

## FABIAN &amp; CLENDENIN

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAWTWELFTH FLOOR  
215 SOUTH STATE STREET  
P. O. BOX 510210  
SALT LAKE CITY, UTAH 84151TELEPHONE  
(801) 531-8900HAROLD P. FABIAN  
1885-1975  
BEVERLY S. CLENDENIN  
1889-1971  
SANFORD M. STODDARD  
1909-1974DANIEL W. ANDERSON  
GARY E. JUBBER  
ROSEMARY J. BELESSW. CULLEN BATTLE  
KEVIN N. ANDERSON  
JATHAN W. JANOVE  
MICHELE MITCHELL  
JOHN E. S. ROBSON  
DOUGLAS B. CANNON  
ROBERT JAMES SKOUSEN  
ROBERT PALMER REES  
JODI KNOBEL FEUERHELM  
PATRICK L. ANDERSON  
SHELDON A. SMITH  
MARK L. MATHIEPETER W. BILLINGS  
ALBERT J. COLTON  
RALPH H. MILLER  
BRYCE E. ROE  
GEORGE D. MELLING, JR.  
WARREN PATTEN  
M. BYRON FISHER  
STANFORD B. OWEN  
WILLIAM H. ADAMS  
ANTHONY L. RAMPTON  
PETER W. BILLINGS, JR.  
GORDON CAMPBELL  
THOMAS CHRISTENSEN, JR.  
RAND M. ELISON  
RANDALL A. MACKEY  
DENISE A. DRAGOO  
JAY B. BELL

February 26, 1987

HAND DELIVEREDDr. Dianne Nielson  
Director  
Utah Division of Oil, Gas & Mining  
III Triad, Suite 300  
Salt Lake City, Utah 84101

RE: Kaiser Coal Corporation - Reorganization

Dear Director Nielson:

As was discussed in the meeting between Kaiser Coal Corporation and the Utah Division of Oil, Gas & Mining on Monday, February 23, 1987, petitions for relief under Chapter 11, Title 11, United States Code, were filed in federal bankruptcy court by Kaiser Steel Corporation and its affiliate Cottonwood Canyon Land Co. on Wednesday, February 11, 1987 as Case Nos. 87-B-01552-E and 87-B-01553-E (jointly administered) and on February 13, 1987 by Kaiser Coal Corporation, Kaiser Coal Corporation of Utah, Kaiser Coal Corporation of Sunnyside, Kaiser Coal Corporation of New Mexico and Kaiser Coal Corporation of York Canyon, respectively assigned Case Nos. 87-B-1621-C, 1623-M, 1622-J, 1624-E and 1620-M. Coal mining operations are proceeding at the Sunnyside Coal Mine in Price, Utah under the protection of the federal bankruptcy court. Kaiser has retained the Denver law firm of Sherman & Howard (contact Craig Christensen, 303-297-2900) as primary bankruptcy counsel and the Salt Lake City firm of Fabian & Clendenin (contact Denise A. Drago, 801-531-8900) as Utah counsel for the duration of these proceedings.

As we have discussed, Kaiser Coal Corporation and Kaiser Steel Corporation have entered into self bonding and indemnity agreements with the State of Utah concerning reclamation obligations at the Sunnyside Mine, the Geneva Mine and the Horse Canyon

LAW OFFICES OF  
**FABIAN & CLENDENIN**  
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Mine. Kaiser Coal Corporation has complied with the Division's request for financial information to verify the company's continued compliance with the criteria set forth at UMC 800.23B.2, having submitted its most current statements to the Division on February 10, 1987. Indeed, the Division informs us that Kaiser Steel Corporation's Standard and Poor rating, effective February 11, 1987, was Triple A. As requested by the Division, Kaiser is currently preparing supplemental financial information concerning its financial status as of February 13, 1987.

As you may be aware, the purpose of Chapter 11 is to allow companies an opportunity to sell assets and reorganize its affairs within the protection of the bankruptcy court. Kaiser Coal Corporation has had inquiries from more than forty companies interested in purchasing coal mine assets. Any company interested in operating Kaiser's permitted coal facilities will be required to apply with the Division for transfer of the permits and will be required to assume reclamation responsibility. The bankruptcy court cannot ignore reclamation responsibilities under state and federal law. For instance, the United States Supreme Court ruled in Midlantic National Bank v. New Jersey Department of Environmental Protection 747 US \_\_\_, 88 Led 2d 849, 106 Sct \_\_\_ (1986) that the trustee in bankruptcy is not empowered under 11 USC Section 554(a) to abandon toxic wastes in contravention of state environmental laws. The Bankruptcy Court for Oklahoma has relied on Midlantic to allow abandonment of an oil refinery site only after immediate pollution problems were contained and the site was determined not to present an immediate health hazard. In re Oklahoma Refining Co. 63 B.R. 562 (W.D. Okl. 1986).

Kaiser will be submitting additional information to the Division concerning its post-petition financial condition in the immediate future. On behalf of Kaiser Coal Corporation, we appreciate the cooperation which you and your staff have demonstrated in helping us work through a difficult situation.

Very truly yours,

  
Denise A. Dragoo

DAD:jk

cc: Craig Christensen, Esq.  
Jeffrey C. Collins, Esq.