecting the Division, or probably the mining company,
7 to encounter the large volumes of water that they
8 encountered.

9 And the other thing that we were, at least told
10 at the time, that that was probably going to be a
11 temporary thing, meaning, you know, these are perched
12 aquifers. This probably will hit water and it will dry
13 out because these aren't connected to the other aquifers
14 that are there or the active aquifers that everybody else
15 relies on.

16 But at least from the records that I have seen,
17 we're still in the millions and millions of gallons a
18 day, both being pumped out of wells -- the James Canyon
19 wells back into Electric Lake to keep the level up -- and
20 also being discharged into Eccles Creek, into the
21 Scofield range.

22 And that's -- one of the things that's important
23 to us is, obviously, if water goes to another drainage,
24 comes from Huntington Creek Drainage and is transported
25 to the Scofield or Price River Drainage, that affects us.

1 Because if that's what's happening, we're not getting
2 water we deserve, and they're getting more water than
3 they deserve because of that -- because of that
4 happening.

5 When we looked further into this -- and so one
6 of the things we'd like to have some dialogue on is also
7 what's, in the future, going to happen when the mine does
8 finally end -- mining end. There will come a time when
9 this mine will close. We've seen mines open; we've seen
10 mines close. It's just -- it's a fact of life that there
11 is a finite amount of coal that's mineable from any mine.
12 The mining doesn't go on forever. But we want to make
13 sure that the water impacts don't go on forever.

14 And one of the things we have concerns about is:
15 What's going to happen when the mine closes? Are they
16 still going to pump -- who's going to pump the wells?
17 Wells are not cheap to dig. They're not cheap to
18 operate. They're not cheap to refit when they need to be
19 refitted. And is that going to be necessary to keep
20 pumping water back into Electric Lake to keep water into
21 our drainage? We do have concerns about the idea about
22 perched aquifers and water coming up from the bottom.

23 I spend most of my time working in water, not in
24 the mining context, but in the context of your sister
25 agency, the Division of Water Rights. And I would ask

1 that the Division of Water Rights be consulted with as
2 part of this permitting process because I think they have
3 expertise that would be helpful to this process. Also,
4 the Division of Water Rights, I think if you were to ask
5 them, they would say that there's not a new source of
6 water.

7 Now, many years ago, if you read the old cases
8 about water -- and water cases go clear back to the --
9 before the beginning of the state of Utah. People were
10 contesting over water for many years. And until about
11 the 1930s and 1940s, there was this idea that water came
12 from the bowels of the earth, meaning, we don't know
13 where it comes from, we don't know how it got there, and
14 if you -- you could -- up until 1935, you could drill a
15 well in Utah. You didn't have to have a water right to
16 drill the well and take water and use it because they
17 didn't have that idea of the interconnection of the
18 aquifers.

19 Well, as time and science have marched on, it's
20 become very clear that all the water comes from
21 somewhere. It doesn't come from the bowels of the earth.
22 All of the water that's encountered originally was
23 encountered by precipitation. Now, you might encounter
24 water that's thousands of years old, and that's happened.
25 But that water had to come from somewhere, and when it

1 goes, it has to be recharged from somewhere. And with
2 the high volumes of water that are currently being moved
3 around in our drainage, both through the wells and
4 through the discharges into Eccles Creek, we are -- we
5 are concerned of what the future -- what that future will
6 be and what will happen with that.

7 You know, I like to remind people it's been 15
8 years with the Electric Lake. And as we see the figures,
9 they still -- some of the figures I've seen is
10 5.95 million gallons a day being discharged into Eccles
11 Creek. That's 28,000-acre feet a year. That's enough
12 to -- you know, the town of Provo could live off of that
13 much water. This is not insignificant drips and drabs.
14 This is huge volumes of water that, if I came here and
15 filed an application to appropriate that water, I
16 wouldn't be able to do that because this water -- again,
17 this water is all used up and everybody has rights to it.

18 So a couple things that we would like to ask for
19 to have done is we are -- in all the materials -- and I
20 did review a significant amount of materials. I also had
21 a professional engineer help me reviewing things. We
22 were unable to find anything that was really, we felt
23 like, was definitive as to where the water that's being
24 encountered in the Skyline Mine and what water will be
25 encountered into the Flat Creek area -- even though we

1 believe it would be more water encountered in that
2 lease -- where that's coming from and what the real
3 hydrology is in this area.

4 There's lots of different studies and lots of
5 different reports. There's studies that say, This is
6 just a perched aquifer that will be -- that we
7 encountered when the Flat Canyon lease was mined. And
8 that perched aquifer is disconnected from the surface
9 aquifer, the round aquifers that serve the creeks. And
10 other water will be encountered from the bottom of the --
11 below the coal, and we've seen those reports. But we've
12 also seen a tritium aging report which we submitted --
13 wasn't done by us. We can't afford to go and hire and
14 have those things done -- which says that, no, that -- it
15 says that water being encountered is Electric Lake. And
16 our concern is that we're going to continue to encounter
17 water that would otherwise be our water that would go
18 down our drainage and provide our shareholders with the
19 water that they need.

