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United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
BROOKS TOWERS
1020 15TH STREET
DENVER, COLORADO 80202

OFFICE OF THE REGIONAL DIRECTOR

OCT 15 1980

RECEIVED

OCT 17 1980

*Rt to Jim
and Denise
DIVISION OF
OIL, GAS & MINING*

*File Sunnydale Mines
or Kaiser ACT/001/007
if no Sunnydale*

CERTIFIED MAIL NO. 571525

Law Offices of Goddard & Wetherall
ATTN: Jack E. Wetherall, Esq.
Bear Creek Professional Center
17130 Avondale Way, N.E., Suite 113
Redmond, Washington 98052

Re: Sunnydale Mines, Inc.
Carbon County, UT
I.D. No. 4201595 S

Dear Mr. Wetherall:

This is in reply to your September 26 response to our letter addressed to Mr. Albert J. Firchau, our copy of which was dated September 8, demanding payment of reclamation fees due from Sunnydale's operation located at Kaiser Sunnyside, Utah, mine.

On September 21, 1979, Mrs. Darlene Clark of this office met with Ms. Nikki D. Phillips, Office Manager for Industrial Rock Products, Inc. and Firchau Mining, Inc. in Seattle, Washington. Mrs. Clark explained the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), along with the Rules and Regulations as they pertain to reclaimed coal. She also did a review of the records that were available at that time for Sunnydale and left Ms. Phillips blank "Coal Production and Reclamation Fee Report" (OSM 837-1 forms) and copies of Public Law 95-87 and the Rules and Regulations, in part, as they pertain to the reclamation fee. No OSM 837-1 forms have been filed with this office. A copy of our Acknowledgement form pertaining to this visit is enclosed.

Mr. Jack Higgins, mine manager of Sunnydale Mines, telephoned this office on October 3, 1979, requesting information on reclaiming coal. Mr. Higgins stated that Sunnydale began the reclaiming of the approximate 9 million tons of coal reclaimable from Kaiser Steel's slurry ponds in June 1979. He also said Sunnydale was paying royalty fees to Kaiser on the coal removed. Public Law 95-87 and the Rules and Regulations were discussed with Mr. Higgins. He informed us he would send in record sheets along with the OSM 837-1 forms and a check for payment of the reclamation fees upon receiving them in the mail. A copy of Public Law 95-87, the Rules and Regulations, and blank OSM forms were mailed to Mr. Higgins' Provo, Utah, office on October 4, 1979. Pre-printed computerized OSM forms have been mailed to Sunnydale Mines, Inc., 1401 West 820 North, Provo, Utah 84601, each quarter since calendar quarter ending June 30, 1979. There has been no response to date.

Section 837.5 of the Rules and Regulations states: "Reclaimed coal means coal removed from a deposit that is not in its original geographical location. Examples of these deposits are refuse piles or culm banks;

refuse, culm, or retaining dams and ponds that are or have been used during the mining or preparation process; and stream coal deposits."

Sections 837.12 (a) and (b) require each operator to pay a reclamation fee on each ton of coal produced for sale, transfer, and/or use, with the fee being determined by the weight and value at the time of the initial bona fide sale, transfer, and/or use by the operator.

Section 837.12 (a) states: "Surface mining fees. The fee for anthracite, bituminous, and subbituminous coal, including reclaimed coal, is 35 cents per ton"

The Coal Refuse Agreement, entered into on April 1, 1979, between Kaiser Steel Corp. (Kaiser) and Noel S. Tanner and Albert J. Firchau (Purchaser) states:

Article B, Section B-1. "Kaiser, for valuable consideration received and acknowledged, and in consideration of the mutual covenants herein contained, does hereby grant to Purchaser the following rights and privileges: (i) to remove material from the Coal Refuse Sources for the purpose of processing the same and extracting Coal therefrom;"

Article G, Conduct of Operations, Section G-1. "Purchaser shall conduct its operations on the Coal Properties in a good workmanlike manner, in accordance with sound practices, and in compliance with all applicable federal, state, and local laws, rules and regulations Purchaser, its employees, and all others acting under its direction or control shall at all times observe and comply with any and all applicable laws, ordinances, statutes, rules and regulations of the United States and of Utah and of their executive and administrative agencies and of any and all other governmental agencies having any jurisdiction over the Coal Properties or Purchaser's operations and activities"

Section G-3. "Purchaser shall pay when due all obligations of any kind or nature arising from, or imposed by law on account of the mining, handling, processing, storing, or transporting of Coal or material removed from the Coal Refuse Sources Purchaser shall also pay when due any royalties which may be payable to the United Mine Workers of America, any governmental authorities, or otherwise, arising from its removal of material from the Coal Refuse Sources."

Also Section G-5. "Purchaser shall pay all mining, severance, and excise taxes, if any, and all other taxes charged or levied against the removal of material from the Coal Refuse Sources, before such taxes become delinquent together with any interest and penalty payable in connection therewith"

Through recent contacts with Kaiser Steel Corp., this office has learned that Sunnydale is now being operated by Industrial Rock Products, Inc., 15965 N.E. 85th, Suite 207, Redmond, Washington 98052, with Albert J. Firchau, President; Nikki D. Phillips, Office Manager; and Jack Moffat, Mine Manager.

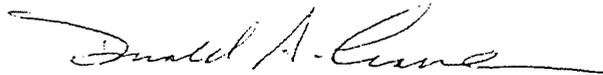
The above operator is removing and selling coal, and is therefore liable for the reclamation fee in accordance with Public Law 95-87 and the subsequent Rules and Regulations. Should the operator fail or refuse to submit duly completed and notarized OSM 837-1 forms, along with payment of the reclamation fees and resulting penalties for all past and current quarters, this office will be forced to take whatever legal action necessary to obtain payment of such from the operator or Kaiser Steel Corp. in accordance with Section 402 (a)--(d) of the Act or through Article G, Sections G-1, G-3, G-4, G-5, and any other applicable Articles of the Coal Refuse Agreement.

Pursuant to Section 402 (d) of Public Law 95-87, you are hereby notified that the operator of the Sunnydale operations has 30 days from receipt of this notice to respond and pay the required fees for production of calendar year quarters ending June 30, 1979, through quarter ending September 30, 1980. Failure to fully comply places the operator in violation, with possible punishment by a fine not to exceed \$10,000, or by imprisonment not to exceed 1 year, or both, for each violation.

Also enclosed for your use are the following:

1. Public Law 95-87 (August 3, 1977);
2. Final Rules (Regulations), Abandoned Mine Land Reclamation Program (December 13, 1977), pages 62713--62716; and
3. OSM 837-1 forms (November 1977), with return envelopes.

Sincerely,



DONALD A. CRANE

Enclosures

cc: F. L. Alvarez, Director
Raw Material Sales
Kaiser Steel Corp.