20 There's also been other tests that were done, a
21 dye test that was done that showed interconnectivity. So
22 we are concerned. We believe there is some -- will be
23 interconnectivity as the Flat Canyon lease is
24 encountered. And what we would ask for is that there
25 would be ways to measure that so that we would have

1 objective ways to see if that happens. If it doesn't
2 happen, great. We'll be thrilled. But if that does
3 happen when that mining -- if the water that would
4 otherwise be interconnected, either ground or surface
5 water because under Utah law we have the right to both,
6 that would be interconnected with the aquifer, we would
7 like to have ways to both detect that happening and then
8 have a plan of how to address that if it does happen. If
9 we could have those things in place, we'll be much more
10 than satisfied with that.

11 But again, we -- and if the -- if somebody here
12 can explain what the -- again, we don't think there's
13 been a -- there is a clear understanding of the hydrology
14 in this area because of the -- just the different
15 conclusions that I see different reports coming to.

16 Our main -- probably our main concern is that
17 it's not uncommon to encounter faults. When you
18 encounter a fault, that -- faults transmit water. We all
19 know that. And so if you're mining in the Flat Canyon
20 area and there's a fault that reaches upward -- it's
21 funny. The report that we saw from Mr. Peterson talked
22 about faults -- downward faults bringing water into the
23 mine from below the mine -- the coal -- the level of the
24 coal they're mining, but those same faults will also be
25 found above the mine and will bring water down more

1 readily than it will bring water up. So all the water
2 you think that's going to come up from bottom, that has
3 to be under pressure to be pushed up into the mine. All
4 the water above just has to be gravity-fed through the
5 faults into the mine. And that's what we have concerns
6 about.

7 So in sum, let me just run through some things
8 we would like to see as part of this permit that will be
9 issued. And again, we support the permit that will be
10 issued.

11 We would like to have a monitoring and reporting
12 plan. That will actually tell us and tell you, as the
13 regulators -- the Division of Oil, Gas and Mining, you
14 have the -- that's part of your obligation -- if surface
15 water is being intercepted. We will send some more
16 detailed written comments. But one of the ways is to
17 measure, get baselines, measure the streams that are
18 there now. What's going to happen to the stream that
19 comes down -- you know, the streams that this -- that the
20 area underlies? Having measurements in a way to be able
21 to objectively, as much as possible, tell everyone
22 whether water encountered in the mine is taking water
23 away from those who have the right to this water and have
24 had the right for many, many years.

25 Along with that, we would request that there be

1 a water replacement plan as part of the permit. What --
2 you know, again, no one expected what happened in 2001.
3 There was a lot of scrambling to get those wells drilled
4 and things happened. And we came, as an area, came very
5 perilously close to not having any water for one summer
6 before those things got into place. I don't think we
7 should be scrambling around again if something happens
8 that's different than expected. I think we have too much
9 history and too much knowledge of what the last time was.

10 But I think it's so important we have a water
11 replacement plan. Maybe that's taking the water that's
12 going to Eccles Creek. And one of the nice things, I
13 think, about the water that's being encountered in the
14 mine itself is the high-quality water. In a -- the
15 report that was filed by the mine on the antidegradation
16 review form that was filed with the Utah Division of
17 Water Quality, I'll just read a little bit from that,
18 page 5.

19 It says, "Overall, discharge of UPDES 001
20 contributes 5.95 million gallons per day of drinking
21 water quality water to Scofield Reservoir. In recent
22 drought years, water discharged from the Skyline Mine has
23 been put to beneficial use in Scofield Reservoir."

24 Again, that's great if it's not our water. But
25 if it's Huntington Creek drainage water that's going over

1 there, that's 5.95 million gallons a day that we should
2 have for us. And we do not get our full water rights on
3 a regular basis fulfilled. It's not -- like I say, not
4 like we're having extra water. We have very few years
5 where we can supply the entire amount of water that we
6 are supposed to supply to our shareholders just because
7 the water just isn't there.

8 The third thing we would like to have is:
9 What's the plan? What's to happen when the mine closes?
10 Is there going to need to -- continue to maintain and
11 operate the wells?

12 We already have another situation coming from
13 another mine where water's being discharged from that
14 mine, and it's high in iron. And I know the operator has
15 tried several times to quit monitoring and quit treating
16 that. What if they just go away? What's going to happen
17 to the water quality? Again, we've seen good water
18 quality found here but, again, there needs to be a plan
19 in place.

20 The fourth thing -- I mentioned this earlier --
21 is we would ask that the state engineer be consulted
22 with, and his expertise and expertise of his technical
23 people be utilized in formulating these plans. It makes
24 no sense to have two -- they're next door. They're in
25 the same -- they're in the same division in the state as

1 you are. Two different divisions that kind of are going
2 in very -- makes no sense to have two divisions going in
3 different ways and having different things. We think
4 there should be a collaborative approach to involve the
5 state engineer in this process and then use his expertise
6 to make sure the permit has the proper requirements
7 there.

8 The fifth thing we'd ask for is we have a
9 baseline established. Has there been a baseline of what
10 is -- what is the hydrology in Flat Canyon right now?
11 How much water is being produced out of that area right
12 now? I haven't seen a baseline, and if you don't have a
13 baseline, how do you know whether there's been impacts
14 when the mining starts to occur?

15 The sixth thing we're asking for is, again,
16 sampling, testing, and measuring protocols to, once we
17 have a baseline, to see if there's been impacts. We need
18 to depend on Division of Oil, Gas and Mining to provide
19 us water.

20 Couple of other points, and then I'll shut up.

21 We were made aware of a test that was done a
22 number of years ago with a submersible vehicle in
23 Electric Lake.

24 Are you aware of that test that was done?

25 HEARING OFFICER BAZA: I'm not personally. Is

1 anyone aware of that?

2 MR. SMITH: Well, people who have seen that
3 test -- we wonder if we can get that test. What they did
4 was they put a submersible vehicle on the bottom of
5 Electric Lake. And what I've been told, and again, this
6 is just hearsay --

7 MS. DEAN: Yes. Yes, sorry, I am aware of that.
8 Yes.

9 MR. SMITH: What's that?

10 MS. DEAN: Yes, we are aware of that. Sorry,
11 I ...

12 MR. SMITH: Do you have a copy of that test?

13 MS. DEAN: Actually, it's missing. So if you
14 have a copy, that would be great. We recently looked for
15 it, and we couldn't find it in our files.

16 MR. SMITH: Well, I'll look for it. I don't
17 think I have one, but at least -- I'm sorry to hear it's
18 missing. That seems kind of strange.

19 MS. DEAN: Well, I'm not sure if we ever had an
20 official copy. I know that I've seen it before, but I
21 don't know if the Division ever had a copy or if it was
22 just displayed at a meeting and we saw it there.

23 MR. SMITH: Well, the things I was told that it
24 tested: One, it sampled air bubbles coming out of the
25 bottom of Electric Lake, and they were high in methane.

1 Well, we know that coal is associated -- methane is
2 associated with coal.

3 Another thing that I was told that was in
4 that -- was that when the vehicle moved around, a plume
5 would be kicked up of sediment at the bottom of Electric
6 Lake, and it would immediately go down into the bottom of
7 the lake, as in water draining downwards. And so we
8 would like to have that considered as part of the tests
9 that are here.

10 We've already talked about the tritium dating
11 test. I think we sent a copy of that in. There was also
12 a dye test. I don't know if you have that test that was
13 done. Dye was put in and came out of the, you know,
14 wells. Again, the large quantities of water.

15 There is an increase in the potential metric
16 surface to the west of the Uinta Flat Canyon. And from a
17 DOGM March 10, 2003 report, it says that the "water
18 inflows may be greater than those already encountered and
19 expected in that area."

20 We also would like to have an answer of why --
21 you know, if the -- if we don't know what this aquifer is
22 connected to, why is it not -- you know, if there's a
23 perched aquifer, it should just be mined away and gone
24 after a few -- and it continues to go. So we have a hard
25 time believing that these are perched inactive ground

1 water systems just because of the history of what we've
2 seen at Electric Lake.

3 And I also point out that it looks like part of
4 this Flat Canyon area will also undermine a portion of
5 Electric Lake.

6 Am I correct in that understanding?

7 MS. DEAN: No.

8 MR. HADDOCK: Not that I'm aware of.

9 MS. DEAN: No, it will not. It's further north
10 of the area.

11 MR. HADDOCK: I think the map --

12 MR. GALECKI: None of the Huntington Creek or
13 Electric Lake is undermined.

14 MR. SMITH: Which creeks are undermined?

15 (The reporter interrupted for clarification.)

16 MR. GALECKI: I'm sorry. My name's Gregg
17 Galecki.

18 And as far as undermining Electric Lake, no
19 portions of the Flat Canyon are going to undermine the
20 lake. And there's a little bit of development mining in
21 the Upper Huntington Creek to get to the west side of it.

22 HEARING OFFICER BAZA: Please continue.

23 MR. SMITH: Okay. Thank you. I was just going
24 off a map that came out of the records. It appeared that
25 to be the case, but I'll take their word for it that's

1 not it, despite what the map says.

2 We think that with proper measuring devices on
3 the streams, that this -- that will -- that this under --
4 that this Flat Canyon area is under. And we will send in
5 a proposal in writing about the type of measuring devices
6 that we think would be helpful to be able to gather the
7 information to let us know what's really happening as
8 mining continues.

9 Finally, the one other thing I want to talk
10 about is we also think there may be some -- based on what
11 we've seen, there may be some concerns about subsidence,
12 subsidence interfering with surface flows of streams as
13 well. And again, that's another reason to be measuring
14 this.

15 Again, we are supportive of the mine company.
16 We're supportive of the permit. We just want to have the
17 protections that we believe that the law and regulations
18 allow for us, as water users, to have to be put in place.
19 We don't want to be back here five years from now kind of
20 wondering what we have to do next because something's
21 happened that we didn't anticipate. The law, you know,
22 provides us those protections, and we just ask that we
23 get those protections put in place.

24 Is that the map we were looking at, or is that?

25 MR. SNOW: Yeah. It's showing Boulger Reservoir

1 and Flat Canyon all shooting off of Electric Lake.

2 MR. SMITH: Okay. So it looks like there's two
3 or three ranges that -- also Boulger Reservoir is also --
4 is that -- am I right? Is the mine going to go under
5 Boulger Reservoir?

6 HEARING OFFICER BAZA: I don't know.

7 MS. DEAN: It's not the current ...

8 MR. HADDOCK: Yeah, not currently. Yeah.
9 The -- it is part of the lease. Boulger Reservoir is
10 within the lease, but there's no plan for mining it.
11 There's -- in the one map, you can kind of see where it's
12 kind of got open space there. That's Boulger Reservoir.
13 They're not planning to undermine that in this revision.

14 MR. SMITH: Again, thank you for the opportunity
15 to let us make these comments. And we're hopeful that we
16 can reach a permit that allows the mining to go forward
17 but also provides for protections of the aquifers and the
18 needs of -- you know, coal is very important to the
19 industry -- very important to the industry; but water is
20 life, and this is the sole source of water. The
21 Huntington Creek drainage is the sole source of water for
22 the Northern Emery -- I don't care what kind of water
23 you're talking about, farming, whatever. If we don't
24 have a -- you know, if something happens to this, there
25 will be dire consequences. Thank you.

1 HEARING OFFICER BAZA: Thank you, Mr. Smith. I
2 think your written letter as well as your verbal comments
3 today help explain a lot of your concerns. And I think
4 those are points well-taken. I'm sure our Division staff
5 will work with you more to understand both your concerns
6 and how they might be addressed.

7 I do have maybe a couple of clarifying questions
8 about your comments.

9 MR. SMITH: Sure. I would love to.

10 HEARING OFFICER BAZA: If you would entertain
11 them.

12 MR. SMITH: Sure.

13 HEARING OFFICER BAZA: One is that this test
14 report of the submersible vehicle, do you know, was that
15 done by the power company or --

16 MR. SMITH: My understanding is Pacificorp did
17 the test. But I got that just from information I
18 gathered from others.

19 HEARING OFFICER BAZA: Okay. So we could chase
20 that down and find out if -- if we can get a copy of that
21 for sure.

22 MR. SMITH: Um-hmm.

23 HEARING OFFICER BAZA: Also, you know, in terms
24 of the water use by Huntington-Cleveland Irrigation
25 Company, how far back do your historical records go? And

1 have you been able to show that there's been kind of an
2 increase or decrease or fluctuation in the amount of
3 water that's been available to the irrigation company?

4 MR. SMITH: We -- the best records are the ones
5 that go back about -- are the ones at the Emery Water
6 Conservancy District. I don't know if you've ever had a
7 chances to access their website and those records.

8 About 20 years ago, they became concerned --
9 longwall mining kind of changed things, frankly. It was
10 much bigger and had much more impacts. And we do have
11 records, and we'd be happy to provide those with flow
12 records that -- you know, at that time, that when Emery
13 County Water Conservancy District started doing pretty
14 detailed and pretty careful measuring of streams in the
15 area and reservoirs. And we'd be happy to share that
16 information with you.

17 HEARING OFFICER BAZA: That would be great. I'm
18 sure that -- you know, one of the things I've learned
19 about the coal program since I've been director is they
20 take very seriously their charge to address water impacts
21 from coal mining. And I know we've had this scenario
22 with Skyline Mine and Electric Lake for a number of
23 years. Maybe we haven't been able to answer all the
24 questions, but I think that we'll do our best to try to
25 do that. And working with you and Huntington-Cleveland

1 in the future will help us do those things.

2 MR. SMITH: And we would be happy to share any
3 kind of information. Again, we live here, too. This is
4 a collaborative -- and I actually grew up in Price. So
5 I -- this is not like a place I've never been. I spent
6 20 years of my life here. So I understand what the coal
7 industry's like. It needs -- you know, how important
8 that is to this area.

9 We want to be collaborative, we want to come to
10 solutions. This is -- like I say, there's no ideology
11 here. This is just trying to make sure that we can
12 continue to do what we need to do. We want the coal
13 company to do what it needs to do.

14 HEARING OFFICER BAZA: But you want to make sure
15 this water is protected.

16 MR. SMITH: Yeah. Because unfortunately, the
17 water is going to be around a lot -- needs for water is
18 going to be around a lot longer than the mining. I wish
19 I wasn't saying that, but we all know that there's only
20 finite amounts of coal. And Huntington-Cleveland traces
21 its roots back to 1885, so it's not like it's a brand new
22 company that showed up here two years ago.

23 HEARING OFFICER BAZA: Right. Right.

24 MR. SMITH: We've been here over 100 years,
25 and -- trying to provide water to the people.

1 HEARING OFFICER BAZA: Thank you. I appreciate
2 those comments.

3 Does the operator want to make any comment or
4 say anything?

5 MR. GALECKI: Sure. A couple of things.

6 HEARING OFFICER BAZA: Gregg, say your name one
7 more time.

8 MR. GALECKI: Sorry. Gregg Galecki, Canyon Fuel
9 Skyline Mine, environmental engineer with the mine.

10 Couple of things is that JC-1 continues to pump
11 around 4000 gallons a minute. And as far as -- water
12 that's coming from in-mine from that portioned area has
13 dropped from many thousands of gallons to now it's
14 decreased, and it ranges from 1800 to 2000 or 2500
15 gallons a minute. So I mean, it was 4000 gallons a
16 minute. That's 500-acre feet. So we're -- you know,
17 we're less than 200-acre feet a month, something like
18 that.

19 And as far as water monitoring, we have water
20 monitoring all set up for baseline data in the Flat
21 Canyon and continue to have multiple stream and spring
22 sites throughout the area. And we haven't seen any --
23 you know, the data, we haven't seen any decrease in flows
24 other than, you know, atmospheric type things.

25 HEARING OFFICER BAZA: Gregg, is that data

1 that's being provided to the Division on a regular basis?

2 MR. GALECKI: Yeah. Well, much of them is like
3 Swens, Little Swens, Boulger. They have all been
4 sampled -- you know, monitored regularly, you know, at
5 least three-quarters of the year for probably 20 years.
6 And two additional stream sites have been added upstream
7 of wherever any mining is on those creeks, so we can have
8 upstream and downstream. And we've added a number of --
9 we've had springs over there, but we have additional
10 springs in the area. And we drilled a new well last year
11 to monitor the groundwater.

12 And as far as perched aquifers, you know, what
13 we saw in the mine, everything was coming out of the
14 floor, and there wasn't like a -- you know, we see a
15 channel sand often that runs out of water, and that's
16 typical there when we hit a channel sand; however, waters
17 in those areas have all come from the floor.

18 And in addition, for Flat Canyon, we've upgraded
19 the model, which will be coming shortly, and upgraded
20 age-dating data and all that. So that's all part of the
21 submittal.

22 Some of the deficiencies that the Division
23 outlined that are -- are being answered in this, probably
24 about the next week we'll be submitting it.

25 That's probably -- that's probably about it.

1 Yeah, I won't go into the various things with -- with --
2 with data. I'll just -- that's probably it.

3 HEARING OFFICER BAZA: Well, thank you. I
4 appreciate those comments.

5 With those comments, I'm going to ask Dana or
6 Daron a couple of questions at this point.

7 So the information that Gregg is talking about,
8 he did say that he shares that with the Division, that
9 there's some kind of routine reporting there?

10 MS. DEAN: Yes.

11 HEARING OFFICER BAZA: I know that when we look
12 at a combined application or, in this case, a significant
13 revision, there is an analysis done at the time of
14 permitting.

15 How often is that revisited? And how often is
16 that reanalyzed to determine what the impacts of mining
17 were?

18 MS. DEAN: The data comes in every three months,
19 quarterly. And our hydrologist, which would be Amanda
20 for this mine, looks at that quarterly. She'll look for
21 any trends, and is the flow being reduced? Or are there
22 quality issues? So that's looked at every three months
23 for the entire mine, all active monitoring.

24 Like Gregg said, some of the information for
25 this area has been monitored for several years, some of

1 it we've added in the last year or two in conjunction
2 with Amanda's initial look at what she would need in
3 order to feel comfortable permitting this mine. And so
4 she's worked with them to update their monitoring plan to
5 include areas that may not have been looked at before
6 because it is in a new mining area.

7 And she's also looked at a number of things,
8 like the updated model that Gregg talked about and things
9 like that.

10 So they -- they have met with us a few times on
11 this, and I know that Amanda's worked closely with them.
12 We're not quite there, ready to approve the permit yet.
13 But hopefully what Gregg brings in next week or
14 whenever -- maybe you want to wait until after August 4
15 just to make sure that if we get any other public
16 comment, we can address that during this review.

17 But we're working closely with them to make sure
18 that we have the information we need so that we can
19 determine that this will not have an adverse impact, or
20 if it does, we will be able to know that.

21 And like I say, a lot of that has fallen on
22 Amanda, but the mine has been very cooperative with her
23 so far.

24 HEARING OFFICER BAZA: In terms of adverse
25 impact, as I read the letter from Mr. Smith for

1 Huntington-Cleveland, it talks about wanting to ensure
2 there's water replacement for any loss of water that
3 occurs.

4 Can you explain that process a little bit? And
5 what findings would we make in the course of the mining
6 that would lead to that?

7 MS. DEAN: Sometimes it's difficult to prove
8 because previous information is not complete. But we're
9 hoping that on Flat Canyon we have enough data that, if
10 there is a water loss, we'll be able to tell.

11 The Division would have to notice that there's
12 an impact from those water-monitoring reports.

13 HEARING OFFICER BAZA: Public notice?

14 MS. DEAN: No, we would -- we would -- well, we
15 would have to realize --

16 HEARING OFFICER BAZA: You'd have to see it.

17 MS. DEAN: -- that something's happening. Yes.
18 We'd have to acknowledge something is happening. If we
19 acknowledge that, we would make a finding in writing that
20 the mine had affected the water. And then under the Utah
21 rules, the mine would be required to have all the
22 temporary replacement for that water, and then they would
23 have to come up with a long-term plan to replace that
24 water for the -- forever.

25 And in most of the plans, they give us some idea

1 of how they would replace the water if necessary, but
2 they're not required to go into detail until the water
3 actually is being required to be replaced. So they can
4 tell us, We have a water right, and their -- Here are the
5 methods we may use. And then if it happens, then they
6 would have to give us more detail and come up with a
7 concrete long-term plan.

8 HEARING OFFICER BAZA: Okay. And then my last
9 question refers to a comment Mr. Smith has made about
10 coordinating with the state engineer and the Division of
11 Water Rights.

12 Can you tell me how that is done?

13 MS. DEAN: We work with them very closely. I
14 know that Amanda has worked with Mark Stinson, who's out
15 of this office building, quite a bit.

16 There are some limitations on -- on what Water
17 Rights can require. And there have been in the past, and
18 it has been discussed many times in conjunction with
19 Skyline Mine, but Water Rights has never been able to
20 come up with legal reasoning as to why the mine can't
21 pump the water out of Eccles Canyon, even if it's coming
22 into the mine in the Huntington-Cleveland area. We've
23 struggled with that. Our rules don't really say anything
24 about that.

25 The Water Rights, I think, have an internal

1 concern as well, where some people think one thing and
2 some think the other, and they've never made a clear
3 decision we've been able to act on. And we may need to
4 revisit that question. I know they had a white paper a
5 few years ago that kind of just went nowhere.

6 But we do coordinate with Water Rights all the
7 time. We've coordinated on this project; we would
8 continue to coordinate. But I don't know if they can
9 come up with the reasoning to do some of the things that
10 are being asked to do.

11 HEARING OFFICER BAZA: That may be something we
12 can explore in --

13 MS. DEAN: Yes, we --

14 HEARING OFFICER BAZA: -- the process of
15 approval.

16 MS. DEAN: Yes, and it may -- like I say, it may
17 bring up the issue again, and Water Rights may have a
18 different view than they had the last time it was brought
19 up. I don't know.

20 HEARING OFFICER BAZA: Thank you for answering
21 that. Sorry to put you on the spot.

22 MS. DEAN: That's okay. That's what I'm here
23 for.

24 HEARING OFFICER BAZA: Well, having heard from
25 Huntington-Cleveland and a little bit from the operator,

1 I would open it up now for any member of the public who
2 wants to throw in a comment. And as I said at the
3 beginning, we're leaving the comment period open until
4 August 4. So if you have anything you want to submit in
5 writing, you certainly can. And we will take that into
6 account during our processing of the significant
7 revision.

8 But are there any members of the public who want
9 to say more at this time?

10 Okay. Well, don't feel like this is your last
11 chance. If -- if there's the desire to express an
12 opinion in writing, we'll leave that open until next
13 week, August 4. But please feel free to contact the
14 Division with any questions you might have about this
15 process.

16 MR. SMITH: Can I just ask one or two questions?

17 HEARING OFFICER BAZA: Oh, yeah. Please.

18 MR. SMITH: I don't want to get into a big back
19 and forth, but I do have a couple questions.

20 HEARING OFFICER BAZA: Please do.

21 MR. SMITH: What is the plan when the -- when
22 this mine closes? Are the wells going to continue to be
23 pumped? Is there a plan for that? I mean, what I --
24 what I guess I --

25 MS. DEAN: No, there is not right now. So our

1 understanding -- we -- my understanding is that, at one
2 point, the mine wanted to turn the wells off to see if,
3 now that that area of the mine is flooded, if you still
4 need the well. And they were told not to.

5 Is that correct, Gregg -- or they were asked not
6 to because --

7 MR. GALECKI: Probably the most accurate thing
8 is that there's been an agreement between Pacificorp and
9 Skyline as far as the operation of that well.

10 MS. DEAN: Right.

11 MR. GALECKI: And so at the end, how the geology
12 is, it shouldn't discharge. It should -- you know,
13 theoretically when you turn the pumps off, the
14 potentiometric head of the ground water within the Star
15 Point should come back to where it was at.

16 MS. DEAN: Right. So the mine would flood, and
17 the potentiometric surface would come back to its normal
18 point is what the geology is telling us.

19 MR. SMITH: Okay.

20 HEARING OFFICER BAZA: But we've never been able
21 to shut down the pumps for a considerable amount of time
22 in order to test that theory, correct?

23 MR. GALECKI: The reason I'm pausing is because
24 there's an agreement that -- I believe there's certain
25 agreement to continue to keep the pump running.

1 MS. DEAN: Right. Right.

2 HEARING OFFICER BAZA: Is that for the purposes
3 of having an adequate water supply for electrical
4 generation?

5 MR. ALLRED: Maybe I can jump in here, Mr. Baza.
6 My name's Cody Allred, and I'm a water resource engineer
7 for Pacificorp.

8 HEARING OFFICER BAZA: Okay.

9 MR. ALLRED: In 2008, there was an agreement, a
10 joint operating agreement, that regulated the maintenance
11 and operation and ownership of the facilities at the
12 James Canyon wells. They are -- the flavor of that
13 agreement was to benefit both parties. And so it's kind
14 of a tangled web of, certain times maybe one party
15 wouldn't necessarily want the pumps to run, and at other
16 times or conditions it could be turned the other way.
17 And the agreement is a ten-year agreement, so it will
18 be -- it will be -- need to be readdressed here in 2018.
19 And it just calls for the pumps to continue to run and
20 both parties share in the financial and maintenance and
21 operation of them.

22 MS. DEAN: And John, just so you know, we're
23 talking about JC-1 well that is -- it's drilled into the
24 Star Point Sandstone below the mine. And it's coming out
25 of that sandstone, not the mine, and it's being pumped

1 into Electric Lake. And yes, that is to make sure that
2 the lake doesn't go below a level, that there's enough
3 for the water users and the electrical generation.

4 MR. ALLRED: And so it makes me wonder -- I've
5 understood that that well or that agreement is not
6 necessarily under the jurisdiction of the Division.

7 MS. DEAN: No, it's not.

8 MR. ALLRED: It's a private agreement between
9 the two entities.

10 HEARING OFFICER BAZA: But to answer Mr. Smith's
11 question in terms of long-term perpetuity of whether the
12 wells would be continued to flow or not, I'm not sure
13 that I have heard an answer to that.

14 MS. DEAN: The current mine plan, the
15 information that we have -- which we haven't seen the
16 updated ground water model. That could change things.
17 But according to the current information we have, that
18 well would not be needed because you would allow the mine
19 to flood back to its original potentiometric surface and
20 there would be no need for that well going to Electric
21 Lake.

22 MR. SMITH: So the discharge would stop out of
23 the -- I guess that's my question.

24 If you stop mining and turn off the well, would
25 water still go out into Eccles Creek?

1 MS. DEAN: No.

2 MR. GALECKI: No.

3 MS. DEAN: No.

4 MR. GALECKI: From the west portion of the mine,
5 the lowest portals -- the original potentiometric head is
6 around 8500, and the lowest portal in Eccles Creek is
7 higher than that.

8 HEARING OFFICER BAZA: And to make sure I
9 understand, Eccles Creek is in the Scofield drainage?

10 MR. SMITH: That's correct.

11 MS. DEAN: Yes.

12 HEARING OFFICER BAZA: Okay.

13 Did you have another question?

14 MR. SMITH: I guess my only other question is,
15 you know, we -- again, my only other question is: The
16 water that is being encountered in the mine, do we know
17 where it's coming from?

18 HEARING OFFICER BAZA: I think that's the big
19 question, isn't it?

20 MS. DEAN: Do you mean do we know which drainage
21 it's coming from or?

22 MR. SMITH: Yeah. I mean, do you know -- yeah.
23 Do we know which drainage? Do we know if it's -- how
24 connected it is to the -- I mean how old is it?

25 If you read Dr. Solomon's study, which, again,

1 we just have a copy of we didn't get --

2 MS. DEAN: Right.

3 MR. SMITH: -- it sounds like the water is
4 pretty well connected in the mine to the surface aquifer.

5 MS. DEAN: Well, there's been a lot more
6 information gathered since that study was written. And I
7 think there were a lot of assumptions in that study that
8 now we have actual data for.

9 I would encourage you to ask these questions --
10 once we get this new application, if it would be helpful
11 to sit down in just a technical meeting and go through --
12 I mean, after -- I don't want to put Amanda on the
13 spot -- but after Amanda's had a chance to review what we
14 have, if you'd like to sit down and get more information
15 on why we think what we think, I'd be glad to have that
16 meeting.

17 MR. SMITH: I think that might be helpful
18 because, you know, let me just tell you what -- I spent
19 quite a bit of time on this issue back in 2001. Haven't
20 spent much time since then. When I got -- went back to
21 look at the things that were available -- and again,
22 these are just things that are publically available -- I
23 expected to see some sort of -- somebody do a report. I
24 don't know who, but someone would do a report. You know,
25 I thought this was a big enough issue and of enough

1 interest to somebody that they would say, Here's my paper
2 that says this is the -- you know, this is where the
3 water's coming from, this is where the water's going. I
4 didn't find that. I find kind of little pieces here and
5 there, but no comprehensive saying, Okay, we understand
6 this aquifer. We understand the hydrology. We know
7 where the water's coming from. We know where it's going.
8 We know if it's -- you know, that sort of thing.

9 I just -- and again, if this was just a few acre
10 feet, but this is thousands and thousands of acre feet
11 that are being moved around. I'm not saying where -- a
12 problem, but it -- no one can disagree that there -- you
13 know, that there aren't thousands and thousands of acre
14 feet that are, every year, being moved around by either
15 the wells or discharging out of Eccles Creek -- into
16 Eccles Creek. And just would like someone to say, you
17 know, We really have a handle on this -- this aquifer so
18 that we know -- you know, what's going to happen.

19 HEARING OFFICER BAZA: Your points are
20 well-taken. And I, too, am concerned about making sure
21 that we make findings that are substantiated by science.

22 I know Daron may have mentioned this and, Gregg,
23 you did. There's been this iterative process of the
24 Division looking at data saying, There's deficiencies you
25 need to address.

1 And I think the most recent one, you said would
2 be addressed this week, right?

3 MR. GALECKI: (No audible response.)

4 HEARING OFFICER BAZA: So I think what Dana is
5 saying is let's get that from the mine. Let's look at it
6 carefully. There may be even more questions to ask. But
7 I think we'll maintain this dialogue with
8 Huntington-Cleveland.

9 MR. SMITH: Yeah, you know, I think that's great
10 that we have more information. Maybe we have enough now
11 that somebody could take all that information and come to
12 that conclusion. I'm sure there's a lot more things that
13 I haven't seen. Like I say, we're limited to what is
14 available publicly because we're not creating any of our
15 own data.

16 MS. DEAN: Right. The data that's collected by
17 the mine is publicly available on our website. Like I
18 say, it's updated every three months. That information
19 is out there with -- that includes the age-dating
20 information, although that sometimes is behind because it
21 takes so long to get the samples back.

22 MR. SMITH: I was really glad to hear that
23 there's measuring devices on some of these creeks in this
24 area.

25 Is that information available, too?

1 MS. DEAN: Yes. All of that information would
2 be on our website out of our database. And the maps are
3 in the --

4 MS. DANIELS: Not the complete for Flat Canyon.
5 Some of it --

6 MS. DEAN: Because it's -- okay. Okay.

7 MS. DANIELS: -- but the complete set of data
8 for -- baseline data for the Flat Canyon lease would be
9 included in the application they submitted as well.

10 HEARING OFFICER BAZA: And this is Amanda
11 Daniels.

12 MS. DEAN: It's not on the database yet.

13 MS. DANIELS: Sorry.

14 MR. SMITH: Yeah, that would be helpful.
15 Because I'm not trying to, you know, refigure out
16 Electric Lake. What we want to figure out is Flat
17 Canyon.

18 MS. DEAN: Right. So like I said, after we get
19 this submittal and we've had a chance to review it, if we
20 feel like our questions are answered, we'd be glad to sit
21 down with you and explain to you why we think that.

22 I was actually the technical reviewer ten years
23 ago. I wasn't right when this first happened, but I was
24 in the aftermath. And I have to say that a lot of the
25 reports that were done at the time were hastily done,

1 they were incomplete, they had a lot of assumptions.

2 Like you say, maybe it's time that someone goes
3 back and looks at what we've learned since then and puts
4 it all together. I don't know if that's us. We're not
5 necessarily a research agency. But we will do enough of
6 that in order for us to make the decision on the -- on
7 the permitting issue.

8 And once we've made that decision, we'd be glad
9 to sit down with you and explain why we think that we're
10 okay going forward.

11 Again, I don't want to put a bunch of pressure
12 on Amanda, but I know that she has asked for a lot of
13 information, and I know that Gregg has responded quite
14 well to that. We're expecting more of that to come in in
15 this next review that he's bringing in. And we feel
16 confident that they will answer the questions that we
17 need. And I have no problem sitting down in an informal
18 technical meeting with whoever you'd like to sit down
19 with and just talk back and forth about it. And if there
20 are other things that may help you feel better about it,
21 even if they may not be required, maybe the mine would be
22 willing to do some things above and beyond to give you
23 more peace of mine. I don't know. But I think all
24 parties are willing to sit down and have that discussion.

25 MR. SMITH: That's very helpful. Thank you.

1 MR. GALECKI: Absolutely. I guess with that, as
2 far as after Amanda is able to bring this up, we'd be
3 more than willing in a technical meeting to sit down and
4 go through it and explain where we're at.

5 HEARING OFFICER BAZA: Very good. Thank you.

6 MR. ALLRED: Question, Mr. Baza -- Cody Allred
7 again -- maybe for Gregg: If this significant revision
8 is ultimately approved, when -- from a timing standpoint,
9 when would the mining company want to start mining in
10 this new area?

11 MR. GALECKI: Yeah, the timing is pretty
12 critical. I think we cross the line in development
13 mining -- do you remember -- I want to say it's in about
14 2018? Sometime in 2018. It's probably on the map, the
15 middle map that's on the wall. I'd go up and check it,
16 if you want it closer than that. But we're moving up on
17 that date, the deadline to cross into the Flat Canyon.

18 Without mining -- you know, an EA has recently
19 been done by the Office of Surface Mining. And, you
20 know, our current mining activities, we'll be out,
21 complete mining, in around 2018 without it.

22 HEARING OFFICER BAZA: And I'm going to
23 encourage individuals, you know, even after we close the
24 hearing today to go ahead and dialogue and point out
25 things on the map that you would want to know about.

1 I'm going to turn to our legal counsel, Melissa
2 Reynolds, who's from the attorney general's office, and
3 I'm going to ask a couple of process questions at this
4 point.

5 I do not believe that once we finish this
6 hearing that there's any specific findings we have to
7 make from the hearing. I think that's incorporated in
8 our permit review.

9 MS. REYNOLDS: Yeah, umm-hmm. That's true.

10 HEARING OFFICER BAZA: So this is to direct the
11 Division. This is to provide us with information that
12 may be out there that's available that we can use during
13 that process.

14 So once we go through this process of
15 evaluating, making the decision on the significant
16 revision, what then happens? Is there an appeal process?
17 What will go forward from there?

18 MS. REYNOLDS: Yeah. So as far as I understand
19 it, there would be an appeal process that interested
20 parties would be able to appeal the decision of the
21 Division. Either -- I think there's an informal option,
22 so it could go --

23 MS. DEAN: There's not in the coal program.
24 Yeah. The coal program is different from the --

25 MS. REYNOLDS: Yeah.

1 MS. DEAN: -- program. So this is the informal
2 option.

3 MS. REYNOLDS: Right. And then it would go to
4 the Board.

5 MS. DEAN: It would go straight to the Board,
6 yeah.

7 HEARING OFFICER BAZA: But that's after the
8 Division makes a decision.

9 MS. REYNOLDS: Right. After the Division makes
10 a decision on the significant revision, if
11 Huntington-Cleveland wants to appeal that decision, it
12 could go to the Board to do so.

13 HEARING OFFICER BAZA: Okay, just like any new
14 coal permit.

15 MS. REYNOLDS: Yeah.

16 HEARING OFFICER BAZA: Okay.

17 MS. DEAN: Right. And again, we certainly --
18 even if you still feel like you want to appeal, we
19 wouldn't want to stand in the way of that, but we would
20 be glad to sit down and talk about the technical issues
21 whether that process is going on or not just informally.

22 MR. SMITH: And we appreciate that opportunity.

23 HEARING OFFICER BAZA: Are there any other
24 questions or comments we need to have before I close the
25 hearing today?

1 Well, thank you, Mr. Smith. Thank you, Gregg.
2 Appreciate the staff being here to help answer questions.

3 And at this point I'll go ahead and close
4 today's hearing, recognizing the comment period will be
5 open until next Thursday. Thank you very much.

6 (The matter concluded at 2:06 p.m.)

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State of Utah)
 ss.
County of Salt Lake)

I, Michelle Mallonee, a Registered Professional Reporter in and for the State of Utah, do hereby certify:

That the proceedings of said matter was reported by me in stenotype and thereafter transcribed into typewritten form;

That the same constitutes a true and correct transcription of said proceedings so taken and transcribed;

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND at Salt Lake City, Utah,
this 8th day of August, 2016.



Michelle Mallonee

Michelle Mallonee, RPR, CSR
Utah CSR #267114-7801
Expires May 31, 2018

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